

Village of Tuxedo Park

Code Committee's Proposed Revisions to Village Code

Submission Date: July 14, 2026

TUXEDO PARK CODE

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park: Art. I, 2-21-1990 by L.L No. 1-1990. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[Adopted 2-21-1990 by L.L. No. 1-1990]

§ 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 Tuxedo Park as codified by General Code Publishers Corp. and consisting of Chapters 1 through 100, are hereby adopted as the Code of the Village of Tuxedo Park, and such local laws, ordinances and resolutions shall be known collectively as the "Code of the Village of Tuxedo Park," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided in said Code. Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Tuxedo Park" 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 as if such local law, ordinance or resolution had been formally amended to so read.

1-1A. Rule of construction.

In construing and administering this Code, due regard may be given, where relevant to the matter under review and supported by the record, to the protection of public health, safety and welfare; the preservation of the Village's historic, scenic and natural resources, including landmarks and historic sites recognized or designated pursuant to Village enactment; the maintenance of neighborhood character; and the capacity of infrastructure and public services, including roads, drainage, water, sewer and emergency services.

This section is intended solely as a rule of construction and shall not be construed to expand the jurisdiction of any board, body or officer of the Village, or to create an independent basis for the approval, denial or conditioning of any application, except as otherwise expressly authorized by applicable law and the specific provisions of this Code.

§ 1-2. Definitions and word usage.

- A. Terms defined. As used in the Code of the Village of Tuxedo Park, unless the context otherwise requires, the following terms shall have the meanings indicated:

BOARD OF ARCHITECTURAL REVIEW — The Board of Architectural Review of the Village of Tuxedo Park.

BOARD OF TRUSTEES OR VILLAGE BOARD — The Board of Trustees of the Village of Tuxedo Park.

~~BOARD OF ZONING APPEALS OR~~ BOARD OF APPEALS — The ~~Board of Zoning Appeals~~ Board of Appeals of the Village of Tuxedo Park.

BUILDING INSPECTOR — The person appointed by the Board of Trustees to serve as Building Inspector for the Village, or his duly authorized representative. The Building Inspector shall also be the enforcement officer described in the New York Petroleum Bulk Storage Code. [See 6 NYCRR §§ 614.7(c) and 614.13(e).]

CHIEF OF POLICE — The Chief of Police of the Village of Tuxedo Park Police Department.

CODE — The Code of the Village of Tuxedo Park, as adopted by this local law and as may be subsequently amended.

DEPARTMENT OF PUBLIC WORKS — The Department of Public Works of the Village of Tuxedo Park.

MAYOR — The Mayor of the Village of Tuxedo Park.

PERSON — An individual, partnership, corporation or association, including those acting in a fiduciary or representative capacity, whether appointed by a court or otherwise. Whenever used in any clause prescribing or imposing a penalty, the word "person," as applied to partnerships or associations, shall include the partners or members thereof, and if applied to corporations, the officers thereof.

PLANNING BOARD — The Planning Board of the Village of Tuxedo Park.

POLICE DEPARTMENT — The Police Department of the Village of Tuxedo Park.

PUBLIC WORKS SUPERINTENDENT — The Superintendent of Public Works of the Village of Tuxedo Park.

EMPLOYED PARTIES: Any person, entity or corporation employed, or acting on behalf of the property owner or property occupant including but not limited to, employees, contractors (independent or otherwise), vendors, servants, staff, sitters, gardeners, handymen, landscapers, subcontractors, materialmen, suppliers and the like, whether full-time or part-time, directly employed, contracted or volunteer.

ROAD — Includes streets, highways, parkways and roads of the Village of Tuxedo Park.

VILLAGE — The Village of Tuxedo Park, Orange County, New York.

VILLAGE CLERK — The Village Clerk of the Village of Tuxedo Park, appointed as provided by law, or his or her authorized representative.

VILLAGE LAW — Chapter 64 of the Consolidated Laws of the State of New York, as amended.

B. Word usage. As used herein:

- (1) The word "shall" is mandatory "may" is permissive.
- (2) When not inconsistent with the context, words used in the present tense include the future; words in the masculine gender include the feminine and neuter; and the singular number indicates the plural, and the plural the singular.

§ 1-3. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, 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 Tuxedo Park, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-4 below.

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

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

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

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

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Tuxedo Park prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Tuxedo Park, 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 Tuxedo Park.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Tuxedo Park.

- E. Any local law or ordinance of the Village of Tuxedo Park 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 Tuxedo Park or any portion thereof.
- F. Any local law or ordinance of the Village of Tuxedo Park 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 Tuxedo Park or other instruments or evidence of the Village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.
- L. All legislation adopted subsequent to May 24, 1988.

§ 1-6. Severability.

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

§ 1-7. Copy of Code on file.

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

§ 1-8. Amendments to Code.

Code Amendments may be enacted from time to time as the Board of Trustees deems desirable. 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 Tuxedo Park," 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 Code Amendments, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such Code Amendments additions, deletions, amendments or supplements. Whenever such Code Amendments shall be enacted or adopted, both the certified hard copy of the Code and the digital copy of the Code shall be updated to reflect such Code Amendments. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose leaf book containing said Code, as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local

~~law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be~~

~~amended, deleted or changed from time to time as the Board of Trustees deems desirable.~~

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

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Tuxedo Park required to be filed in the office of the Village Clerk for use by the public and to cause the digital copy to be kept up to date. ~~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.~~ In the event of a conflict between the certified hard copy of the Code and the digital copy of the code the certified hard copy shall control.

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

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

§ 1-11. Penalties for tampering with Code.

Any person who, without authorization from the Village Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Village of Tuxedo Park, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Village of Tuxedo Park 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 for the first offense, \$500 for the second offense and \$1,000 for each offense thereafter or imprisonment for a term of not more than 15 days, or both.

§ 1-12. Penalties for offenses against Code provisions.

Except where specifically provided elsewhere, any person who shall commit an offense against any provision of the Code of the Village of Tuxedo Park shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for not exceeding 15 days, or by both such fine and imprisonment. Unless otherwise specifically provided herein, the continuation of an offense shall constitute, for each day the offense is continued, a separate and distinct violation.

§ 1-13. Responsibility for compliance with Code.

Property owners and occupiers ~~shall~~ may be held responsible for the actions and inactions of their ~~employees~~ Employed Parties, ~~including but not limited to, in regard to compliance with this Code. Servants, sitters, gardeners, contractors and the like, whether full time or part time, directly employed, contracted or volunteer, shall be deemed to be operating under the direction of the owner or occupier and hence considered his delegate.~~ aAppearances, penalties, corrective measures and ~~their~~ attendant costs ~~shall be the responsibility and burden of the owner or occupier~~ regardless of whether the subject violation is traceable to ~~the property owner or property occupant, him, his family, his guests, his employees, prior owners or any other party he knowingly admits on his property.~~

~~§ 1-14. Changes in previously adopted legislation.~~

~~A.—In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of~~

~~the Village of Tuxedo Park, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain~~

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

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

~~§ 1-15. 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 Tuxedo Park, 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 1-16, inclusive.~~

~~§ 1-16. When effective.~~

~~This local law and the Code adopted hereby and the regulations contained therein shall apply from the date of filing of this local law to all property and/or persons within the Incorporated Village of Tuxedo Park. Those existing conditions which are herein prohibited or curtailed shall be permitted to continue, but without expansion, for a maximum period of one year from the date stated above~~[JS1]~~.~~

1. Editor's Note: Pursuant to § 1-14B, the following sections were added or amended: §§ 12-2; 17-4; Ch. 21; § 27-1; Ch. 32; Ch. 36; §§ 47-1; 47-3B; 47-6A; 47-7; 47-10B; 47-17; Ch. 53; Ch. 58; §§ 65-3A and D; 65-5; 65-7B; Ch. 70; §§ 71-1; 71-2; 75-3; 75-9; 75-11A; 75-13; 75-17A; Ch. 75, Arts. III and IV; §§ 85-3; 85-4C; 85-11; 100-2B; 100-6; 100-9B; 100-10; 100-10.1; 100-11; 100-12; 100-13; 100-14; 100-14.1; 100-15; 100-19B; 100-22; 100-23; 100-24B(2); 100-24H; 100-26B; 100-27; 100-28; 100-31; 100-32B; 100-33; 100-37; 100-38; 100-40; 100-41B and D; 100-44; 100-46; 100-48C(7)(b); 100-50B; 100-53B(3) and (5), E, F and G; 100-55. In addition, the following entirely new chapters and Articles were adopted: Ch. 3; Ch. 18; Ch. 25; Ch. 29; Ch. 30; Art. I; Ch. 40; Ch. 51; Ch. 60; Ch. 73; Ch. 78; Ch. 83; Ch. 87; Ch. 91; Ch. 93; Ch. 94; and Ch. 97. A complete description of each change or new chapter is included in L.L. No. 1-1990, a copy of which is on file in the office of the Village Clerk.

Chapter 3**APPEARANCE TICKETS**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 2-21-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Appearance tickets for property maintenance violations — See Ch. 75.

Appearance tickets for dog violations — See Ch. 32.

§ 3-1. Statutory authority; title.

This chapter is enacted pursuant to the authority of § 10, Subdivision 4, Paragraph (a), of the Municipal Home Rule Law and shall be known as the "Appearance Tickets Law of the Village of Tuxedo Park."

§ 3-2. Purpose.

The purpose of this chapter is to authorize public servants of the Village of Tuxedo Park to issue and serve appearance tickets in connection with violations of ~~state statutes~~, local laws, ordinances, rules or regulations of the Village of Tuxedo Park ~~for police officers and all others, below, relating to parking, licensing of occupations or businesses, fire prevention and safety, health and sanitation and building, zoning and planning.~~

§ 3-3. Definitions.

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

APPEARANCE TICKET — A written notice issued and subscribed by a police officer or other public servant authorized by state law or local law enacted pursuant to the provisions of the Municipal Home Rule law to issue the same directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such definition constitutes an "appearance ticket," regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

§ 3-4. Designation of officials authorized to issue appearance tickets.

A. The following public servants of the Village of Tuxedo Park are hereby authorized to issue and serve appearance tickets with respect to violations of state statutes, local laws, ordinances, rules or regulations of the Village of Tuxedo Park that such public servants are, respectively, required or authorized to enforce:

- (1) ~~The Mayor~~, Chief of Police, Village police officers or the Public Works Superintendent for removal of vehicles for snow removal or for paving or other maintenance projects.
- (2) ~~The Mayor~~, Chief of Police, Village police officers or the Building Inspector for violation of any state or local law relating to building construction or zoning.
- (3) ~~The Mayor~~, Chief of Police, Village police officers or the Fire Inspector for violations of any

state or local law relating to fire prevention and safety, as well as related parking restrictions enacted for fire safety purposes.

- B. ~~The Mayor~~, Chief of Police, Village police officers or the Building Inspector, Fire Inspector and the Public Works Superintendent, or their appointed deputies, shall also have the power and authority to issue appearance tickets for violations of those sections of the Code of the Village of Tuxedo Park dealing with sewers, water service, junk cars, junkyards, control of litter, signs, garbage and refuse, dumping, unsafe buildings, building construction, brush, grass and weeds and abandoned vehicles.
- C. Each of the above-named elected or appointed officials or their deputies is authorized to carry out the provisions of this chapter.

§ 3-5. Inspections for Code violations. [Added 3-18-1998 by L.L. No. 3-1998]

- A. The Building Inspector shall have the right to enter upon any premises in the Village for purposes of making inspections as to suspected violations of any provisions of this Code relating to the use of such premises or the location or placement of structures thereon. The Building Inspector shall, at least 24 hours prior to making such inspection, contact the owner of record or occupier of such premises by telephone or by written notice advising of such intended inspection. Unless the owner or occupier agrees otherwise... ~~a~~All such inspections shall take place only between the hours of 9:00 a.m. and 5:00 p.m. ~~and shall not occur on a Saturday or a Sunday or a legal holiday.~~ ~~T~~The Building Inspector shall attempt to accommodate the reasonable schedule of the occupant of any dwelling in making such inspections. . The Building Inspector also may enter premises without notice in the event of an "emergency" which for purposes of this section shall mean the threat of immediate injury or material damage to persons or property.
- B. The Building Inspector shall make no inspection unless he has reason to believe that a violation on the premises exists.
- C. In the event that the owner or occupant of any such premises shall, after notice as provided for herein, refuse to allow the Building Inspector to enter such premises for inspection purposes the Building Inspector may, with the assistance of the Village Attorney, apply to a court of appropriate jurisdiction for an order compelling such inspection under applicable provisions of law and upon such notice to the owner and or occupant of such premises as the court may direct by its order. . If the Property Owner or occupant improperly denies entrance, the Building Inspector may also request a penalty for each day of delay. In addition, the Property Owner or occupant shall be responsible to reimburse the Village for any actual third party legal fees incurred by the Village to enforce this provision.

~~C.D.~~

- ~~D.E.~~ Nothing contained herein shall curtail or diminish the power of the Building Inspector to make such reasonable unannounced inspections as he feels are necessary in the manner he deems necessary with regard to any work being pursued by virtue of a Building Permit issued by him under Chapter 36, Building Construction, of this Code.

LOCAL LAWS, ADOPTION OF

Chapter 12

LOCAL LAWS, ADOPTION OF

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park: Art. I, 8-13-1974 by resolution; Art. II, 8-9-1977 by L.L. No. 2-1977; Art. III, 8-9-1977 by L.L. No. 3-1977. Section 12-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I

Introduction of Local Laws
[Adopted 8-13-1974 by resolution]

§ 12-1. Manner and procedure.²

A proposed local law may be introduced by a member of the Board of Trustees by the filing of the same with the Clerk of the Village. Upon such filing, the Clerk shall make a notation on the local law of the date and time of the filing.

2. Editor's Note: This rule of the Board of Trustees was adopted pursuant to § 20, Subdivision 4, of the Municipal Home Rule Law and § 4-412, Subdivision 2, of the Village Law.

ARTICLE II
Publication and Posting
[Adopted 8-9-1977 by L.L. No. 2-1977]

§ 12-2. Notice of public hearing. [Amended 2-21-1990 by L.L. No. 1-1990]

No local law shall be adopted by the Board of Trustees of the Village of Tuxedo Park until a public hearing has been held thereon in its final form before such Board of Trustees, not less than five 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 summary or abstract thereof.

§ 12-3. Posting; availability of copies.

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

§ 12-4. Post-adoption publication.

The Village Clerk shall forthwith upon the adoption of a local law by the Board of Trustees post a copy thereof in a conspicuous place in his office and shall, within 10 days after such adoption, cause the local law, or a summary or abstract thereof, to be published once in the official newspaper of the Village.

§ 12-5. Filing of proof of publication.

Proof of publication of the notice of public hearing required by § 12-2 hereof and proof of the posting and publication required by § 12-4 hereof shall be filed in the office of the Village Clerk.

ARTICLE III
Adoption of Zoning Laws
[Adopted 8-9-1977 by L. L. No. 3-1977]

§ 12-6. Statutory provisions modified.

Subdivision 2 of § 7-706 of the Village law, as it relates to the Village of Tuxedo Park, is hereby amended to read as follows:

2. Every zoning law and every amendment thereto, including any map incorporated therein, adopted pursuant to the provisions of this chapter, in addition to the filing of such zoning law or amendment thereto as required by § 27 of the Municipal Home Rule Law, shall be entered in the minutes of the Village Board, and a summary or abstract thereof, exclusive of any map incorporated therein, shall be published once in the official newspaper, and a copy of such local law or amendment, together with any map incorporated therein, shall be posted conspicuously at or near the main entrance to the office of the Village Clerk, and affidavits of such publication and posting thereof shall be filed with the Village Clerk. Such local law shall take effect 10 days after such publication and posting, but such local law or amendment shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the minutes.

TUXEDO PARK CODE

Chapter 14

MEETING PROCEDURES

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

ARTICLE I
Videoconferencing
[Adopted 6-15-2022 by L.L. No. 5-2022]

§ 14-1. Authorization; procedures.

- A. The Village Board and any other board, commission or body in the Village of Tuxedo Park that is subject to the provisions of Article 7 of the New York State Public Officers Law is hereby authorized, in its discretion, use of videoconferencing to conduct meetings in accordance with the requirements of Article 7 of the Public Officers Law and in compliance with the written procedures adopted by the Village Board.
- B. The Village Board shall, by resolution, adopt and modify, as necessary, written procedures governing member and public attendance in accordance with Article 7 of the Public Officers Law. The Village Board may amend such written procedures from time to time, by resolution, as deemed necessary.

OFFICERS AND EMPLOYEES

Chapter 15

OFFICERS AND EMPLOYEES

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

GENERAL REFERENCES

Officials authorized to issue appearance tickets — See Ch. 3.

Records access officers — See Ch. 21.

Planning Board — See Ch. 17.

Building Inspector — See Ch. 36.

Police Department — See Ch. 18.

Zoning — See Ch. 100.

ARTICLE I
Code of Ethics
[Adopted 12-8-1970]

§ 15-1. Purpose.

This chapter shall be known as the “Code of Ethics of the Village of Tuxedo Park (hereinafter “Village”).”

A. The Board of Trustees of the Village of Tuxedo Park recognizes that it must establish high standards of ethical conduct for officers, elected and appointed board, commission and committee members and employees of the Village so as to promote public confidence in the integrity of local government. Officers and employees of the Village hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Village recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This Code of Ethics of the Village establishes those standards.

B. This Code of Ethics is enacted pursuant to § 806 of the General Municipal Law and § 10 of the Municipal Home Rule Law. Officers and employees of the Village must comply with the provisions of the Code of Ethics, as well as the conflict of interest standards prescribed by Article 18 of the General Municipal Law. This Code of Ethics is in addition to the standards contained in Article 18 and is not intended to authorize any conduct prohibited by Article 18 of the General Municipal Law.

~~Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Tuxedo Park 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 article to promulgate these rules of ethical conduct for the officers and employees of the Village of Tuxedo Park, and these rules shall serve as a guide for official conduct of the officers and employees of the Village of Tuxedo Park. The rules of ethical conduct of this article 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.~~

§ 15-2. Definitions.

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

“BOARD” means the Village Board of Trustees and any municipal administrative board (e.g. Planning Board, Board of Architectural Review, ~~Zoning~~ Board of Appeals, Lakes Board), commission, or other agency or body comprised of two or more municipal officers or employees.

“CODE” in this Chapter 15 means this code of ethics.

“INTEREST” means a direct or indirect financial or material benefit but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household, is an owner, partner, member, director, officer, employee, or directly or indirectly owns or controls more than 5% of the organization’s outstanding stock.

“MUNICIPALITY” means the Village of Tuxedo Park. The word “municipal” refers to the municipality.

“MUNICIPAL OFFICER OR EMPLOYEE” means a paid or unpaid officer or employee of the Village.

§ 15-1

OFFICERS AND EMPLOYEES

§ 15-3

including, but not limited to, elected officers, members of any of the municipality's governing board, any of its administrative boards (e.g., Board of Trustees, Planning Board, Board of Architectural Review, Zoning Board of Appeals, Board of Ethics), commissions, committees, agencies, Village Building Inspector, department heads and others who work in a similar capacity.

"RELATIVE" means a spouse, domestic partner, parent, step-parent, sibling (including half sibling), step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

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

~~MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Village of Tuxedo Park, 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 Chief Engineer or Assistant Chief Engineer.~~

§ 15-3. Standards of conduct.

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

A. Every municipal officer or employee must endeavor to pursue a course of conduct consistent with the declaration of policy and other provisions of this chapter and strive to act so as not to raise reasonable suspicion among the public that the municipal officer or employee may or is likely to be engaged in conduct that is in violation of the public's confidence and trust. The specific prohibitions set forth herein are not necessarily an exclusive list of provisions regarding the ethical conduct of municipal officers or employees.

A municipal officer or employee must not use the municipal officer or employee's official position or office, or take or fail to take any discretionary action, in a manner which the municipal officer or employee knows, or has reason to know, may result in a personal financial benefit for any of the following persons:

- A. Any municipal officer or employee;
- B. Any municipal officer's or employee's employer (other than the Village);
- C. A municipal officer's or employees's relative;
- D. Any person or business entity that is a customer or client of the municipal officer or employee; or
- E. Any business entity in which the municipal officer or employee or a relative of the municipal officer or employee has a financial or pecuniary interest or serves as an employee, officer, or director, whether compensated or not compensated, or of which the municipal officer or employee or the municipal officer or employee's relative own 5% or greater of the outstanding stock or has authority to decide upon dispensing grants or other monetary benefits.

B. A municipal officer or employee with the authority, either individually or as a member of a board, commission, or other village agency, to conduct inspections or issue permits or other Village approvals is not permitted to:

A. Engage in a business activity or have a financial interest in any business entity that conducts such inspections or applies for or assists in applications for such Municipality permits as a regular and significant part of its business; or

B. Conduct any inspection or issue any permit with respect to an application in which the municipal officer or employee's outside employer or business has been involved.

- ~~A. — Gifts. He shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of \$25 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.~~
- ~~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. — 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 Tuxedo Park, 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. In the event that a~~

~~possible conflict of interest should exist between the duties of any Trustee or employee of the Village and his personal affairs, the subject matter thereof shall be disclosed to the Trustees. Upon such disclosure, the Trustees shall decide as to whether the conflict of interest is sufficiently substantial to disqualify the individual from properly performing his duties. In the event that the decision is that the conflict is substantial, the Trustees shall direct that the individual be prohibited from performing his duties in the matter from which the conflict has arisen. If a conflict of interest should exist and be concealed from the Trustees, upon its disclosure, the Trustee or individual involved in such matter shall be subject to dismissal, in the discretion of the Trustees.~~

~~E. Investments of 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.~~

~~F. 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.~~

§ 15-4. Certain actions not affected.

A. No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

B. This Section 63-4 shall not prohibit a municipal officer or employee from:

- a. Voting to approve the municipality's annual budget;
- b. Receiving lawful compensation for services as a municipal officer or employee;
- c. Receiving payment or reimbursement for actual and necessary expenses reasonably incurred in the performance of official duty;
- d. Receiving payments under a lawful municipal contract;
- e. Using municipal personnel, vehicles, equipment, materials, supplies or property for any purpose pursuant to law; or
- f. Performing a ministerial function that does not require the exercise of discretion.

~~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 Tuxedo Park, 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.~~

§ 15-5. ~~Distribution of copies.~~ Treatment of Public.

All municipal officers and employees shall treat all members of the public, whether a person, firm or corporation, or other organization without special advantage in carrying out his or her official duties.

~~The Mayor of the Village of Tuxedo Park shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village of Tuxedo Park within 30 days after the effective date of this article. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.~~

§ 15-6. ~~Penalties for offenses~~ Disclosure of interest in legislation and other matters.

§ 15-3

OFFICERS AND EMPLOYEES

§ 15-6

- A. Whenever a matter requiring the exercise of discretion comes before a municipal officer or employee, either individually or as a member of a Board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer or employee, or when the municipal officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the Board of Trustees. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position.
- a. In the event that a person is serving as a member of any Board, then a copy of such disclosure shall be filed with the Board. Any disclosure made to any Board shall be made publicly available at a meeting of the Board and must be included in the minutes of the meeting.

~~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.~~

ARTICLE II
Defense and Indemnification
[Adopted 1-13-2010 by L.L. No. 1-2010³]

§ 15-7. Investments in conflict with official duties~~Legislative intent. [Amended 6-15-2011 by L.L. No. 2-2011]~~

A. No municipal officer or employee may acquire the following investments:

- a. Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 63-10 of this code; or
- b. Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.

B. This section does not prohibit a municipal officer or employee from acquiring or disposing of any other investments such as the following assets:

- a. Real property located within the municipality that is a residence for the municipal officer or employee;
- b. Less than five percent of the stock of a publicly traded corporation;
- c. Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

~~The purpose of this article is to provide legal and financial protection for those individuals serving the Village of Tuxedo Park (hereinafter the "Village") from civil lawsuits, proceedings and fraudulent public filings which may be brought against them in their individual capacity for actions or omissions taken while acting within the scope of their employment, or by virtue of their public office or employment. By enactment of this article, the Village does not intend to establish or enlarge any direct liability of the Village, or to limit or otherwise abrogate any existing right or responsibility of the Village or its officers or employees with regard to indemnification or legal defense.~~

§ 15-8. Private Employment in conflict with official duties~~Definitions.~~

A. No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- a. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 63-10 of this code;
- b. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- c. Violates section 805-a(1)(c) or (d) of the General Municipal Law; or
- d. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

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

~~EMPLOYEE—Any employee, trustee, mayor, officer, member of a Village board or commission, director, volunteer expressly authorized to participate in a publicly sponsored volunteer program or any other person holding a position by election, appointment or employment in the service of the Village of Tuxedo~~

§ 15-9

OFFICERS AND EMPLOYEES

§ 15-10

~~Park, whether or not compensated, but shall not include an independent contractor. The term "employee" shall include a former employee, his or her estate or judicially appointed personal representative.~~

~~VILLAGE ATTORNEY—The duly appointed Attorney for the Village or any attorney designated to act on behalf of the Village Attorney.~~

§ 15-9. ~~Conferral of benefits: defense~~Future employment.

A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within one year following final disposition of the matter.

B. No municipal officer or employee, for the one-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she serves.

C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

D. This section does not prohibit a municipal officer or employee from:

a. Representing him or herself, or his or her spouse or minor children, before the Village, or any officer, administrative board, commission or other agency of the municipality, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity;

b. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children, in connection with any personal matter that does not arise from or involve a business, commercial or professional activity.

c. Appearing before the Village Justice Courts on behalf of private citizens.

~~A.—If an employee complies with the provisions of § 15-11, the Village, through the Village Attorney, counsel selected by the Board of Trustees, or any applicable insurance program maintained by the Village, shall provide for the defense of the employee in any civil action or proceeding in any state or federal court, or any proceeding before an administrative agency, arising out of any alleged act or omission which is alleged to have occurred or occurred while the employee was acting within the scope of his or her public employment or duties. For purposes of this article, the determination of whether an employee was acting within the scope of his or her employment will be made by the Board of Trustees, upon the advice of the Village Attorney, consistent with then prevailing law. Notwithstanding the above, no act can be so determined to be within the scope of employment if the commission of such act resulted in a conviction of a Class A misdemeanor or higher crime under the New York State Penal Law or similar federal crime under Title 18 of the United States Code, except if the Board of Trustees, in its sole discretion, so determines in the best interests of the Village to allow for the defense of such actions. This duty to provide for a defense shall not arise where such action or proceeding is brought by or on behalf of the Village against such employee. [Amended 6-15-2011 by L.L. No. 2-2011]~~

~~B.—Subject to the conditions set forth in Subsection A of this section, the employee shall be entitled in such action or proceeding, or for purposes of the removal and mitigation of such fraudulent public~~

~~filings, to be represented by the Village Attorney, or counsel designated by the Board of Trustees, at~~

~~3.—Editor's Note: This local law also repealed former Art. II, Defense and Indemnification, adopted 5-24-1988 by L.L. No. 2-1988.~~

~~no cost to the employee. The employee shall be entitled to representation by private counsel of his or her choice in such action or proceeding, or for the removal and mitigation of such fraudulent public filings, at the expense of the Village whenever the Village Attorney determines, based upon an investigation and review of the facts and circumstances of the case and of the prevailing law, that a conflict of interest exists between the employee and the Village, or whenever a court of competent jurisdiction determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his or her choice at the expense of the Village. The Board of Trustees may require, as a condition of the payment of the fees and expenses of such private conflict counsel, that the same counsel represent appropriate groups of such employees. If the employee or group of employees is entitled to representation by private conflict counsel under the provisions of this section at the expense of the Village, the Village Attorney shall so certify this to the Board of Trustees. Notwithstanding the lack of a conflict of interest as described above, an employee shall be entitled to counsel of their selection in the defense of any fraudulent public filing matter if the employee objects to the counsel designated by the Village. Attorney fees and litigation expenses shall be paid to any private counsel authorized by this subsection only to the extent of appropriate and reasonable rates prevailing in Orange County and as paid by the Village for similar representation, all as determined by the Village Attorney. Such attorney fees and litigation expenses shall be paid by the Village to such private counsel from time to time while such action or proceeding is pending, upon submission by the private attorney of a detailed bill itemizing a description of the work performed, the hours worked, the approved rate per hour, and disbursements. However, no extraordinary disbursements or fees shall be paid to such private counsel unless prior written consent of the Village Attorney is obtained. Payment shall also be subject to the audit by the Board of Trustees. Such private counsel shall conform to all record keeping and notifications required by the Village Attorney. [Amended 6-15-2011 by L.L. No. 2-2011]~~

- ~~C. Any dispute with respect to representation of multiple employees by a single counsel, the reasonableness of attorney fees, or the amount of litigation expenses, shall be resolved by a court of competent jurisdiction upon motion or by way of a special proceeding.~~
- ~~D. Where the employee delivers process or proof of a fraudulent public filing, together with a written request for a defense, to the Village Attorney as required by § 15-11, the Village Attorney shall take the necessary steps on behalf of the employee, including the retention of private counsel as provided in this section, to avoid entry of a default judgment against the employee pending resolution of any issue pertaining to the obligation of the Village to provide a defense. [Amended 6-15-2011 by L.L. No. 2-2011]~~

§ 15-10. ~~Conferral of benefits: indemnification~~Recusal and abstention

- A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. In the event that this section 63-10 prohibits a municipal officer or employee from exercising or performing a power or duty:
- If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
 - If the power or duty that is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.

- c. If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.
- C. This code's prohibition on use of a municipal position (§ 63-3), disclosure requirements (§ 63-6), and requirements relating to recusal and abstention (§ 63-10), shall not apply with respect to the following matters:
 - a. adoption of the municipality's annual budget;
 - b. any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
 - i. all municipal officers or employees;
 - ii. all residents or taxpayers of the municipality or an area of the municipality; or
 - iii. the general public; or
 - iv. any matter that does not require the exercise of discretion.
- D. Recusal and abstention shall not be required with respect to any matter:
 - a. Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § 63-10 of this code;
 - b. Which comes before a municipal officer when the officer would be prohibited from acting by § 63-10 of this code and the matter cannot be lawfully delegated to another person.

§ 15-11. Interest in Contracts. ~~Conferral of benefits; conditions.~~

~~A. The duty to defend, indemnify and save harmless as set forth in this article is conditioned upon (1) No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.~~

~~B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law.~~

~~A.) delivery by the employee to the Village Clerk and Village Attorney of the original or a true and complete copy of any notice of claim, summons, complaint, process, notice, demand or pleading as soon as possible, but in no event later than 10 days after the employee is served with such document or prior to the return date of such document, whichever is sooner, or, in the event of a fraudulent public filing, by the delivery to the Village Clerk and Village Attorney of notice and/or proof of such fraudulent public filing within 30 days of the actual knowledge of the employee as to the existence of such fraudulent public filing, and (2) the full cooperation of the employee in (a) the defense of such action or proceeding, (b) the defense of any action or proceeding against the Village based upon the same or related acts or omissions, (c) in the prosecution of any appeals of such actions or proceedings, and (d) any action to rectify or minimize the fraudulent public filing. The above noted delivery of said notices of claim, summonses, complaints, processes, notices, demands, proof or pleadings shall be deemed as a request by the employee that the Village provide for his or her defense and indemnification pursuant to this article, and is a condition precedent to the granting of such defense and/or indemnification by the Village. [Amended 6-15-2011 by L.L. No. 2-2011]~~

~~Consistent with this article, the determination as to whether the Village will defend and/or indemnify the employee will be based upon an investigation of the facts and circumstances of the matter. The~~

~~Board of Trustees, in accordance with this article and the advice of the Village Attorney, shall make this determination within a reasonable time after the completion of such investigation. Such determination shall be final, except as provided below.~~

~~Such determination shall be in writing and mailed promptly by the Village Attorney to the employee. If the determination is adverse in whole or in part to the employee, it shall state the facts and reasons therefor.~~

~~A determination favorable to the employee may thereafter be revised and/or revoked for good cause. The revised determination, or the revocation of such determination, shall be in writing and mailed by the Village Attorney promptly to the employee, and shall state the facts and reasons therefor.~~

~~A special proceeding brought pursuant to Article 78 of the New York Civil Practice Law and Rules shall be the exclusive method by which an employee aggrieved by a determination may seek review of the determination. If, as a result of such judicial review, the employee ultimately obtains a reversal of the determination, the Village shall reimburse the employee for the attorney fees and costs charged the employee in obtaining the reversal, to the extent that such fees and costs were reasonable and necessary.~~

~~§ 15-11.1. Limitation of benefits.⁴~~

~~The benefits of this article shall inure only to employees as defined herein and shall neither enlarge nor diminish the rights of any other party, nor shall any provision of this article be construed to affect, alter or repeal any provision of the Workers' Compensation Law.~~

~~§ 15-11.2. Effect on other laws.~~

~~This article shall not in any way affect the obligation of any claimant to give notice to the Village under § 50-e of the New York General Municipal Law, or any other provision of any law.~~

~~§ 15-11.3. Applicability. [Amended 6-15-2011 by L.L. No. 2-2011]~~

~~The provisions of this article shall apply to all actions, proceedings and fraudulent public filings then pending on the effective date of this article or thereafter instituted.~~

~~§ 15-11.4. Construction of provisions.~~

~~Except as otherwise specifically provided in this article, the provisions of this article shall not be construed in any way to establish or enlarge any direct liability of, or to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon, the Village or any unit, entity, officer or employee of Village, or any right to a defense and/or indemnification provided for any Village officer or employee by, in accordance with, or by reason of, any other provision of county, state or federal statutory, regulatory or common law.~~

15-12. Use of municipal resources.

A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.

B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:

a. Any use of municipal resources authorized by law or municipal policy;

b. The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or

c. The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.

C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

§ 15-13. Nepotism.

A. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.

B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties.

§ 15-14. Political solicitations.

A. No municipal officer or employee shall directly or indirectly compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

C. No municipal officer or employee shall engage in political campaign activities during their official workday.

D. No municipal officer or employee shall use municipal resources for any political campaign or political activity.

§ 15-15. Confidential information.

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

§ 15-16. Gifts.

A. No municipal officer or employee shall solicit, accept or receive a gift in violation of section 805-a(1)(a) of the General Municipal Law as interpreted in this section.

B. No municipal officer or employee may directly or indirectly solicit any gift.

C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of seventy-five dollars or more when:

a. The gift reasonably appears to be intended to influence the officer or employee in the exercise or

performance of his or her official powers or duties;

b. The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or

c. The gift is intended as a reward for any official action on the part of the officer or employee.

D. For purposes of this section, a “gift” includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift’s fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed seventy-five dollars must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.

E. Presumption.

a. A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.

b. A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding twelve months.

F. This section does not prohibit any other gift, including:

a. Gifts made to the municipality;

b. Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;

c. Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;

d. Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;

e. Awards and plaques having a value of seventy-five dollars or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

f. Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program.

§ 15-17. Annual financial disclosure.

A. Within thirty days after taking office, or announcing candidacy for office, and no later than July 15 of each year thereafter, all municipal officers and employees shall file with the Village Clerk a financial disclosure statement: provided, however that all Village constables, other than those in a supervisory position are not required to file such financial disclosure statements.

- B. The financial disclosure statement will be in the form approved, from time to time, by the Board of Ethics.
- C. Notwithstanding §15-17 A above, within 30 days of a material change in the information provided in the annual financial disclosure statement or an acquisition or disposition of rental property in the Village, the municipal officer or employee will amend such annual financial disclosure statement to reflect such information. Amendments to annual disclosure statements will be noticed concurrently to the Board of Ethics for a §15-7 A review.

§ 15-18. Board of Ethics.

- A. There is hereby established a board of ethics for the municipality. The board of ethics shall consist of three members. The members of such board of ethics shall be appointed by the Board of Trustees, serve at the pleasure of the appointing authority, and receive no salary or compensation for their services as members of the board of ethics.
- B. Qualification of Board members.
- a. All members of the Board of Ethics must be a homeowner of the municipality.
 - b. The members of the Board of Ethics should be qualified by temperament and experience to carry out the duties and responsibilities of the Board.
 - c. No member of the Board of Ethics shall be a committee person or hold office in a partisan political organization or hold elective office in the Village. A Board of Ethics member may make campaign contributions and vote.
 - d. Not more than two members of the Board of Ethics may be members of the same political party.
 - e. No officer or employee of the Village is eligible to serve on the Board of Ethics.
- C. Powers and duties of the Board of Ethics.
- a. The Board of Ethics shall select its own Chair from within the Board for a one-year term and appoint such staff as necessary to carry out its duties under this chapter and to delegate authority to the Chair, if any, to act in the name of Board between meetings of the Board, provided that the delegation is in writing and the specific powers to be delegated are enumerated, and further provided that the Board may not delegate the power to conduct hearings, determine violations, recommend disciplinary action, impose civil fines, refer any matter to a prosecutor or render advisory opinions.
 - b. To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner not inconsistent with this section or state or federal law.
 - c. To review lists of municipal officials and disclosure statements pursuant to § 15-17 of the code of Ethics.
 - d. To conduct investigations pursuant to § 15-19 of the Code of Ethics.
 - e. To conduct hearings, recommend disciplinary action and initiate appropriate actions and proceeding pursuant to §§ 15-19 and 15-20 of the Code of Ethics.
 - f. To issue advisory opinions pursuant to § 15-21 of the Code of Ethics.

- g. To provide ethics training and education to Village officers and employees on the provisions of the Code of Ethics and Article 18 of the General Municipal Law.
- h. The Ethics Board of the Village may act only with respect to officers and employees of the municipality and persons having business dealing with the municipality. The termination of a Village officer's or employee's term of office or employment with the Village shall not affect the jurisdiction of the Village Ethics Board with respect to requirements imposed by this chapter on current and former Village officers or employees to the extent permitted by law.
- i. The Village Ethics Board may refer any matter within its jurisdiction to the County Ethics Board in its discretion.
- j. A member of the Board of Ethics may be removed from office by a minimum of four votes of the Village Board for failure to fulfill the duties of the office or for violation of this chapter. The Village Board must give the Board member written notice and an opportunity to reply.
- k. The Ethics Board must prepare an annual report to the Village Board on its activities and recommend changes to the Village Ethics Law.

§ 15-19. Complaints and investigations.

- A. Upon receipt of a form duly sworn by the person requesting an investigation of an alleged violation of this chapter or upon the Board of Ethics determining on its own initiative that a violation of this chapter may exist, the Board shall have the power and duty to conduct any investigation necessary to carry out the provisions of this section. In conducting any such investigation, the Board of Ethics may administer oaths or affirmations, subpoena witnesses and compel their attendance and require the production of any books or records which it may deem relevant or material. The form to be utilized in requesting an investigation of an alleged violation of this chapter shall be the form available in the office of the Village Clerk.
- B. The Village Board of Ethics investigation shall be confidential until such time that a final determination of the Board has been made. Thereafter the Board shall state, in writing, its disposition of every sworn complaint it receives and of every investigation it conducts and shall set forth the reasons for the disposition to the Board of Trustees. Any findings of violations of this chapter or other applicable law shall be served upon the subject of the investigation within seven days of any such findings of violations and such violations shall be made a public record and shall be indexed and maintained on file by the Village Clerk.

§ 15-20. Enforcement.

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

§ 15-21. Confidential ethics advisory opinions.

- A. The Board of Ethics shall render confidential advisory opinions only to officers and employees of the Village with respect to Article 18 of the General Municipal Law and this Code of Ethics.
- B. If a municipal officer or employee is in doubt regarding any particular conduct or issue, the municipal officer or employee may request guidance from the Ethics Board who shall, in their discretion, prepare an advisory opinion, based on a thorough review of the facts and applicable law.
- C. The Board's opinion is to be based solely on the facts presented in the request or subsequently submitted in a written signed document. The opinion will be rendered in writing to the requester as expeditiously as is practicable, with special attention to the time requirements of a given case.

- D. An officer or employee of the municipality whose conduct or action is the subject of an advisory opinion will not be subject to penalties or sanctions by virtue of acting, or failing to act, due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the material submitted by the requester.
- E. The Board of Ethics will maintain a confidential indexed file of all advisory opinions issued by the Board.

§ 15-22. Posting and distribution.

- A. The Village Clerk must promptly cause a copy of this code, and a copy of any amendment to this code, to be posted publicly and conspicuously in each building under the municipality's control. The code must be posted within ten days following the date on which the code takes effect. An amendment to the code must be posted within ten days following the date on which the amendment takes effect.
- B. The Village Clerk must promptly cause a copy of this code, including any amendments to this code to be distributed to every person who is or becomes an officer or employee of the Village.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Village Clerk who must maintain such acknowledgments as a public record.
- D. The failure to post this Code of Ethics or an amendment to the code does not affect either the applicability or enforceability of the code or amendment. The failure of a municipal officer or employee to receive a copy of the Code of Ethics or an amendment to the code, or to acknowledge receipt thereof in writing, does not affect either the applicability or enforceability of the code or of the amendment to the code.

4.3. Editor's Note: Sections 15-11.1 to 15-11.4 of the Code were adopted as §§ 15-12 to 15-15 by L.L. No. 1-2010, but said sections were renumbered to avoid duplicate section numbers.

ARTICLE III

Residency of Village Justice

[Adopted 2-23-1988 by L.L. No. 1-1988]

§ 15-12. Residency in county.

In lieu of any other residency requirement imposed by law, the Village Justice and Acting Village Justice of the Village of Tuxedo Park may reside within the County of Orange, the county in which the Village is wholly situate.

ARTICLE IV

Terms of Office of Appointed Board Members
[Adopted 6-7-2006 by L.L. No. 3-2006]**§ 15-13. Terms of office.⁵**

The appointed members of the Planning Board, ~~Board of Zoning Appeals~~Board of Appeals, and Board of Architectural Review, Board of Ethics and Lake Board shall each serve for a term of ~~five~~two years, provided that no member may be appointed to serve more than ~~five~~two consecutive ~~two~~five-year terms for any one board. -Additionally, no member of any such board shall be reappointed to such board unless a period of two years shall have passed from the expiration of his or her last term of office. If, however, the Board of Trustees is unable to appoint a new member to any such board because of lack of interest or any other reason, despite its best efforts to do so, the Board of Trustees may, by its resolution, either:

- A. Waive the ten-year term limit and reappoint a then-current member to an additional ~~two~~five-year term; or
- B. Waive the requirement for a two-year hiatus between terms and appoint a former member whose term ended less than two years prior thereto, to a new ~~two~~five-year term.

^{5.4.} Editor's Note: Local Law No. 3-2006 provided that the provisions of § 15-13 shall apply to the current members of the Planning Board, the ~~Board of Zoning Appeals~~Board of Appeals and the Board of Architectural Review upon the expiration of their respective terms of office.

Chapter 17**PLANNING BOARD**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 2-18-1987 by L.L. No. 2-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees generally — See Ch. 15.

Zoning — See Ch. 100.

Subdivision of land — See Ch. 85.

§ 17-1. Purpose and intent.

The Board of Trustees of the Village of Tuxedo Park deem it desirable to create and maintain a Planning Board to oversee the orderly and well-planned growth and development of the Village in a manner that complements and preserves the character of the community. ~~a board that will oversee the future development of the Village and ensure that all such development is planned to complement the character of the community and is carried out in an orderly and nondisruptive manner.~~ To promote these ends, the Board of Trustees hereby affirms the creation and existence of the Planning Board of the Village of Tuxedo Park.

In addition, it is hereby declared to be the policy of the Village of Tuxedo Park to recognize, respect, and honor the Village's designation as a historic district listed on the National Register of Historic Places. The Village acknowledges that its historic, architectural, scenic, and natural features are integral to its character, identity, and long-term sustainability. The Village further declares that land use, subdivision, site planning, and development reviews and approvals shall, to the maximum extent practicable, be guided by the principle that new development, redevelopment, or alteration should result in minimal adverse impact on: (a) the historic resources and established architectural character of the Village; (b) the natural landscape, topography, vegetation, watersheds, viewsheds, and ecological systems that form the natural setting of the Village; (c) the capacity, functionality, and long-term viability of the Village's roads, water supply, sewer system, drainage infrastructure, emergency service capabilities, and other limited public utility resources; and (d) in evaluating related planning board applications, reviewing boards may consider whether and to what extent the proposal would adversely affect historic lot patterns or landscape character.

The Planning Board shall exercise only powers expressly granted by law. No authority over architectural style or aesthetics shall exist except as delegated in Chapter 100.

PLANNING BOARD

§ 17-3

§ 17-2. Composition; appointment; term; removal. Meetings [Amended 6-7-2006 by L.L. No. 3-2006]

- A. The Planning Board shall consist of five members appointed by the Board of Trustees pursuant to § 7-718 of the Village Law to serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. The Board of Trustees shall, by resolution, annually designate from the members of such Board a Chairman and Deputy Chairman. A quorum shall consist of not less than three members. Any member may be removed by the Mayor-Board of Trustees for cause after a public hearing. Members shall complete annual training in Open Meeting Laws, SEQRA, findings based on evidence and review the relevant sections of the Code.
- B. The Planning Board shall hold **one public meeting each month** at a chosen regular time and day at the Village Office. If there is no immediate business, the Chairman may cancel the meeting by notification to all members not less than 24 hours prior to the time set for such meeting.
- C. **Attendance.** Planning Board members are expected to attend at least 75% of the regular and special meetings of the Board in any rolling 12-month period. If a member fails to attend 25% or more of such meetings during that period, the Secretary shall notify the Chair, and the Chair shall report the matter to the Mayor and Board of Trustees for such action, if any, as may be authorized by law and this Code.
- D. **Site visits.** The Planning Board, or individual members thereof, may conduct site visits to properties or locations that are the subject of an application. Site visits shall be for observation and fact-gathering only, and no deliberations or decisions shall occur except at a duly noticed meeting. Any such site visit shall be disclosed on the record at the next Planning Board meeting at which the application is considered.
- E. **Recusal.** A member shall recuse himself from any matter in which the member has a conflict of interest under applicable law, or where the member's impartiality might reasonably be questioned, including due to a financial interest, a family or close personal relationship, pending litigation involving the member and an applicant, or other comparable circumstances. The basis for recusal shall be stated on the record, and the recused member shall not participate in discussion or vote on the matter.
- F. **Disclosure of off-record communications.** Any substantive off-record communication with a Planning Board member regarding a pending application, including a communication from an applicant, neighbor, or other interested person, shall be disclosed on the record before the BAR deliberates or takes action.
- G. **Public comment; relevance.** The Planning Board may receive public comment at regular meetings and public hearings. In considering public comment, the Planning Board shall consider factual information relevant to the applicable standards of this Code. Preference or opposition alone shall not constitute evidence and shall not be the sole basis for a decision.

§ 17-3. Powers and duties; subdivision and site plan approval. [Amended 3-15-2006 by L.L. No. 1-2006; 6-7-2006 by L.L. No. 2-2006; 1-16-2008 by L.L. No. 1-2008; 1-26-2022 by L.L. No. 1-2022]

- A. **Power and Duties.** The Planning Board shall have all the powers and duties prescribed by the Village Law and the laws and ordinances of the Village of Tuxedo Park, including the power to approve subdivision plats as set forth in Village Law § 7-728, consistent, however, with any land subdivision regulations of the Village, and the power to approve site plans as set forth in Village Law § 7-725-a

PLANNING BOARD

§ 17-3

as defined in that law, consistent, however, with any site plan regulations of the Village.⁶ Such powers shall also include, review and approval authority with respect to (i) subdivisions; (ii) lot line adjustments and other boundary modifications processed under the Village's land use and subdivision regulations; (iii) drainage, stormwater management, erosion and sediment control; (iv) water supply, sanitary sewer, and other utilities and related easements; (v) roadway access, driveway layout, and emergency access and turnaround requirements; (vi) environmental review pursuant to SEQRA and Chapter 47 (Environmental Quality Review), including the imposition of reasonable mitigation measures within the Board's jurisdiction; (vii) protection of scenic resources, viewsheds, and other natural and historic landscape features where such protections are established or incorporated in applicable Code provisions, overlay district standards, or adopted regulations and (viii) site plan review in connection with (i) – (vii) above.

- B. For the avoidance of doubt, the Planning Board shall be the approving agency responsible for administering and enforcing the Village's land subdivision regulations set forth in Chapter 85 (Subdivision of Land), including review and approval of subdivision plats and any other actions assigned to the Planning Board under Chapter 85.

- C. Site plan review. The Planning Board shall have site plan review authority as provided in the Village Law and this Code, including site plan review in connection with subdivision applications and site plan applications for commercial, educational and utility uses. Except for structures within the jurisdiction of the Board of Architectural Review under Chapter 100, (including § 100-51E), all proposed new structures, as defined in § 100-2, shall require site plan approval from the Planning Board prior to issuance of a building permit. In exercising site plan review authority, the Planning Board may require submission of plans, studies, and supporting materials reasonably necessary to address matters within its jurisdiction under § 17-3(A), including access and emergency access; drainage and stormwater management; utilities and related easements; SEQRA/Chapter 47 review; and scenic resource protections where established by applicable Code provisions.

- D. For clarity, subdivision review and approval shall be conducted pursuant to Chapter 85, while site plan review shall be conducted pursuant to this chapter and other applicable provisions of the Code; when an application includes both subdivision and site plan components, the Planning Board may coordinate and conduct concurrent review consistent with Village Law and the Code.

- E. By majority vote, the Board of Trustees may enlarge the Planning Board's site plan jurisdiction on a particular application to include powers otherwise vested in the Board of Trustees for review, permitting, approvals and authorizations regarding: (i) land operations to clear (including tree cutting), fill or grade in accordance with Chapter 40; (ii) blasting, demolition or mining operations in accordance with § 100-23; (iii) docks in accordance with §§ 65-2, 65-4G and 65-5C; and (iv) roadway cuts or other access to a Village roadway.

- ~~B. All site plan review in connection with a subdivision application, or a site plan application for commercial, educational and utility uses, shall be the responsibility of the Planning Board as set forth in New York State Village Law. In addition, all proposed structures, as that term is defined in § 100-2 of the Code of the Village (Zoning), other than those structures identified in § 100-51E that are within the jurisdiction of the Board of Architectural Review, shall require site plan approval from the Planning Board before a Building Permit shall be issued by the Building Inspector on any lot. The Board of Trustees may also, by a majority vote, enlarge the Planning Board's site plan jurisdiction on any application to include the delegation of the power, otherwise vested in the Board of Trustees, to include review, permitting, approvals and authorizations regarding (i) any or all land operations to~~

6.— Editor's Note: See Ch. 85, Subdivision of Land.

~~clear (including tree cutting), fill or grade any property in accordance with Chapter 40, (ii) blasting demolition or mining operations in accordance with § 100-23 of Chapter 100, (iii) docks in accordance with §§ 65-2, 65-4G, and 65-5C of Chapter 65, or (iv) roadway cuts or other access to a Village roadway.~~

C.A. In approving site plans (and, where applicable, in reviewing the siting of proposed structures shown in connection with a subdivision application), the Planning Board shall designate the maximum appropriate buildable envelope for any proposed structures, and in doing so shall take into consideration conformance with the applicable zoning regulations of the Village, parking, means of access, screening, signs, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses, tree removal, extreme slopes, regulated wetlands, utilities, orientation of the structure on the lot, tailoring to the natural terrain, overdevelopment of the site given the physical and other environmental features of the site, proximity to roads, adjacent structures and neighboring properties, visibility of the structure, appropriateness with the Village's listing on the National Register of Historic Places, and any other considerations or criteria that the Village Board of Trustees, by resolution or local law, may, from time to time, impose upon the Planning Board.

D.B. Site plan approval by the Planning Board shall not relieve the applicant from the necessity of obtaining approval from the Board of Architectural Review for projects that alter the property's appearance, pursuant to Chapter 100, Article VIII, of the Code of the Village if the same is otherwise required by that chapter.

C. Where any road cut or other access to a Village roadway is proposed as part of a site plan or subdivision application, the Planning Board may require the applicant to stake out the proposed road cut or access and submit such engineering, drainage, stormwater and sight-distance information as reasonably necessary. The Planning Board may recommend conditions within its jurisdiction relating to location, design, drainage/stormwater management, emergency access and restoration. Any proposed road cut or other access to a Village roadway shall require approval by resolution of the Village Board of Trustees.

~~E. Where any road cut or other access to a Village roadway is proposed as part of a site plan or subdivision, the Planning Board or Board of Trustees may require the Applicant to stake out the proposed road cut access. Any proposed road cut or other access to a Village roadway shall require approval by resolution of the Village Board of Trustees.~~

§ 17-4. Planning Board standards. [Amended 2-21-1990 by L.L. No. 1-1990; 8-17-2005 by L.L. No. 3-2005⁷]

Whenever the provisions of the laws and ordinances of the Village impose greater restrictions than state law and where the powers and duties delegated to the Planning Board under the provisions of the Village laws and ordinances are more restrictive or impose higher standards than those found in state law, the provisions of the local Village laws and ordinances shall prevail.

7.5. Editor's Note: This local law also provided that the Board of Trustees shall appoint new members to the Board of Architectural Review § 100-51 of the Code. After the appointment of such members, the Board of Architectural Review shall undertake such duties and responsibilities as set forth in Chapter 100, Article VIII, of the Code. The Village Clerk shall arrange for the transfer of all applications for architectural review pending at the time of the effective date of this local law to the newly appointed Board of Architectural Review. After the effective date of this local law, the Planning Board shall no longer have jurisdiction to act as a Board of Architectural Review with respect to pending or future applications for architectural review.

POLICE DEPARTMENT

Chapter 18

POLICE DEPARTMENT

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code; See Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Officers and employees generally — See Ch. 15.

ARTICLE I
Establishment and Organization

§ 18-1. Establishment; name.

There is hereby established a Police Department for the Village of Tuxedo Park, to be known as and by the name of the "Village of Tuxedo Park Police Department."

§ 18-2. Composition; compensation.

- A. The Village Board shall appoint a Chief of Police and such other officers and policemen as may be needed from time to time in accordance with and pursuant to the rules of the Orange County Civil Service Commission.
- B. The compensation of such Chief of Police, officers and policemen shall be a Village charge.

§ 18-3. Equipment.

The Village Board shall pay all or part of the cost of uniforms and necessary equipment of its policemen as it may determine and may purchase, rent or lease such equipment and office or other space for use by the Police Department as it shall from time to time deem necessary, including police patrol vehicles and emergency service vehicles for police use in connection with accidents, public calamities or other emergencies.

ARTICLE II
Mutual Aid

§ 18-4. Power to request aid.

The Chief of Police of the Village of Tuxedo Park, whenever he deems the public interest requires it, may request either the chief executive officer or the Chief of Police of the Town of Tuxedo to detail, assign and make available for duty and use in the Village of Tuxedo Park any part of the forces, equipment and supplies of the Police Department of the Town of Tuxedo.

§ 18-5. Power to grant aid.

The Chief of Police of the Village of Tuxedo Park may, upon request from either the chief executive officer or the Chief of Police of the Town of Tuxedo, detail, assign and make available for duty and use in the Town of Tuxedo any part of the forces, equipment and supplies of the Police Department of the Village of Tuxedo Park.

§ 18-6. Statutory authority.

The assistance requested or granted shall be in accordance with the provisions of § 209-m of the General Municipal Law of the State of New York.

PUBLICITY FUND

Chapter 19

PUBLICITY FUND

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 7-17-2002 by L.L. No. 2-2002.⁸ Amendments noted where applicable.]

§ 19-1. Creation; purpose.

The Board of Trustees hereby authorizes the establishment of a publicity fund for the purpose of expending Village tax money on commemoration programs of historical Village of Tuxedo Park events, including incorporation of the Village of Tuxedo Park anniversary celebrations.

§ 19-2. Extent of fund.

This fund shall not exceed \$10,000.

8.6. Editor's Note: This local law was adopted as Ch. 22, but was renumbered to fit into the organization of the Code.

Chapter 21**RECORDS, PUBLIC ACCESS TO**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 10-8-1974, amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

§ 21-1. Payroll records.

The Mayor, as Chief Fiscal Officer, is hereby designated as the individual to whom a bona fide member of the news media shall direct requests upon the form prescribed by the Comptroller of the State of New York for the inspection of the payroll records of the Village of Tuxedo Park and provide a certified copy. All requests by the news media shall be made directly to the Mayor at his office located at the Village Hall, Lorillard Road, Tuxedo Park, New York, at all hours that the Clerk's office is regularly open for business.

§ 21-2. Records access officers designated.

The following persons shall be called "records access officers," who shall make available to the public all records pertaining to the operation of the particular Tuxedo Park agency, which records shall be kept in the area designated:

- A. Village Clerk, Village Office, Tuxedo Park, New York, telephone 351-4745.
- B. Building Inspector, Village Office, Tuxedo Park, New York, telephone 351-4745.
- C. Department of Public Works, Village Office, Tuxedo Park, New York, telephone 351-4745.
- D. Chief of Police, Tuxedo Road, Tuxedo Park, New York, telephone 351-4741.
- E. Village Assessor, Village Office, Tuxedo Park, New York, telephone 351-4745.
- ~~F. Chairman, Fire Commissioners, Village Office, Tuxedo Park, New York, telephone 351-4745.~~

§ 21-3. Duties of records access officers.

The records access officers are responsible for the following:

- A. Maintaining an up-to-date subject matter list.
- B. Assisting the requester in identifying requested records, if necessary.
- C. Upon locating the records, taking one of the following actions:
 - (1) Making records available for inspection, including digital records.
 - (2) Denying access to the records in whole or in part and explaining in writing the reasons therefor.
- D. Upon request for copies of records:
 - (1) Making a copy available upon payment or offer to pay established fees, if any; or
 - (2) Permitting the requester to hand-copy those records.
 - (2)(3) Providing a link or access to digital records.
- E. Upon request, certifying that a record is a true copy.

F. Upon failure to locate records, certifying that:

- (1) The agency is not the custodian for such records; or
- (2) The records of which the agency is a custodian cannot be found after diligent search.

§ 21-4. Location of records.

Each agency shall designate the locations where records shall be available for public inspection and copying.

§ 21-5. Requests for access to records.

- A. An agency may require that a request be made in writing or may make records available upon oral request.
- B. An agency shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information that may help to describe the records sought.
- D. If the agency does not provide or deny access to the record sought within five business days of receipt of a request, the agency shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 21-6. Subject matter list.

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

§ 21-7. Denial of access to records; appeals.

- A. The Village Board of the Village of Tuxedo Park shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.
- B. Denial of access shall be in writing, stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.
- C. If any agency fails to respond to a request within five business days of receipt of a request, as required in § 21-5D of this chapter, such failure shall be deemed a denial of access by the agency.

- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of a written appeal identifying:
- (1) The date and location of a request for records.
 - (2) The records that were denied.
 - (3) The name and return address of the appellant.
- F. The agency shall transmit to the Committee on Open Government copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:
- Committee on Open Government
Department of State
162 Washington Avenue
Albany, New York 12231
- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing, within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection F of this section.
- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

§ 21-8. Fees.

Fees shall be as follows, except when a different fee is otherwise prescribed by law:

- A. There shall be no fee charged for the following:
- (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this chapter.
- B. An agency may provide copies of records without charging a fee.
- C. An agency may charge a fee for copies of records, provided that:
- (1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches. This subsection shall not be construed to mandate the raising of fees where agencies in the past have charged less than \$0.25 for such copies.
 - (2) In agencies which do not have photocopying equipment, a transcript of the requested records shall be made upon request. Such transcripts may either be typed or handwritten. In such cases, the person requesting records may be charged for the clerical time involved in making the transcript.
 - (3) The fee for copies of records not covered by Subsection C(1) and (2) of this section shall not exceed the actual reproduction cost, which is the average unit cost for copying a record,

excluding fixed costs of the agency, such as operator salaries.

§ 21-9. Public notice.

Each agency shall publicize by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- A. The location where records shall be made available for inspection and copying.
- B. The name, title, business address and business telephone number of the designated records access officer.
- C. The right to appeal by any person denied access to a record, and the name and business address of the person or body to whom an appeal is to be directed.

General Legislation

Chapter 25

ACCESS TO VILLAGE

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I; amended in its entirety 2-16-2022 by L.L. No. 3-2022. Subsequent amendments noted where applicable.]

ARTICLE I
Use of Restricted Roads

§ 25-1. Legislative intent.

In order to preserve and protect the public health, safety and welfare and in accordance with the single-family residential zoning of the Village and pursuant to the provisions of § 171 of the Village Law, as amended by c. 537, L. 1952, and resolution of the Board of Trustees as adopted May 9, 1953, the use of Village roads is restricted to owners of land within and residents of the Village and persons lawfully having business with or invited therein by any such owner or resident.⁹

§ 25-2. Certain activities prohibited.

- A. For this reason it shall be unlawful to hold public auctions, open houses, shows, garage sales, tag sales, general meetings, ~~rallies~~rallies, sports events or other gatherings or functions which attract the public-at-large rather than specified preinvited guests. There shall be no blanket invitations, and it shall be the obligation of each guest or service contractor to confirm to the Police Department his authorized invitation on a daily basis.
- B. In addition, no property or roads shall be used for tours, ~~filming~~, shows, worship, parties, gatherings, sales, games, entertainment, lectures or the like where any fee, subscription, rental, cover charge or admission is levied on attendees for charity, profit or otherwise, unless prior written permission by the Board of Trustees is granted. See also Section 51 for provisions on filming.

§ 25-3. Advance notice required, Fee.

Sponsors of events involving more than 100 guests in any one day shall notify the Chief of Police two weeks in advance to provide for traffic and parking considerations. A fee, set and revised from time to time by the Board of Trustees, may be levied on the Sponsor for traffic and parking assistance rendered by the Police Department.

§ 25-4. Exceptions.

Exceptions to this article may be granted on a per-situation basis upon prior application for and issuance of a written permit from the Board of Trustees.

^{9.7.} Editor's Note: See also Ch. 100, Zoning, § 100-22.

AIRCRAFT

Chapter 27

AIRCRAFT

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-14-1972. Section 27-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Peace and order — See Ch. 70.

Aerial photography — See Ch. 51.

§ 27-1. Use in Village restricted.¹⁰

No aircraft, whether fixed-wing, rotary, thrust-propelled or other, shall land, take off or fly below FAA minimum altitude anywhere within the boundaries of the Village except in case of extreme emergency or with prior approval from appropriate authorities, including the Chief of Police, Mayor or Board of Trustees. ~~This section shall also apply to hobby type aircraft and remotely piloted vehicles (RPV's) whose takeoff weight exceeds five pounds.~~

§ 27-2. Drones and Remotely Piloted Vehicles (RPV's)

Drones or similar aircraft may be used only on or over the property owners' property (1) by or with the written consent of the property owner, (2) drones can be flown over public property with the pre-approval of the Board of Trustees and (3) with respect to Village matters only drones may be flown over public and private property with approval of the Board of Trustees.

AIRCRAFT

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

Chapter 29**ALARM SYSTEMS**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Permits and licenses — See Ch. 73.

Fire prevention — See Ch. 53.

§ 29-1. Purpose.

The purpose of this chapter is to provide for the public safety and welfare by setting forth regulations governing burglary and fire alarm systems within the Village, ~~requiring permits therefor, establishing fees and providing for punishment of violators of provisions of this chapter.~~

§ 29-2. Definitions.

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

ALARM BUSINESS — To engage in the supplying, installing, maintaining or servicing of burglary or fire alarm systems.

ALARM SYSTEM — Alarm system means an assembly of equipment installed at a fixed location designed to detect and/or verify an occurrence of fire, smoke, heat, CO and illegal or unauthorized entry or other activity to which law enforcement, fire fighters or other emergency services (collectively, “emergency responders”) is requested to respond. ~~The assembly of equipment, mechanical or electrical, or a device which is designed or used for the detection of a fire or an unauthorized entry into a building, structure or facility, which emits a sound or transmits a signal or message to the Police Department or Fire Department, to which police officers or firemen are expected to respond.~~

ALARM USER — any person, corporation, trust or any other entity owning, leasing, or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises ~~That person whose name appears on the registration form as the user or, if there is no such registration, the owner of the premises to which the Police Department or Fire Department is expected to respond.~~

AUDIBLE ALARM — A device, designed for the detection of a fire or an unauthorized entry on premises, which generates an audible sound on the premises when it is actuated.

DEPARTMENT — The Police Department of the Village of Tuxedo Park and/or the Fire Department servicing the Village.

FALSE ALARM — An alarm signal necessitating response by the Police Department or Fire Department where an emergency situation does not exist. Such term shall not include alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions. "False alarms," as defined in this chapter, do not include those alarms which are transmitted with criminal, malicious or mischievous intent.

BUILDING AND LAND USE OFFICER — As defined in Chapter 76, Section B.

§ 29-3. ~~Permit required; fee.~~Registration

Registration is not required but residents shall be encouraged to register alarm systems with the Village and provide the name, telephone number and address of the owner(s) of the property where the alarm system is located, the names and contact information of a minimum of two alarm users, who shall have access to the

~~No person shall install or operate an alarm system within the Village until notification has been filed with the Department authorizing the installation and operation of said alarm system. The notification shall include the name, telephone number and address of the alarm user, who shall have access to the~~

~~alarm system in order to reset the system or disconnect the same when necessary. A fee in an amount set by resolution of the Board of Trustees shall be paid upon filing of the notification.¹¹ It shall be the responsibility of each permit holder to notify the Department in writing within 10 days of any change in registration information.~~

§ 29-4. ~~Approval of plans; lock box.~~Response to Alarm

- ~~A. When an alarm system is activated, the Police Department shall respond to the alarm or cause other emergency responders to respond. If registered, the Police Department shall endeavor to notify the alarm user listed in the registration. Said person shall immediately go to the place where the alarm is sounding to meet the police emergency responders, secure the building and reset the alarm.~~
- ~~B. Should any alarm user, when notified of its activation, refuse or is unable to respond pursuant to this section, the emergency responders shall check the property thoroughly and secure the location as much as possible, including if necessary to forcibly enter the premises to secure the location and reset the alarm. The reasonable costs and expenses of gaining entry to the premises shall be assessed and charged to the property owner. Any reasonable damage to the property or premises resulting from entry shall be borne entirely by the owner. The Police Department shall have the authority to decide not to make any further response to that building, dwelling or place until such time as said alarm system has been properly reset.~~
- ~~A. No alarm system shall be installed until the plans and specifications relating to said alarm system have been approved by the Chief of the Department. The Chief of the Department shall have the right, at all reasonable times, to inspect any alarm system within his jurisdiction.~~
- ~~B. The location of the alarm components shall, when deemed necessary by the Chief of the Department, be provided on a floor plan to be kept at the site of the alarm system or in a location adjacent to the alarm system panel.~~

§ 29-5. ~~Response to alarm.~~False alarms; penalties

A. Unintentional false alarms.

- (1) The following fines and charges shall be imposed upon the alarm system owner for activation of any alarm system by error, mistake or malfunction, as the case may be, which results in a response by emergency responders.
- (a) Up to three such false alarms may occur in any calendar year without the imposition of a penalty.
- (b) The fourth such false alarm shall result in a fine of \$50, and every subsequent false alarm in excess of the above shall result in a fine of \$75 per false alarm. In addition, such person shall be responsible for and shall bear the expense of responding to any such false alarm.

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

Said expense shall be determined by the Chief of the Police Department and billed to the responsible party or parties; provided, however, that no such charges, exclusive of any penalty imposed, shall exceed \$100.

- (2) After the second false alarm, a registered written warning shall be sent to the alarm system owner.
- (3) After the third such false alarm, a written order shall be issued to the alarm system owner requiring that the alarm system be inspected and the Police Department notified of corrective action taken.

B. Control of public nuisance.

Upon receiving complaint(s) regarding a continuous uninterrupted or continuously recurring alarm, the Police Department, shall endeavor to contact the property owner or alarm user in an effort to abate the nuisances. In the event that the Police Department is unable to contact the property owner or alarm user, or if the aforesaid persons cannot or will not curtail the audible alarm, the Police Department may direct a police officer or a qualified alarm technician accompanied by a police officer to enter upon the property, including if necessary forcibly enter the premises in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

After an entry upon the property has been made in accordance with this section, the Police Department shall have the property secured, if necessary. The reasonable costs and expenses of abating a nuisance and securing the property shall be assessed to the property owner.

C. Intentional false alarms; penalties.

- (1) No person shall knowingly or intentionally activate any alarm system when no emergency exists.
- (2) No person shall knowingly or intentionally test, repair, adjust, alter or perform maintenance on an alarm system or cause the same to be tested, repaired, adjusted, altered or maintained, if such action could result in a false alarm, without first notifying the Police Department of such test, repair, adjustment, alteration or maintenance and receiving approval for the same. The Police Department shall be notified immediately upon completion of such test, repair, adjustment, alteration or maintenance. The Chief of the Police Department may restrict or refuse to permit testing, repair, adjustment, alteration or maintenance of an alarm system if testing, repair, adjustment, alteration or maintenance could result in a false alarm when during a time when the manpower resources of the Department are limited.
- (3) Any person who violates Subsection A or B of this section shall be punished as provided in Chapter 1, General Provisions, § 1-12, and, where applicable, may additionally be subject to prosecution under the laws of the State of New York for falsely reporting an incident. In addition, such person shall be responsible for and shall bear the expense of responding to any such false alarm. Said expense shall be determined by the Chief of the Police Department and billed to the responsible party or parties; provided, however, that no such charge, exclusive of any penalty imposed, shall exceed \$100 per response.

~~A. When an alarm system is activated, the Police Department shall respond to the alarm and notify the person or Persons listed in the registration form as having responsibility for securing said alarm system. Said person shall immediately go to the place where the alarm is sounding to meet the police officers, secure the building and reset the alarm.~~

- ~~B. Should any person responsible for securing and resetting any alarm system, when notified of its activation, refuse to respond pursuant to this section, the officers on the scene shall check the property thoroughly and secure the location as much as possible. The Police Department shall not be required to make any further response to that building, dwelling or place until such time as said alarm system has been properly reset.~~
- ~~C. If any dwelling, building or place is required by law to maintain an alarm system, as herein defined, and if said alarm system fails to function and cannot be returned to service within a reasonable time and if, in the opinion of the Chief of the Department, the absence of a properly functioning alarm system may pose a threat to life and property, the Chief of the Department may require the special duty assignment of one or more police officers to patrol the premises until the alarm system has been returned to service. The cost of any special duty assignment shall be the responsibility of the alarm system owner.~~

§ 29-6. ~~False alarms; penalties~~Hearings.

Any person receiving an order or notice of violation sent by the Police Department or by the Building and Land Use Officer pursuant to the provisions of this chapter may contest said order or notice at a hearing before the Village Court in accordance with applicable court procedures.

~~A. Unintentional false alarms.~~

~~(1) The following fines and charges shall be imposed upon the alarm system owner for activation of any alarm system by error, mistake or malfunction, as the case may be, which results in a response by the Police Department or Fire Department.~~

~~(a) Up to three such false alarms may occur in any calendar year without the imposition of a penalty.~~

~~(b) The fourth such false alarm shall result in a fine of \$50, and every subsequent false alarm in excess of the above shall result in a fine of \$75 per false alarm. In addition, such person shall be responsible for and shall bear the expense of responding to any such false alarm.~~

~~11. Editor's Note: The current fee resolution is on file in the office of the Village Clerk.~~

~~Said expense shall be determined by the Chief of the Department and billed to the responsible party or parties; provided, however, that no such charges, exclusive of any penalty imposed, shall exceed \$100.~~

- ~~(2) After the second false alarm, a registered written warning shall be sent to the alarm system owner.~~
- ~~(3) After the third such false alarm, a written order shall be issued to the alarm system owner requiring that the alarm system be inspected and the Department notified of corrective action taken.~~

~~B. Intentional false alarms; penalties.~~

- ~~(1) No person shall knowingly or intentionally activate any alarm system when no emergency exists.~~
- ~~(2) No person shall knowingly or intentionally test, repair, adjust, alter or perform maintenance on an alarm system or cause the same to be tested, repaired, adjusted, altered or maintained, if such action could result in a false alarm, without first notifying the Department of such test, repair, adjustment, alteration or maintenance and receiving approval for the same. The Department shall be notified immediately upon completion of such test, repair, adjustment, alteration or maintenance. The Chief of the Department may restrict or refuse to permit testing, repair, adjustment, alteration or maintenance of an alarm system if testing, repair, adjustment, alteration or maintenance could result in a false alarm when during a time when the manpower resources of the Department are limited.~~
- ~~(3) Any person who violates Subsection A or B of this section shall be punished as provided in Chapter 1, General Provisions, § 1-12, and, where applicable, may additionally be subject to prosecution under the laws of the State of New York for falsely reporting an incident. In addition, such person shall be responsible for and shall bear the expense of responding to any such false alarm. Said expense shall be determined by the Chief of the Department and billed to the responsible party or parties; provided, however, that no such charge, exclusive of any penalty imposed, shall exceed \$100 per response.~~

§ 29-7. HearingsFailure to pay fines.

~~Any person receiving an order or notice of violation pursuant to the provisions of this chapter may contest said order or notice at a hearing before the Chief of the Department. All demands for a hearing must be made in writing and delivered in person or by mail no later than 10 days following receipt of the order or notice of violation. Any person requesting a hearing shall be given written notice of the date, time and place of the hearing. Such hearing shall be held no less than 15 days nor more than 30 days from the date of the mailing of the notice, provided that the Chief of the Department shall grant, upon good cause shown, any reasonable request by any interested party for a postponement or continuance. The presence of the issuing officer shall be required at the hearing if such person so requests. A person wishing to contest an order or notice of violation shall appear at the hearing and shall have the right to present evidence and cross-examine witnesses. A designated Village official, other than the Chief of the Department, may present evidence on behalf of the Village. The Chief of the Department shall conduct the hearing in a manner that he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Chief of the Department shall announce his or her decision within five days of the completion of the hearing.~~

~~§ 29-8. Failure to pay fines.~~

If any person fails to pay, within 30 days, any fine or charge imposed under § 29-~~56~~, it shall be the right of the Chief of the Department to remove the alarm from the dispatch panel or other communication console 15 days after notification by registered letter to the alarm system owner.

~~§ 29-89. Exemptions~~

(A) The provisions of this chapter are not applicable to audible alarms affixed to automobiles.

(B) None of the provisions of this Chapter shall apply to police, fire or medical emergency alarm devices installed in Village-owned buildings, motor vehicles, trailers.

~~Use of exterior audible alarm.~~

~~Unless required by law, no alarm system which produces an exterior audible signal shall be installed unless its operation is automatically restricted to a maximum of 15 minutes' automatic reset. Any exterior audible alarm system in use as of the effective date of the chapter must comply with this section within 120 days of such date.~~

~~§ 29-10. Automatic dialing devices.~~

~~The Department shall establish and monitor a special telephone line for receipt of signals from automatic dialing devices. In addition to the requirements imposed upon alarm system owners pursuant to the provisions of this chapter, such automatic dialing device shall, within 90 days of the effective date hereof, meet the following minimum standards:~~

~~A. Messages terminated.~~

~~(1) The contents of a recorded message to be transmitted by such device shall be intelligible and in a format approved by the Chief of the Department.~~

~~(2) Upon a single stimulus of the alarm system, an automatic dialing device may place two separate calls. No such call shall be longer than 15 seconds in duration. There shall be at least three minutes but not more than five minutes between completion of the first call and the initiation of the second, and the second call must be clearly identified as a second call.~~

~~B. Transmission to alternate locations. All such automatic dialing devices shall also transmit an emergency to at least one other location where an authorized person is available to respond to the emergency message and to secure the premises in which the alarm system is installed.~~

~~§ 29-11. Exemptions.~~

~~The provisions of this chapter are not applicable to audible alarms affixed to automobiles.~~

~~§ 29-912. Village nonliability.~~

Responders, their officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or alarm monitoring facilities. No liability whatsoever is assumed by the Village and its departments, local fire department(s) and other emergency responders, their officers, agents and employees for the failure of such alarm devices or monitoring facilities or for the failure to respond to alarms or for any reasonable damage to the property in the course of responding to an alarm or eliminating a nuisance in accordance with this Article 29. In the event that the Chief of the Police Department and/or Building and Land Use Officer on behalf of the Village orders the

§ 29-8

ALARM SYSTEMS

discontinuation or removal of an alarm system, the Police Department or Village shall incur no liability therefrom.

~~Notwithstanding the provisions of this chapter, the Village, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of any alarm device or alarm monitoring facilities. No liability whatsoever is assumed for the failure of such alarm devices or monitoring facilities or for the failure to respond to alarms.~~

TUXEDO PARK CODE

Proposed Local Law Repealing Chapter 30 (Alcoholic Beverages)

This proposed local law repeals Chapter 30 of the Code of the Village of Tuxedo Park in its entirety.

Section 1. Repeal of Chapter 30.

Chapter 30 of the Code of the Village of Tuxedo Park, entitled "Alcoholic Beverages," is hereby repealed in its entirety.

Section 2. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law 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, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. Savings.

The repeal of Chapter 30 shall not affect or impair any act done, offense committed, violation incurred, or any action or proceeding commenced prior to the effective date of this local law, and the same may be prosecuted and concluded as if this local law had not been adopted.

Section 4. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Chapter 30-

ALCOHOLIC BEVERAGES

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

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Permits and licenses — See Ch. 73.

Peace and good order — See Ch. 70.

~~ARTICLE I~~~~Public Consumption~~~~[Adopted at time of adoption of Code¹²]~~~~§ 30-1. Title.~~~~This article shall be called the "Public Drinking Law."~~~~§ 30-2. Legislative intent.~~~~This article is intended to preserve the public peace, good order, safety and welfare of the people of the Village of Tuxedo Park and to regulate the possession of and the consumption of alcoholic beverages on streets, sidewalks, parking areas and roads within the Village of Tuxedo Park.~~~~§ 30-3. Definitions.~~~~For the purposes of this article, the following terms shall have the meanings ascribed to them. All other words shall have the meanings normally ascribed to them in regular usage.~~~~ALCOHOLIC BEVERAGE—Includes alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.~~~~PERSON—Includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, copartnership, society or any other organization.~~~~STREETS, SIDEWALKS, PARKING AREAS AND ROADS—Any public way or public parking areas used by the public for pedestrian and/or vehicular purposes.~~~~§ 30-4. Consumption in public prohibited; presumption of evidence.~~~~A.—It shall be unlawful for any person to have in his possession, with intent to consume therefrom, any open bottle or container containing an alcoholic beverage or to consume any alcoholic beverage upon any street, sidewalk, parking area and/or road or in any vehicle thereon.~~~~B.—An open bottle or open container in any vehicle shall be presumptive evidence that the same is in possession of all the occupants thereof and in violation hereof.~~~~§ 30-5. Exceptions.~~~~This article shall not apply:~~~~A.—To any premises duly licensed for sale and/or consumption of alcoholic beverages on the premises.~~~~B.—When a permit has been issued by the Village of Tuxedo Park or other appropriate agency for the public use of any street, sidewalk, parking area and/or road for any authorized function, including but not limited to fairs, parades, block parties and carnivals.~~~~§ 30-6. Permits.~~~~A.—Applicants for a permit under this article shall file with the Village Clerk a sworn application in writing and in duplicate, on a form to be furnished by the Village of Tuxedo Park Police Department.~~

~~12. Editor's Note: See Ch. 1, General Provisions, Art. I.~~

~~B. Upon receipt of such application, the Chief of Police or a Sergeant of the Village of Tuxedo Park Police Department shall cause such application to be reviewed and shall endorse his approval on said application and issue a permit. Such permit shall also contain the name and address of said permittee, the date of issuance and the length of time the same shall be operative. The Police Department shall keep a permanent record of all permits issued.~~

~~C. There shall be no fee payable for either the application or the issuance of the permit.~~

TUXEDO PARK CODE

Chapter 32

ANIMALS

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 5-13-1961, amended in its entirety at time of adoption of Code; Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

ARTICLE I

Dogs**§ 32-1. Definitions.**

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

DOG — Any animal of the species *Canis familiaris*.

OWNER — Any person who is the licensed owner or last licensed owner of a dog, or any person who harbors a dog for more than one week. If the "owner" of a dog is under the age of 18 years, the "owner" of the dog shall be deemed the parent or guardian for the purpose of this article.

§ 32-2. Care and control of dogs.

It shall be unlawful for any owner or any person harboring any dog in the Village of Tuxedo Park, New York, to permit or allow such dog to:

- A. Engage in biting of a person or other animal, or engage in loud howling or barking that creates noise clearly audible beyond the subject property line that disturbs or annoys a reasonable person of normal and average auditory sensitivities, other than the owner or person harboring such dog. Where such howling or barking occurs for any 15 minutes within an hour period (whether or not continuous), such barking or howling shall be presumptive evidence of a noise disturbance. **[Amended 8-25-2015 by L.L. No. 3-2015]**
- B. Cause damage or destruction to public or private property or commit a nuisance upon the premises of a person other than the owner or person harboring such dog.
- C. Chase or otherwise harass any person in such manner as to reasonably cause intimidation or put such person in reasonable apprehension of bodily harm or injury.
- D. Habitually chase or bark at motor vehicles.
- E. Remain in the Village of Tuxedo Park unless licensed and cared for in accordance with the provisions of this article and the New York State Agriculture and Markets Law.

§ 32-3. Dogs at large.

- A. Dogs are permitted to run free within the Village, provided that:
 - (1) No more than two dogs owned by or in the custody of one family unit shall be permitted loose off the property of their owners at any given time.
 - (2) Each dog allowed to run free is known to be nonvicious and rabies-free.
 - (3) The owner assumes full responsibility for his dog's safety and actions on public and private property.
 - (4) There is no outstanding prohibition from any Village board or official.
- B. Dogs deemed dangerous, destructive or public nuisances may be cited by the Police Department, Public Works Superintendent, Building Inspector or Board of Trustees. Such dogs must be confined to the owner's property or walked on a leash.

§ 32-4. Enforcement officials.

This chapter shall be enforced by the Village Police Department.

§ 32-5. Appearance tickets.

The Village police officer observing a violation of this article, or to whom a written complaint of such violation is made by any other person, shall issue and serve an appearance ticket for such violation, which appearance ticket shall be in the form prescribed by the Village Board and in accordance with the provisions of § 114 of the Agriculture and Markets Law of the State of New York. Such ticket shall provide that an answer thereto may be made by registered or certified mail, return receipt requested, within five days of the date thereof. Such appearance ticket shall include and contain a form whereby the person charged may admit to the violation or deny the same and shall contain a schedule of penalties for such violations as set forth in this article. A person answering such appearance ticket by mail as herein provided and admitting the violation charged therein shall submit with such answer a check or money order in the amount of the penalty for the violation charged. A person answering such appearance ticket by mail as hereinabove provided and denying part or all of the violation charged shall so indicate such denial in the place provided in the appearance ticket and shall forward the same, together with security in the amount of \$25, to the office specified on such appearance ticket. Upon receipt, such answer shall be entered and a new return date established by said office. Such person shall be notified by return mail of the date and place of such return date, and the security shall be returned upon appearance thereat. If a person shall fail to appear at a return date, the security posted to secure such appearance shall be forfeited, and a summons or warrant of arrest may be issued pursuant to the Criminal Procedure Law.

§ 32-6. Impoundment.

Any dog which is in violation of the provisions of this article shall be impounded and taken to such place as may be designated by the Village Board as a place of detention and shall there be tested for rabies, as deemed necessary, and be properly fed and cared for at the expense of the owner of the dog until disposition thereof shall have been made in accordance with the provisions of this article.

§ 32-7. Notification of owner.

In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and notify the owner of such dog, personally or by certified mail, return receipt requested, that the dog has been seized, indicating when, where and why the dog was seized and stating that the dog will be destroyed unless redeemed or a trial is demanded within 12 days of the impounding of the dog.

§ 32-8. Disposal of unlicensed dogs.

In the event that the dog seized does not bear a license tag and the owner is unknown, the Dog Warden or designated official shall be authorized to destroy the dog seven days after impounding it or to dispose of the dog by sale or other means.

§ 32-9. Redemption fees.

If a dog is redeemed pursuant to this article, the owner shall pay to the appropriate official such fees as are provided in the standard schedule of fees ~~of the Town of Tuxedo~~.

§ 32-10. Sale or destruction of dogs.

- A. Any dog impounded pursuant to this article, which is not redeemed or for which a trial has not been demanded within the time hereinabove set forth, may be sold by the Dog Warden or designated official destroyed as provided above. The Warden is authorized to sell any such dog at such price as the Dog Warden or designated official shall determine to be fair and shall deposit such sum in the general fund of the town. The town shall keep a record of all such sales.
- B. Any dog required to be destroyed pursuant to this article shall be humanely destroyed and its carcass disposed by the Dog Warden or designated official. A record of all dogs destroyed by the Dog Warden or designated official pursuant to this article shall be kept and maintained by the Dog Warden or designated official. The owner or harbinger of any dog destroyed under the provisions of this article shall not be entitled to any compensation by reason thereof.

§ 32-11. Other Animals

- A. Cats, gerbils, hamsters, rabbits, turtles and other domesticated animals are permitted as pets subject to the same general rules and procedures set forth in Sections 32-2, 32-3, 32 -4, 32-5 & 32-10.
- B. Residents and occupants of the Village of Tuxedo Park may not keep undomesticated animals without prior permission of the Board of Trustees.

§ 32-12. Animal Enclosures and structures

- A. Structures used to house animals, including but not limited to: chicken coops, bee hives and dog houses shall be deemed structures subject to the Village Code with respect to setbacks.

§ 32-13. Penalties for offenses.

Any person committing an offense against any provision of this article shall, upon conviction, be guilty of a violation punishable by a fine of not more than \$25 for the first offense, of not less than \$25 nor more than \$50 for the second offense and a fine of not more than \$75 for the third offense and all subsequent offenses.

ARTICLE II

Wildlife**§ 32-12. Authority of Board of Trustees.**

- A. The Board of Trustees shall have authority, subject to state and federal regulation, to control, as practicable, pests, flora and wildlife populations within the Village.
- B. Animal traps, feeders, poisons, salt licks, spraying and all other conditions affecting the local ecology, whether by public or private means, may hereafter be regulated by said Board of Trustees.
- C. The use of damage nuisance control permits duly issued by the New York State Department of Environmental Conservation (DEC) damage nuisance permits under the authority of § 11-0521 of the Environmental Conservation Law, as amended from time to time, is, in addition to the other powers granted in this chapter, specifically authorized within the Village. **[Added 12-16-1998 by L.L. No. 7-1998;¹³3-15-2000 by L.L. No. 2-2000]**
 - (1) Notwithstanding anything contained in § 70-5 of this Code, the use of firearms and long bows in furtherance of a damage wildlife control permit is hereby authorized.
 - (2) No such damage nuisance permit shall be utilized by any resident within the Village except in strict conformance with such rules and regulations pertaining to the use of such a permit in the Village as may be adopted and amended from time to time by the Board of Trustees by its specific resolution. In the absence of such rules and regulations no such permit shall be utilized.

~~13-10.~~ Editor's Note: This local law was repealed 2-23-2000 by L.L. No. 1-2000.

Chapter 36**BUILDING CONSTRUCTION**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 9-11-1956, amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets — See Ch. 3.

Permits and licenses — See Ch. 73.

Clearing, filling and grading — See Ch. 40.

Construction and site safety — See Ch. 74, Art. IV.

Environmental quality review — See Ch. 47.

Building permits for storage tanks — See Ch. 87.

Availability of fire hydrants — See Ch. 53.

Zoning — See Ch. 100.

Hours for construction activity — See Ch. 70.

§ 36-1. Standards.

The Board of Trustees of the Village of Tuxedo Park, having previously adopted resolutions accepting the applicability of the State Building Code and State Fire Prevention Code, hereby enacts the following administrative provisions for the enforcement of the New York State Uniform Fire Prevention and Building Code pursuant to the provisions of Article 18 of the Executive Law.

§ 36-2. Appointment of Building Inspector.

The Board of Trustees shall appoint a Building Inspector for the Village and such Deputy Building Inspectors as may be necessary. The Building Inspector may be employed on a part-time basis and may serve other municipalities in the capacity of building official. The compensation of the Building Inspector shall be as determined by the Board of Trustees.

§ 36-3. Powers and duties of Building Inspector and Deputies.

The Building Inspector and Deputies shall exercise all the powers and perform all the duties conferred by law and by the Board of Trustees, including but not limited to:

- A. The administration and enforcement of the Uniform Fire Prevention and Building Code in the Village, except as provided in Chapter 53, Fire Prevention, of this Code.
- B. The administration and enforcement of the Zoning Law of the Village, as provided in Article VI thereof.¹⁴
- C. The enforcement of those portions of the Code of the Village of Tuxedo Park that designate the Building Inspector as the enforcing official, including the water and sewer regulations.¹⁵

^{14-11.} Editor's Note: See Ch. 100, Zoning.

^{15-12.} Editor's Note: See Ch. 3, Appearance Tickets; Ch. 78, Sewers and Sewage Disposal; and Ch. 97, Water.

§ 36-3

BUILDING CONSTRUCTION

D. Such powers and duties as may be conferred from time to time by the Board of Trustees.

§ 36-4. Fire prevention.

The fire prevention provisions of the State Uniform Fire Prevention and Building Code shall be enforced by the official designated in Chapter 53, Fire Prevention of this Code.

§ 36-5. Fees.

Applications for building permits and certificates of occupancy shall be accompanied by such fees as are established from time to time by resolution of the Board of Trustees.¹⁶

§ 36-6. Penalties for offenses.

Any person, firm or corporation violating any provision of this chapter or the Uniform Code shall be punishable as provided in § 382 of the Executive Law.

~~16-13.~~ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

TUXEDO PARK CODE

Chapter 38

CANNABIS

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

ARTICLE I

**Opt-Out of Retail Dispensaries and On-Site Consumption
[Adopted 10-25-2021 by L.L. No. 2-2021]****§ 38-1. Legislative intent.**

It is the intent of this article to opt the Village of Tuxedo Park out of hosting retail cannabis dispensaries and/or on-site cannabis consumption establishments within its boundaries.

§ 38-2. Authority.

This article is adopted pursuant to the provisions of NYS Cannabis Law § 131, which expressly authorizes villages to opt-out of permitting retail cannabis dispensaries and/or on-site cannabis consumption establishments to locate and operate within their boundaries.

§ 38-3. Local cannabis retail dispensary and/or on-site consumption opt-out.

The Board of Trustees of the Village of Tuxedo Park, County of Orange, hereby opts-out of licensing and establishing cannabis dispensaries and cannabis on-site consumption establishments within Village Boundaries.

§ 38-4. SEQRA.

The adoption of this article is a Type II Action under SEQRA regulations.

§ 38-5. Severability.

If a court of competent jurisdiction determines that any clause, sentence, paragraph, subdivision, or part of this article or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this article, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this article or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

§ 38-6. When effective.

This article shall be effective immediately upon the filing with the Secretary of State. Pursuant to NYS Cannabis Law § 131, this article is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or the referendum has been conducted and approves this article.

CLEARING, FILLING, GRADING AND EXCAVATING

Chapter 40

CLEARING, FILLING, GRADING AND EXCAVATING

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 2-21-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Property maintenance — See Ch. 75.

Building construction — See Ch. 36.

Excavations in streets — See Ch. 83.

Hours for construction activity — See Ch. 70.

Subdivision of land — See Ch. 85.

Permits and licenses generally — See Ch. 73.

Watershed protection — See Ch. 97, Art. III.

ARTICLE I
Clearing, Filling and Grading

§ 40-1. Purpose.

The purpose of this article is to promote ~~the~~ public health, safety and general welfare and to ensure that the clearing, filling and grading of existing properties are safely conducted in conformance with the Village Zoning Law¹⁷ and other applicable laws. For clarification purposes, this Section shall not be applicable to new subdivisions and new construction in which Chapter 85 controls.

§ 40-2. Definitions.

A. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

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

CLEARING — The removal of trees over five inches in diameter measured at four feet above ground level, ~~and~~ shall include the stripping of soil.

~~ENFORCEMENT OFFICER — The Village Building Inspector, Police Chief, Mayor or other person so designated by the Village Board.~~

FILLING — The placement of soil, rubble, spoil, rocks and/or any other appropriate material fill ("Fill") on any property for the purpose of materially raising or elevating any portion of a property. ~~"Filling"~~ shall not include ~~the burying of~~ garbage, trash or hazardous materials of any kind. Non-hazardous refuse, demolition or construction waste originating within the Village may be deemed to be acceptable fill material by the Building Inspector (which may include other authorized employees designated by the Village Board of Trustees).

GRADING — The material changing or alteration of the surface of slopes of lawns or grounds on a site.

§ 40-3. Administrative official designated.

The ~~Enforcement Officer~~ Building Inspector shall administer and implement this article by processing all ~~applications requests~~ and referring such material requests application to the Village Board and Board of Architectural Review.

§ 40-4. Permit required.

Subject to Section 40-6, n ~~n~~ No person shall conduct or cause to be conducted any land operations to clear, fill or grade any property without securing a permit from the Village Board.

§ 40-5. Permit application requirements.

Subject to Section 40-6, t ~~t~~ The following information or exhibits may be ~~are~~ required ~~d~~ in order to secure a permit.

- A. Engineering drawings showing the tax lot upon which the activity will be conducted.
- B. The names and addresses and the section, block and lot numbers of all contiguous property owners, and the names and addresses and section, block and lot numbers of all property owners located within 500 feet of the boundaries of the site.
- C. A plan showing all existing and proposed contour lines, amount of fill to be placed or displaced, location of trees over five inches in diameter measured four feet from the ground and road access to

~~17.14.~~ Editor's Note: See Ch. 100, Zoning.

the site.

- D. An erosion control plan.
- E. Preliminary copies of any contracts to perform such clearing, filling and grading, which contract shall state that it is subject to this article and that a copy of this article shall be attached to and become a part of such contract.
- F. Documentation regarding permit status with the New York State Department of Environmental Conservation prior to the issuance of a permit. Any New York State Department of Environmental Conservation permit required must be in effect prior to the issuance of a permit by the Village.
- G. Proof of insurance adequate to cover the intended work pursuant to the terms of the permit. The Village shall be named as an additional insured on the applicant's policy. The applicant shall by a separate instrument agree to indemnify and hold harmless the Village from any claims arising out of the intended activity.
- H. Completion date and any other information which the Village Board deems reasonable in reviewing the application.

~~I. (Reserved)~~¹⁸

~~J.I.~~ A certification from a professional engineer that any fill material used in the Village is nontoxic and nonhazardous or other acceptable form of a clean fill certificate.

~~K.J.~~ A permit application fee in an amount set by resolution of Board of Trustees.¹⁹

§ 40-6. ~~Review of application~~ Safe Harbor Exception.

Provided that the conditions set forth in Section 40.6.1 have been met, no Consent shall be required for the following:

- A. modifications/projects on existing homes: the addition of flowerbeds, gardens and other landscaping which are not graded more than [2 inches][JS2]}, do not impact a watershed or alter the neighbor's property and do not modify more than {25%} of the similar terrain on the existing property, and
- B. removal of dead trees, provided that landowners must maintain pictures and a log of all dead trees over 5 inches in diameter which measures 4 feet above ground level, and
- C. removal of live trees not to exceed four trees per year over five inches in diameter measured four feet above ground level,(collectively, "Safe Harbor Criteria").

§ 40-7. Clarifications to Safe Harbor Criteria

- A. **Multi-year or phased projects (intentional or unintentional):** Cumulative projects (other than tree removal which meet the above criteria) whether or not anticipated in a calendar year or as a phase shall move out of the Safe Harbor Criteria with respect to the "new" portion of the project if, on a cumulative basis, do not meet the criteria set forth in 40-6 (A). In such cases, with respect to the new portion of the project, such project shall be referred to the Building Inspector who upon making such determination may refer the project to the BAR.
- B. **Building Inspector Authority:** The Building Inspector will, if requested, but is not required, to review whether a project falls under the Safe Harbor Criteria. If the Building Inspector does review whether such project falls under the Safe Harbor Criteria, the Building Inspector shall use reasonable business judgment in determining whether the Safe Harbor Criteria has been met. Any decisions regarding whether the Safe Harbor Criteria has been reached by the Building Inspector shall be in writing.

C. Building Inspector Determination: In the event the Building Inspector determines that the project does not meet the Safe Harbor Criteria then the property owner may elect to:

- i) Under the Building Inspector supervision (1) return the property to the reasonable condition it was in prior to starting the project or (2) bring the project into the Safe Harbor Criteria as reasonably determined by the Building Inspector
- ii) stop work and request that the Building Inspector refer the project to the next available BAR meeting once the property owner has completed the BAR application,
- iii) file an appeal to the Board of Appeals within 90 days of the Building Inspector's determination that the project does not meet the Safe Harbor Criteria.
 - i. The owner shall provide a reasonable basis and evidence for such belief that the project meets the Safe Harbor criteria,
 - ii. The property owner shall pay a \$250 fee for such appeal (collected in advance), such fee shall be waived/refunded in the event that the Board of Appeals finds that the project meets the Safe Harbor Criteria

~~A. Public hearing. At its option, the Village Board may hold a public hearing on 10 days' notice. Notification of the proposed hearing shall be given by the applicant to all abutting property owners and all other owners of property within 500 feet of the intended site. Proof of such notice shall be given by certified mail, return receipt requested, and at the time of the public hearing, the applicant shall file proof of service of the notice of public hearing.~~

~~B. Referral. The Village Board shall refer the application and supporting documentation to the Board of Architectural Review and may refer such application to other Village agencies for their review and recommendation. The Village Board may engage the services of an independent consultant to review the application and supporting documentation, and the fees to be paid such consultant shall be reimbursed to the Village.~~

§ 40-7. Operational requirements.

~~A. Operations shall be conducted only as provided in § 70-6 of this Code.~~

~~B.A.~~ Clearing, filling and grading shall be done in such a manner as not to result in an increase of surface water runoff onto any other properties and shall not result in any condition which increases erosion or results in any unstable condition upon the site or adjacent properties or wetlands.

~~C.B.~~ The Village Board may conduct appropriate surveillance of the site on a twenty-four-hour, seven-

~~18.15.~~ Editor's Note: Former Subsection I, which listed a completed environmental assessment form as a permit requirement, was repealed 3-18-2009 by L.L. No. 3-2009.

~~19.16.~~ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

day-week basis until the activity is completed. The applicant shall be required as a condition of the permit to sign the permit authorizing the Village, its employees or agents, to enter onto the applicant's property to conduct the appropriate surveillance. Any and all costs for this service will be estimated by the Village Board prior to the issuance of a permit, and the applicant will then be required to post a certified check to cover such costs.

~~D.C.~~ The Village Board may impose any other reasonable conditions on the permit, such as screening, access controls, dust controls, site security, etc., which the Village Board believes is necessary in order to adequately maintain the site.

§ 40-8. Exemptions.

~~The Village Board's permission to clear, fill or grade property shall not be required for the planting of landscaping, grading lawn areas, normal repairs to occupied property, correcting hazards representing an imminent threat to life or property, removal of deadwood, harvesting of firewood not to exceed four live trees per year over five inches in diameter measured four feet above ground level or for land development pursuant to but not prior to a building permit.~~

§ 40-9. Performance bond.

The applicant ~~may~~shall be required to post a letter of credit, performance bond or cash security deposit in an amount and form to be determined by the Village Board, to be posted with the Village Clerk to guarantee the satisfactory restoration of any state, County or Village roads or other public property which might be damaged as a result of the activities of the applicant in clearing, filling and grading pursuant to the terms of this article. In the event that the applicant fails or refuses to make the necessary repairs, the Village Board shall forfeit the performance bond or money security deposit in order to underwrite the expense in making such repairs.

§ 40-10. Penalties for offenses.

The Village Board may impose a fine in the amount not to exceed 150% of the Village's actual costs incurred in correcting the conditions caused by noncompliance with this article including consequential damages paid by the Village. The fine of 150% shall be of the total costs to the Village regardless of any and all reimbursement to the Village by the applicant to cover those initial cost estimates.

ARTICLE II Excavations

§ 40-11. Purpose.

The regulation and control of the extraction and removal of earth products and other excavations is necessary to protect and to prevent serious and irreparable damage to public health, safety and general welfare as well as to make effective the general purposes of comprehensive planning and zoning.²⁰

§ 40-12. Permit required.

The excavation or removal of non-de minimis - amounts of sand, gravel, stone or other minerals or the stripping or removal of topsoil from any land in the Village of Tuxedo Park without a currently effective permit issued by the Board of Trustees is hereby prohibited.

§ 40-13. Exceptions.

The following operations and uses are hereby excepted from the application of this article:

- A. Excavation or removal of sand, gravel, stone or other minerals or removal of topsoil on premises owned or maintained by a municipality.
- B. Excavation or removal of sand, gravel, stone or other minerals incident to highway, sidewalk or driveway construction or construction of a single-family residence on the same premises, provided that topsoil shall not be removed from the premises.
- C. Excavation or removal of sand, gravel, stone or other minerals incident to the construction of a stormwater basin, recharge basin or drainage sump on the same premises, provided that topsoil shall not be removed from the premises.
- D. The moving of topsoil or other earth from one part to another of the same premises as an incident to building, farming or landscaping as set forth in the Section 40-6, Safe Harbor.
- E. Excavation or removal of sand, gravel, stone or other minerals incidental to an approved project under this Chapter 40.

-

~~D.~~ ~~;~~

§ 40-14. Issuance of permit; fees.

- A. The Board of Trustees may, upon application in a specific case and subject to appropriate conditions and safeguards to be prescribed by such Board, issue a permit for the excavation and removal of sand, gravel, stone or other minerals or for other excavation purposes or for the stripping or removal of topsoil if said Board finds that such action will not be contrary to the public health, safety or welfare and will not violate any other law.
- B. An applicant for such a permit shall pay an application fee in an amount set by resolution of the Board.²¹

~~20-17.~~ Editor's Note: See also Ch. 75, Property Maintenance, Art. IV, Construction and Site Safety.

~~21-18.~~ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

Chapter 43**COMMUNITY CHOICE AGGREGATION PROGRAM**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 7-20-2022 by L.L. No. 6-2022. Amendments noted where applicable.]

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

- A. It is the policy of the Village of Tuxedo Park and the State of New York to reduce costs and provide price certainty for the purpose of consumer protection and economic development, to expand access and opportunities for consumers in retail energy markets, as well as to promote the sustainability and resilience of energy systems through the proliferation of renewable energy, energy efficiency, and distributed energy resources (DER, as defined below). Among the initiatives that may advance these objectives in New York is Community Choice Aggregation ("CCA"), a policy that empowers local governments to determine the source of electricity and/or natural gas supply on behalf of its residents and small businesses, reflecting local resources, priorities, and challenges. Energy delivery remains the responsibility of the distribution utility.
- B. This chapter establishes the authority for the Village of Tuxedo Park, in connection with the implementation of a CCA program, to acquire utility data, to select, through competitive solicitation, energy supplier(s) on behalf of default consumers within the jurisdictional boundaries of the Village of Tuxedo Park, and to maximize value for participating consumers through enhanced services related to DER. The Village may choose to collaborate with other local governments to form an intermunicipal program. As a result, consumers will have the opportunity to lower and stabilize their energy costs, to spur local clean energy innovation and investment, and to reduce their environmental impact, thereby fulfilling the purposes of this chapter and promoting an important public purpose.
- C. The Village of Tuxedo Park Village Board is authorized to implement this Creating Community Choice Aggregation Program pursuant to Section 10 of the New York Municipal Home Rule Law, and consistent with State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0224, to the extent that orders related to Case No. 14-M-0224 enable actions by the Village.

§ 43-2. Definitions.

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

AGGREGATED DATA — Aggregated and anonymized information including, but not limited to, the number of consumers by service and rate class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months by service and rate class, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service and rate class.

CCA ADMINISTRATOR — Village of Tuxedo Park Village Board or its CCA Administrator, duly appointed and authorized by vote of the Village Board to request aggregated and customer specific data, to competitively solicit suppliers for the aggregated demand for electricity and/or natural gas on behalf of default consumers, and to offer participating consumers additional opportunities to participate or enroll in programs or projects related to distributed energy resources. The CCA Administrator is responsible for

program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the PSC CCA Order, unless otherwise specified.

CUSTOMER SPECIFIC DATA — Customer specific information, personal data and utility data for all default consumers, including the customer of record's name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

DEFAULT CONSUMERS — Customers of electricity and/or natural gas within opt-out eligible service classes (as delineated in the PSC CCA Order), who receive supply service from the distribution utility as of the date the supply contract goes into effect, or consumers within these service classes that subsequently become eligible to participate in the program, including those that have terminated a supply contract with an ESCO, removed a freeze or block on their account, have voluntarily suspended service pursuant to a special rate, or are new residents of the Village. Consumers within opt-out eligible service classes, as of the date the supply contract goes into effect, taking service from an ESCO, those that have placed a freeze or block on their account, and those for whom enrollment in the CCA program would interfere with a choice they have already made to take service pursuant to a special rate are not considered default consumers and will not be enrolled on an opt-out basis. For the avoidance of doubt, all default consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Village, as such boundaries exist as of the date the supply contract goes into effect.

DISTRIBUTED ENERGY RESOURCES (DER) — Local renewable energy projects, community distributed generation (e.g., shared solar), peak demand management, energy efficiency, demand response, energy storage, community resilience microgrid projects, and other innovative Reforming the Energy Vision (REV) initiatives that further engage and/or reduce cost of service for participating consumers, optimize system benefits, and/or address infrastructure and demand challenges within geography of the CCA.

DISTRIBUTION UTILITY — Owner or controller of the means of distribution of the natural gas or electricity in the Village. The distribution utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA program.

ESCO (ENERGY SERVICES COMPANY) — An entity duly authorized to conduct business in the State of New York as an ESCO.

PARTICIPATING CONSUMERS — Default consumers who have not opted out, and nondefault consumers of any service class that have voluntarily enrolled in the Program.

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

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

SUPPLIER — An ESCO that procures electric power and natural gas for participating consumers in connection with this chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

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

- A. A Community Choice Aggregation Program is hereby authorized by the Village, whereby the Village of Tuxedo Park Village Board may implement a CCA program to the full extent permitted by the PSC CCA Order, as set forth more fully herein. Without limiting the foregoing:
- B. The Village of Tuxedo Park Village Board on behalf of the Village may enter into contracts with one

or more suppliers for electric and/or natural gas supply and other services on behalf of default consumers.

- C. The Village of Tuxedo Park Village Board on behalf of the Village may enter into agreements and contracts with other municipalities, nonprofits, consultants, and/or other third parties to i) develop and implement the CCA program, ii) act as CCA Administrator, and/or iii) develop offers of opt-in DER products and services to participating consumers.
- D. The operation and ownership of the utility service shall remain with the distribution utility. The Village's participation in a CCA program constitutes neither the purchase of a public utility system nor the furnishing of utility service. The Village shall not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with suppliers on behalf of participating consumers.
- E. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

§ 43-4. Eligibility.

- A. All default consumers shall be enrolled on an opt-out basis. Default consumers will have the right to opt out before the supply contract goes into effect, or disenroll any time thereafter with no penalty. Those that do not opt out before the supply contract goes into effect will be enrolled automatically.
- B. All nondefault consumers within the Village, regardless of service class, shall be eligible to participate in the CCA program on an opt-in basis.
- C. The CCA Administrator, on behalf of the Village, shall issue one or more requests for proposals to suppliers to provide energy to participants and may then award a contract in accordance with the CCA program.

§ 43-5. Opt-out process.

- A. A program notification letter, printed on Village letterhead, shall be mailed to default consumers at least 30 days' prior to customer enrollment. The letter shall include information on the CCA program and the contract signed with the selected supplier(s), including specific details on rates, services, contract term, cancellation fee, and methods for opting out of the CCA program. The letter shall explain that consumers that do not opt out will be enrolled in the program under the contract terms and that information on those consumers, including energy usage data and APP status, will be provided to the ESCO.
- B. After the thirty-day opt-out period, all consumers shall have the option to disenroll from the CCA program at any time without penalty.

§ 43-6. Data protection requirements.

- A. The Village, or CCA Administrator on its behalf, may request aggregated data and customer specific data from the distribution utility.
- B. Customer specific data shall be protected in a manner compliant with, collectively, (i) all applicable national, state and local laws, regulations or other government standards relating to the protection of

information that identifies or can be used to identify an individual that apply with respect to the Village or its representative's processing of confidential utility information; (ii) the utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Village or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

- C. For the purpose of protecting customer data, the Village must enter into an agreement with the distribution utility that obligates each party to meet, collectively, (i) all applicable national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual default consumer or participating consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; (ii) the distribution utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify individual default consumer or participating consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

§ 43-7. Administrative fee.

The Village or CCA Administrator may collect, or cause to be collected, funds from customer payments to pay for administrative costs associated with running the CCA program.

§ 43-8. Reporting.

- A. Annual reports shall be filed with the Village Board by March 31 of each year and cover the previous calendar year.
- B. Annual reports shall include, at a minimum: number of consumers served; number of consumers cancelling during the year; number of complaints received; commodity prices paid; value-added services provided during the year (e.g. installation of DER or other clean energy services); and administrative costs collected. The first report shall also include the number of consumers who opted-out in response to the initial opt-out letter or letters.
- C. If a CCA supply contract will expire less than one year following the filing of the annual report, the report must identify current plans for soliciting a new contract, negotiating an extension, or ending the CCA program.

§ 43-9. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

(RESERVED)

Chapter 47

(RESERVED)

[Former Ch. 47, Environmental Quality Review, adopted 6-14-1977 by L.L. No. 1-1977, as amended, was repealed 3-18-2009 by L.L. No. 3-2009.]

Chapter 49**FENCES**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 12-18-2024 by L.L. No. 2-2024.²² Amendments noted where applicable.]

§ 49-1. Purpose.

The purpose of this chapter is to establish a comprehensive fence law for the Village, and the provisions hereof shall apply notwithstanding any other provision of the Code of the Village of Tuxedo Park, including Chapter 100, Zoning, hereof, to the contrary.

§ 49-2. Definitions.

As used herein, the following terms shall have the following meaning:

DEER FENCE — An Interior Fence, of lightweight construction, designed to keep animals out of a defined area while minimizing visual impact.

FENCE — Shall have the same definition as set forth in the Village of Tuxedo Park Zoning Law contained in Chapter 100 hereof.

INTERIOR FENCE — Any fence other than a perimeter fence.

PERIMETER FENCE — Any fence erected within 25 feet of the boundary line of any lot, including the edge of a street or waterway.

PERSON — The record owner(s) of any lot upon which a fence is located, and any person, firm, corporation, partnership, or other legal entity actually erecting a fence.

§ 49-3. Prohibitions regarding fences in general.

- A. Perimeter fences are prohibited in the front yard of any property in the Village with the exception of decorative gateways if approved by the Board of Architectural Review.
- B. No fence of any kind shall be electrified or constructed of hazardous material designated as such by resolution of the Board of Trustees.

§ 49-4. Permits and approvals; setback.

- A. Any person who shall erect or cause to be erected a deer fence shall first be required to submit an application to the Building Inspector. The application shall include, at a minimum, a drawing, to scale, showing the location of the proposed deer fence, including the setback distances from all lot lines. The applicant shall also provide a sample or manufacturer's literature for the proposed fence material and supports. The Building Inspector shall review the application and, should the proposed deer fence meet the requirements set forth in this section, be empowered to approve it without further review by any other Village Authority.
- B. The Board of Trustees shall establish, by resolution, an application fee for deer fences, commensurate with the cost incurred by the Village to process said application. Said fee shall be reviewed and revised as necessary at the yearly Reorganization Meeting.

^{22-19.} Editor's Note: This local law also superseded former Ch. 49, Fences, adopted 7-18-2001 by L.L. No. 2-2001; amended and readopted 12-12-2007 by L.L. No. 1-2007.

§ 49-4

FENCES

- C. All fences, other than deer fences, shall be the subject of approval by the Building Inspector, and/or the Board of Architectural Review, and/or the Planning Board, in the manner now required by law.
- D. All fences of any kind shall be subject to the applicable setback and height provisions of Chapter 100 hereof.

§ 49-5. Manner of construction of fences.

- A. A deer fence may be erected to the height of eight feet.
- B. A deer fence shall be constructed only of black plastic mesh material of a type approved by the Board of Architectural Review and shall be erected on posts of a type approved by the Board of Architectural review. Posts shall be driven or otherwise set into the ground without the use of concrete or other permanent foundation material.
- C. Within 60 days of the approval of this chapter, the Board of Architectural Review shall provide a list of approved materials, or design guidelines, for deer fences, sufficient for the Building Inspector to review applications for same for conformance. The Board of Architectural Review may review and revise the approved materials, but not more than annually.
- D. All fences, other than deer fences, shall be of such construction, design and material as may be determined by the Board of Architectural Review in its review of the same as now required by law.

§ 49-6. Variances.

The ~~Board of Zoning Appeals~~Board of Appeals is hereby vested with jurisdiction to grant variances from the provisions herein based on hardship considerations due to lot size and or terrain conditions. Such a variance shall be in the nature of an area variance and be governed by the principles of law applicable thereto.

§ 49-7. Penalties for offenses.

Any person who violates the provisions of this chapter shall be punishable in the same manner as a violator of Chapter 100 hereof.

TUXEDO PARK CODE

Chapter 51

FILMS AND MOVIE MAKING

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 51-1. Permission required; restrictions.

No person within the Village shall be permitted to engage in filming, movie making, computer imaging, broadcasting, taping, video production, photographic sessions, aerial photography, other than real estate marketing videos authorized by the property owner for the sole purpose of marketing the property for sale) ~~aerial surveying~~, audio and/or visual recording radio, television or microwave transmitting or any similar undertaking ("Filming") without prior written permission from the Board of Trustees and subject to the following:

- A. No such activity shall exceed eight hours in duration for each day that Filming has been approved by the BOT.
- B. No such activity shall be undertaken ~~as a business or for commercial gain~~ more than 10 days in any calendar year unless approved by the Board of Trustees. [Amended 4-20-2011 by L.L. No. 1-2011]
- C. No such activity shall intrude on the privacy, safety or tranquility of any resident or property owner in the Village of Tuxedo Park.
- D. For any filming in which the homeowner receives no compensation a permit fee of \$100 per day shall be collected payable by the production company.
- E. In the event the homeowner is compensated then in addition to the permit fee the homeowner shall pay to the Village twenty-five percent (25%) of the total compensation received by the homeowner.
- F. The BOT may impose other restrictions on such filming, including but not limited to hiring a police officer to assist with traffic and parking.
- G. Filming shall not be permitted on any property not covered by the permit and not owned by the homeowner.
- H. No property shall be filmed unless specifically included in the permit.

~~G.~~

§ 51-2. Exceptions.

Excepted from this chapter are those normal filming, taping, recording and photographing activities occasionally undertaken by a single-family unit entirely within their own premises and for no commercial purpose.

FIRE PREVENTION

Chapter 53

FIRE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-13-1978 by L.L. No. 2-1978, amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Fire alarm systems — See Ch. 29.

Building construction — See Ch. 36.

Accumulations of rubbish — See Ch. 58.

Hazardous substances — See Ch. 60.

Permits and licenses generally — See Ch. 73.

Property maintenance — See Ch. 75.

Storage tanks — See Ch. 87.

ARTICLE I
State Standards

§ 53-1. Definitions.

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

STATE FIRE PREVENTION CODE — The provisions relating to fire prevention in the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law.

§ 53-2. Applicability.

This article shall provide the basic method for administration and enforcement of the State Fire Prevention Code in the Village of Tuxedo Park and shall establish powers, duties and responsibilities in connection therewith.

§ 53-3. Enforcement.

The ~~Village~~ Board ~~of Trustees may shall~~ designate a Building and Land Use Officer ~~Fire Inspector~~ to administer and enforce the State Fire Prevention Code and this Chapter 53 within the Village of Tuxedo Park. If the Board of Trustees does not designate a Building and Land Use Officer then the ~~The~~ Village Building Inspector shall ~~may be designated as the Fire Inspector~~ perform the duties of the Building and Land Use Officer.

§ 53-4. Adoption of rules and regulations.

- A. The ~~Board of Trustees~~ ~~Fire Inspector~~ may adopt rules and regulations for the administration and enforcement of the State Fire Prevention Code. Such rules and regulations shall not conflict with the State Fire Prevention Code, this article or any other provision of law.
- B. The ~~Board of Trustees~~ ~~Fire Inspector~~ shall publish all rules and regulations at least 10 days prior to the effective date thereof in a newspaper of general circulation within the Village of Tuxedo Park.

§ 53-5. Permits; fees.

- A. Upon payment of the fees prescribed by resolution of the Village Board,²³ permits shall be issued ~~and bear the name and signature of the Fire Inspector~~ and shall specify:
 - (1) The activity or operation for which the permit is issued.
 - (2) The address or location where the activity or operation is to be conducted.
 - (3) The name and address of the permittee.
 - (4) The permit number and date of issuance.
 - (5) The 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 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 as required in the State Fire Prevention Code and the laws of the Village.
- 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 shall be carried by the permit holder.
- G. Revocation of permits. Permits may be suspended or revoked when it is determined that 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.

§ 53-6. Inspections.

- A. The ~~Board of Trustees Fire Inspector shall~~ may conduct periodic inspections, but not less than once per year, for compliance with the provisions of the State Fire Prevention Code. Such inspections may be made at any reasonable time.
- B. If entrance to make an inspection is refused or cannot be obtained, the ~~Fire Inspector~~ Building and Land Use Officer may apply for a warrant to make an inspection to any court of competent jurisdiction.

§ 53-7. Violations.

- A. A person owning, operating, occupying or maintaining property or premises within the scope of the State Fire Prevention Code or this article shall comply with all the provisions of the State Fire Prevention Code, this article and all orders, notices, rules, regulations or determinations issued in connection herewith.
- B. Whenever the ~~Fire Inspector~~ Building and Land User Officer finds that there has been a violation of the State Fire Prevention 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.
- C. Violation orders shall:
 - (1) Be in writing.
 - (2) Identify the property or premises.
 - (3) Specify the violation and remedial action to be taken.
 - (4) Provide a reasonable time limit for compliance.
 - (5) 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 envelope 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 Village Board.

§ 53-8. Penalties for offenses; additional remedies.

- A. Failure to comply with any provision of the State Fire Prevention Code, this article, any rules or regulations adopted pursuant to this article or a violation order shall be deemed a violation pursuant to the Penal Law of the State of New York, punishable as provided in § 1-12 of Chapter 1, General Provisions. The continuation of an offense shall constitute, for each day the offense is continued, a separate and distinct violation.
- B. An action or proceeding in the name of the Village of Tuxedo Park may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the State Fire Prevention Code, this article, any 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 prescribed by law.

§ 53-9. Records.

The ~~Building and Land User Officer Fire Inspector~~ shall keep official records of all permits, inspection reports, recommendations, complaints and violation orders.

§ 53-10. Removal of dangerous buildings or structures.

- A. A building or structure, or part thereof, which is an imminent danger to life or safety of the public as a result of a fire or explosion is hereby declared to be a public nuisance.
- B. Whenever the ~~Building and Land User Officer Fire Inspector~~ finds a building or structure, or part thereof, to be an imminent danger to life or safety of the public as a result of fire or explosion, the ~~Building and Land User Officer Fire Inspector~~ may cause work to be done in and about the building or structure as may be necessary to remove the danger.
- C. The Fire Inspector may require the occupants of any such building or structure, or part thereof, to vacate the premises forthwith. No person shall use or occupy such building or structure, or part thereof, until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections or repairs or to demolish and remove such building or structure or part thereof.
- D. All costs and expenses incurred by the Village in connection with any work done to remove the danger or in connection with the demolition and removal of any such building or structure shall be assessed against the land on which such building or structure is located, and a bill for such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay for such expenses within 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 Fire Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner thereof, with the Assessor, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Village.

§ 53-11. Review board.

- A. Where practical difficulties or unnecessary hardships may result from enforcement of the strict letter of any provisions of the State Fire Prevention Code, applications for variances consistent with the spirit of the code may be made to and acted upon by the Regional Board of Review established in accordance with the provisions of 19 NYCRR 440.
- B. The Building and Land User Officer ~~Fire Inspector~~ shall obtain a copy of the Review Board's decision for his record.

ARTICLE II
Outdoor Fires

§ 53-12. Restrictions on open burning.

Leaves and twigs may be burned on private property, provided that:

- A. A prior permit is issued from both ~~the Building and Land User Officer the state forest ranger and the~~ Board of Trustees.
- B. The fire is confined to a steel drum, ditch or surface area no larger than four feet by four feet.
- C. The fire is constantly attended and burns no closer than 50 feet from any structure, tree, shrubbery or property line.
- D. The fire is limited in duration to four hours in any one day.
- E. No burning is conducted after dark.
- F. Immediately after the burning, ashes and residue are thoroughly ~~cleaned up~~ extinguished and the area raked or filled.

G. No burning is allowed in the event of a Burn Ban issued by the State of New York.

H. Notwithstanding the foregoing, home fire pits and woodburning BBQ's shall be excluded from this Section 53-12.

ARTICLE III
Fire Hydrants

§ 53-13. Building construction dependent on availability.

Fire hydrant proximity is considered highly important in combatting fires within the Village. All new construction shall be predicated on availability of sufficient hydrant service or other equivalent water source for fire-fighting effectiveness.

§ 53-14. Responsibility of applicant or developer.

It shall be the responsibility of the applicant, developer or redeveloper to determine, at the level of the proposed structure, the flow and pressure of existing and proposed hydrants. This information shall be presented to the Building and Land Use Officer, Tuxedo Joint Fire District Board of Commissioners, and Board of Trustees for review.

§ 53-15. Hydrant Clearance

It is the responsibility of the property owners or occupants to clear the area around hydrants of snow and leaves..

FLOOD DAMAGE PREVENTION

THE CODE COMMITTEE RECOMMENDS BOT CONSULT PROFESSIONALS AND IF WE ARE NOT IN A FLOOD ZONE THEN WE SHOULD CONSIDER DELETING

NOTE TO VILLAGE BOARD code is entirely technical and based on FEMA, DEC and NY State regulations.

THE CODE COMMITTEE RECOMMENDS BOT CONSULT PROFESSIONALS to review and potentially re-write this section of the code.

Chapter 55

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-10-2009 by L.L. No. 6-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Clearing, filling, grading and excavating — See Ch. 40.

Water — See Ch. 97.

Lakes and ponds — See Ch. 65.

Zoning — See Ch. 100.

Subdivision of land — See Ch. 85.

ARTICLE I
Statutory Authorization and Purpose

§ 55-1. Findings.

The Board of Trustees of the Village of Tuxedo Park finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Tuxedo Park and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 55-2. 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.

§ 55-3. Objectives.

The objectives of this chapter are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, 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

§ 55-4. 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 that would be experienced during periods of flooding.

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

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

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

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

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

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

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING —

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

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

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures that 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 the Code Enforcement Officer/Building Inspector.

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 — At least 51% of the actual cash value of the structure, excluding land value, is aboveground.

RECREATIONAL VEHICLE — A vehicle that 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 § 55-13B 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, which 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 that 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 would not preclude the structure's continued designation as an historic structure.

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

ARTICLE III
General Provisions

§ 55-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Tuxedo Park, Orange County.

§ 55-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the Village of Tuxedo Park, Community Number 361595, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) Flood Insurance Rate Map Panel Numbers: 36071C0602E, 36071C0603E, 36071C0604E, 36071C0611E, 36071C0612E, 36071C0608E, the effective date of which is August 3, 2009, 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, Orange County, New York, All Jurisdictions" dated August 3, 2009.
- 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 with the Village Clerk, located at Village Hall, 80 Lorillard Road, Tuxedo Park, New York 10987.

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

- A. This chapter includes all revisions to the National Flood Insurance Program through March 20, 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, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

§ 55-8. 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 Tuxedo Park 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.

§ 55-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Tuxedo Park, 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

§ 55-10. Designation of local administrator.

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

§ 55-11. Floodplain development permit; fees.

- 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 § 55-6, 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. An application fee as set forth in Schedule of Fees on file with the Village Clerk shall accompany all applications for a floodplain development permit. In addition, the applicant shall be responsible for reimbursing the Village of Tuxedo Park 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.

§ 55-12. 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 § 55-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 55-17, 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 § 55-6, 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 might 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.

§ 55-13. 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 § 55-12, 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, § 55-14A, 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 § 55-12G, 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. The local administrator shall:

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

D. Construction stage.

- (1) 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 § 55-8 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 § 55-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 55-6, 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 § 55-13E, 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 § 55-13D(1) and (2) and whether or not the structures contain a basement;
 - (3) Floodproofing certificates required pursuant to § 55-13D(1), and whether or not the structures contain a basement;
 - (4) Variances issued pursuant to Article VI, Variance Procedure; and
 - (5) Notices required under § 55-13C, Alteration of watercourses.

ARTICLE V
Construction Standards

§ 55-14. 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 § 55-6.

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 Tuxedo Park 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 Tuxedo Park 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 Tuxedo Park 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 § 55-6, 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 Tuxedo Park 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 Tuxedo Park 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 Tuxedo Park 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.

§ 55-15. 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 or 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 hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation 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.

§ 55-16. 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 § 55-14A, Subdivision proposals, and § 55-14B, Encroachments, and § 55-15, 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 and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 55-6 (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.

§ 55-17. 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 § 55-14A, Subdivision proposals, § 55-14B, Encroachments, and § 55-15, 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, together with attendant utility and sanitary facilities, 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 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 § 55-17A(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 § 55-17A(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.

§ 55-18. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 55-14, General standards, and § 55-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles that 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 § 55-18B, 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 § 55-6 (at least two feet if no depth number is specified).

ARTICLE VI
Variance Procedure

§ 55-19. Appeals board.

- A. The ~~Board of Zoning Appeals~~Board of Appeals as established by the Village of Tuxedo Park shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The ~~Board of Zoning Appeals~~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 ~~Board of Zoning Appeals~~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 ~~Board of Zoning Appeals~~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 that 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 § 55-19D and the purposes of this chapter, the ~~Board of Zoning Appeals~~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.

§ 55-20. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in § 55-19D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 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. Notice.
 - (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 § 55-13H of this chapter.

GARBAGE, RUBBISH AND REFUSE

Chapter 58

GARBAGE, RUBBISH AND REFUSE

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-13-1953, amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Property maintenance — See Ch. 75.

Pollution of the lakes and ponds — See Ch. 58.

Roadside conditions — See Ch. 83, Art. IV.

Hazardous substances — See Ch. 60.

Abandoned or junked vehicles — See Ch. 93.

Permits and licenses generally — See Ch. 73.

ARTICLE I
Definitions

§ 58-1. Terms defined.

In addition to the definitions found in § 1-2 of this Code, the following terms shall have the meanings indicated:

GARBAGE — All discarded vegetable matter, waste food, dead animals, or parts thereof, or other matter capable of fermentation or decay.

GARBAGE COLLECTOR — A person who holds himself out for hire to collect, remove and haul matter, materials or substances referred to in the definitions of "garbage," "junk," "refuse" and "rubbish."

JUNK — All discarded metal material, including tin cans and abandoned motor vehicles, and other waste of a solid and incombustible nature, such as glass, pottery, wood and so forth.

REFUSE — All waste matter not specifically included within the definitions of "junk," "rubbish" or "garbage."

RUBBISH — All other discarded or waste material of a solid nature, as well as combustible substances such as paper, newspaper, magazines, paper or cardboard, cartons, boxes, corrugated boxing, rags, fabrics, woven material of any kind and character, building materials, etc.

ARTICLE II
General Prohibitions

§ 58-2. Dumping.

No person shall throw, dump, abandon, discard, deposit or cause to be thrown, dumped, abandoned, discarded or deposited any refuse, rubbish, garbage or other waste materials, including junked or abandoned motor vehicles or parts thereof, upon any public highway, road, street, public property or private property within the Village of Tuxedo Park, except as such places as heretofore or hereinafter may have been designated as public dumping grounds pursuant to law.

§ 58-3. Nuisances.

No person shall accumulate, keep, store, dump, deposit, leave, boil, cook, burn, bury or otherwise dispose of any garbage or refuse in such an amount or kind and in such a manner as to permit, allow or suffer the same to become in attraction to or habitat for any vermin or a breeding place for flies or to emit an unwholesome, noisome and noxious odor, vapor, gas or smoke which escapes from the building or premises where such garbage or refuse is being or has been so treated or disposed of to a highway or any other public place or to the premises of any other person or persons. Such activities are, hereby prohibited in the Village, and any such condition shall be deemed to be a public nuisance and annoyance and damaging to the comfort, repose, health or safety of the inhabitants of said Village.

§ 58-4. Discarded appliances.

No person shall permit, allow, deposit, leave or suffer a refrigerator, freezer, icebox, oven, washer, dryer or similar appliance to be kept, left, stored or remain on his exterior premises for a period in excess of five days, and only if the doors of the same shall be removed or securely fastened so as to avoid the possibility of human beings or animals being trapped or locked within.

ARTICLE III
Garbage Collection

§ 58-5. General obligation.

It shall be the obligation of each property owner and occupant to collect, store and dispose of all refuse in a neat, safe and sanitary manner.

§ 58-6. Receptacles.

- A. Trash cans, barrels and other containers used for the storage or collection of garbage shall be:
- (1) Kept indoors, except on collection days;
 - (2) Stored outside, in a fully covered and latched condition; or
 - (3) Kept inside, in a fully enclosed shed or receptacle, if approved for construction.
- B. All such cans barrels and containers must be maintained out of direct view from both the road and from any neighbor's home except on collection days when containers may be placed at the property line for pickup.
- C. No light-weight refuse bundles, boxes, bags or the like may be stored outdoors or left at curbside which might be windblown, torn or ripped open by animals.
- D. So-called dumpsters and other bulk-collection devices shall be filled expediently and removed from the premises within 14 days of arrival. Dumpsters may be used for construction and renovation projects, but may not constitute a legal container for family garbage unless they are tightly closed, less than five cubic yards in capacity and out of sight from the road and neighbor's homes.

§ 58-7. Spills; removal of receptacles.

- A. Property owners and occupants shall further be responsible for cleaning up any spilled refuse, whether due to accidents, animals, vandalism or any other cause, within 24 hours of that spill.
- B. Empty barrels, cans, containers, etc., shall be removed from the roadside and brought to their storage location within 24 hours of pickup.

§ 58-8. Collection frequency.

To control odor, insects and disease, property owners and occupants shall maintain a program of refuse removal at least twice weekly or such that no more than 400 pounds of trash or refuse ever accumulate.

§ 58-9. Disposal of garden wastes.

Leaves, grass clippings, piles of brush and other garden wastes shall be disposed of or maintained out of direct view from roads and from any neighbor's home.

ARTICLE IV
Garbage Collectors

§ 58-10. Permit required.

No person shall engage in business as a garbage collector without a permit for that purpose issued as hereinafter provided.

§ 58-11. Application for permit; fees.

- A. The Village Clerk is hereby empowered to issue annual permits, as required by this article, upon the payment of such fee as shall be established from time to time by resolution of the Village Board.²⁴
- B. Every applicant for a permit provided for in this article shall file with the Village Clerk an application, in a form to be determined by the Village Board, upon which the applicant shall give such information, under oath, as may be required by the terms thereof.

§ 58-12. Permit conditions.

A garbage collector permit shall be denied unless the applicant for such permit shall furnish proof that:

- A. Each vehicle to be used for the removal or hauling of garbage shall be equipped with a permanent solid covering so as to prevent littering of garbage and so as to prevent offensive odors from being emitted therefrom.
- B. Such garbage will be dumped outside the Village or at such location within the Village and under such conditions as may be approved by the Village Board.

§ 58-13. Denial or revocation of permits; hearing.

- A. No application for a permit shall be denied until after a hearing by the Village Board, held on due notice to the applicant, at which hearing the applicant shall be entitled to be heard with respect to its qualifications and the grounds of its application.
- B. No permit issued pursuant hereto shall be revoked until after a hearing by the Village Board, held on due notice to the holder of said permit, at which hearing said holder shall be entitled to be heard.

§ 58-14. Records and reports.

- A. The Village Clerk shall issue and receive applications and issue permits and receipts.
- B. The Village Clerk shall keep a record of all permits issued or withheld pursuant hereto and shall keep all other records necessary or appropriate thereto.
- C. The Village Clerk shall submit a report from time to time to the Village Board enumerating the applications received and stating the action taken thereon.

^{24-21.} Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

ARTICLE V
Violations

§ 58-15. Penalties for offenses.

- A. Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable as provided in § 1-12 of Chapter 1, General Provisions. The continuation of an offense shall constitute, for each day the offense is continued after notice thereof shall have been given as hereinafter provided, a separate and distinct violation.
- B. In addition, any person who shall violate the provisions of this chapter shall be liable to a civil penalty of \$25 for each and every violation thereof.
- C. Notices to applicants or violators shall be in writing, signed by the Village Clerk and shall be served on the applicant or person or persons committing such violation either personally or by registered mail, addressed to such person at his or her last known address.

TUXEDO PARK CODE

Chapter 60

HAZARDOUS SUBSTANCES

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Discharges into sewers — See Ch. 78.

Environmental quality review — See Ch. 47.

Storage tanks — See Ch. 87.

Fire prevention — See Ch. 53.

Watershed protection — See Ch. 97, Art. III.

Garbage collection and dumping — See Ch. 58.

§ 60-1. Definitions.

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

HAZARDOUS SUBSTANCES — Includes but is not limited to Class A poisons; Class A Fireworks; radioactive substances; explosives; unregistered handguns; toxic gases, chemicals and cultures; unstable flammables; dangerous animals, plants or laboratory viruses; high-energy emitters; and any other materials, devices or activities deemed hazardous by the Chief of Police, Mayor, Board of Trustees or Public Works Superintendent.

§ 60-2. Transportation, storage or disposal restricted.

It is hereby unlawful to manufacture, transport, store, generate, handle, discharge, dispose of or abandon hazardous substances, as herein defined, or any other materials which could adversely affect the health, safety, welfare or ecology of the Village without prior approval and a special written permit from the Board of Trustees.

Chapter 65**LAKES AND PONDS**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-23-2008 by L.L. No. 3-2008.²⁵ Amendments noted where applicable.]

GENERAL REFERENCES

Landing of aircraft on lakes — See Ch. 27.

Storage tanks near lakes or ponds — See Ch. 87.

Flood damage prevention — See Ch. 55.

Water — Ch. 97.

§ 65-1. Legislative findings.

A. The bodies of water within the Village of Tuxedo Park known as "Tuxedo Lake," "Pond No. 3" and "Wee Wah Lake" (herein the "lakes") are owned by the Village of Tuxedo Park. Tuxedo Lake is the primary source of domestic water supply for the residents of said Village, as well as the residents of the area within the Town of Tuxedo commonly referred to as "the hamlet." In the event of a water shortage, Pond No. 3 and Wee Wah Lake may, with proper treatment, be used to supplement the water supply from Tuxedo Lake. Adequate and suitable water for water supply, for domestic and other uses, is essential to the health, safety and welfare of the residents of the Village of Tuxedo Park and those residents of the Town of Tuxedo who receive their water supply from said Village. The unreasonable, uncontrolled and unnecessary interference with and disturbance of these bodies of water could create hazards to the health, safety and welfare of the persons who are dependent upon these bodies of water for domestic water-supply purposes.

B. The Village of Tuxedo Park has granted certain privileges to the following three organizations: the Wee Wah Fishing Club, with privileges relating to the use of Wee Wah Lake for fishing purposes in exchange for certain responsibilities to be performed by said club, including the stocking of said lake with fish; the Wee Wah Beach Club in respect to swimming in Wee Wah Lake in exchange for certain responsibilities to be performed by said club, including the supervision of swimming in Wee Wah Lake; and the Village Boat Club, with privileges relating to boating on Tuxedo Lake in exchange for certain responsibilities relating to the maintenance of docking facilities. Eligibility requirements for membership in the organizations are specified by the Village in its respective grants of privilege to each organization, as amended from time to time.

C. Watershed Protection. Much of the Village is watershed property whose runoff enters the main reservoir (Tuxedo Lake) and the two secondary reservoirs. Therefore, the Board of Trustees shall have authority to halt, ban, alter or intercede in any activities which may adversely affect lake ecology and/or water quality. Such activities as the use of fertilizers, herbicides, pesticides, road salt and other deicers, asphalt or tar, the deposit or dumping of garbage, organic matter or waste products and all other potentially contaminating conditions shall be subject to regulation by the Board of Trustees.

B.

E.D. The Board of Trustees of the Village of Tuxedo Park, therefore, determines that provision be made for the regulation and supervision of activities that would damage or otherwise adversely affect the waters of Tuxedo Lake, Pond No. 3 and Wee Wah Lake.

§ 65-2. Rules and regulations applicable to Tuxedo Lake.

The following rules and regulations shall apply to the use of the body of water within the Village known as "Tuxedo Lake":

- A. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Tuxedo

25.22. Editor's Note: This local law also repealed former Ch. 65, Lakes and Ponds, adopted 9-18-1991 by L.L. No. 1-1991, as amended.

Lake.

- B. No person shall place, install or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Tuxedo Lake unless such structure was in existence in the same location prior to February 20, 1987. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.
- C. No person shall place, install, rebuild or otherwise erect a nonpermanent structure on Tuxedo Lake unless such structure was legally deployable on Tuxedo Lake on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Tuxedo Lake may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure on each property owned by such person.
- D. No rebuilding as authorized by Subsection B, above, or installation of a nonpermanent structure as authorized by Subsection C above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-2; the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment; and the applicant has obtained approvals of any other board that may be required under the Village Law. For all purposes, including the issuance of permits under this subsection, the provisions of § 65-2B and C shall not apply to the Tuxedo Club or the Village Boat Club, which shall instead be subject to § 65-2E.
- E. The Tuxedo Club and the Village Boat Club are restricted from expanding the square footage or number of permanent and seasonal docks, or the number of moorings, beyond the facilities approved by the Board of Trustees prior to June 30, 2008, or such later date as the Board of Trustees designates as the date for the Board to make a final approval of the facilities available to each of the Tuxedo Club and the Village Boat Club under this § 65-2, except that the number of moorings may be increased as provided in this § 65-2E. Moorings may only be used for sailboats. A record of approvals applicable to such facilities in effect at that date shall be maintained in the Village Office by the Village Building Inspector. This record shall include the permit, the approved plan of dock configuration (which shall describe the approved arrangement and square footage of the docks), the exact placement of moorings, and photographs of the existing condition at the time of the approval. No alteration of the configuration of the approved docks or relocation of the approved moorings shall be made unless approved by resolution of the Board of Trustees. In addition, upon application to the Board of Trustees by the Tuxedo Club or the Village Boat Club, the number of moorings available to either such organization may be increased above the number specified by the Board of Trustees.

pursuant to this subsection. Approval of any such increase will be effective for a period of up to one year upon the terms approved by resolution of the Board of Trustees, which may upon application renew the approval in subsequent years.

- F. No person shall place more than one pontoon boat on Tuxedo Lake. The provisions of this § 65-2F shall not apply to the Tuxedo Club or to the Village Boat Club.
- G. Only the following persons are permitted to place boats in and on Tuxedo Lake:
 - (1) The owners of record of property adjoining the shoreline of Tuxedo Lake.
 - (2) The Tuxedo Club and the Village Boat Club and their respective members.
 - (3) Officers, employees and duly designated agents of the Village, but only for the purpose of carrying out their official duties as such officers, employees and agents.
- H. In situations where the Superintendent of Public Works or the Chief of Police determines that corrective measures must be taken to eliminate extreme algae growth in Tuxedo Lake, or for environmental, safety or health reasons, the Superintendent or Chief of Police may authorize the use of a boat powered by means other than electricity, sails or oars on the waters of Tuxedo Lake for the purpose of undertaking such corrective measures.
- I. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Tuxedo Lake.
- J. Ice skating on Tuxedo Lake is prohibited.

§ 65-3. Permit required for boats and aquatic recreational devices on lakes. [Amended 5-26-2022 by L.L. No. 4-2022]

- A. No person authorized within this chapter to place a boat in or on the waters of any of the three lakes shall place a boat or aquatic recreational device used to traverse the waters of the lakes in or on the waters of any of the three lakes unless a permit therefor shall have been issued by the Village Clerk. Aquatic recreational devices shall include, but are not limited to, paddleboards, standingboards, surfboards, electric surfboards, or other devices in or upon which an individual or individuals may travel or float upon waters. Applications for a permit shall be made by the owner of a boat or aquatic recreational device upon a form to be prescribed and furnished by the Village Clerk. Such form shall require a certification from the owner that the owner will comply with procedures approved by the Village for the cleaning of all boats or aquatic recreational devices placed in any of the lakes. A fee in an amount set by resolution of the Board of Trustees shall be paid to the Village by the applicant for a permit at the time the application is submitted. Such fee shall be refunded to the applicant in the event that a permit is not issued. The Village Clerk shall maintain a register of all such permits, which will include the name, address and telephone number of each permit holder and a description of the holder's boat or aquatic recreational device, including length, color, make, purchase date and the date on which the boat was first put into or on any of the lakes.
- B. No permit shall be issued hereunder unless the boat or aquatic recreational device conforms to the requirements and regulations contained in this chapter.
- C. Any permit issued hereunder shall be issued in duplicate, and the person to whom such permit is issued shall affix the same on both sides of the boat or aquatic recreational device, near the bow, or in a location where the permit will be visible at all times. Such permit shall be displayed whenever a boat is in or on the waters of the lakes.

- D. All permits issued hereunder must be renewed annually. The Board of Trustees, in its discretion, may revoke or deny renewal of the permit of a holder who it determines has repeatedly violated Village laws or the provisions of this Code in connection with the use of the boat or aquatic recreational device to which the permit relates.
- E. Any boat or aquatic recreational device owned or operated by the Village or by any department thereof shall be required to obtain a permit but shall not be subject to any licensing or other fee.
- F. Boats, aquatic recreational devices, other water floating devices, and the sizes thereof, may be permitted or prohibited by way of duly adopted resolution of the Board of Trustees.

§ 65-4. Rules and regulations applicable to Wee Wah Lake. [Amended 8-18-2021 by L.L. No. 1-2021; 5-26-2022 by L.L. No. 4-2022]

The following rules and regulations shall apply to the use of the body of water within the Village known as "Wee Wah Lake."

- A. No person may fish in or on the waters of Wee Wah Lake unless he or she is a resident or non-resident property owner, or an accompanied guest of a resident or nonresident property owner of the Village of Tuxedo Park or a member of any organization of club licensed or operated by the Village.
- B. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Wee Wah Lake, unless he or she is a resident or non-resident property owner, or an accompanied guest of a resident or non-resident property owner of the Village of Tuxedo Park or a member of any organization or club licensed or operated by the Village. Nonwaterfront residents or nonresidential property owners with property that does not abut the Wee Wah Lake shall only be permitted to swim in the Wee Wah Lake if they are members of the Wee Wah Park and Beach Club during its official hours of operation.
- C. Residents and/or nonresident property owners of the Village or a member of any organization of club licensed or operated by the Village shall be permitted to launch and retrieve boats for use on Wee Wah Lake in accordance with posted regulations governing such activities.
- D. No person shall operate, allow or otherwise permit a boat or aquatic recreational device owned by him or her, or under his or her control, to enter the areas of Wee Wah Lake which have been designated by the Village as swimming areas. The prohibition contained in this subsection shall not apply to boats operated by or under the direct control or supervision of the Department of Public Works or Police Department.
- E. No person shall place, install, rebuild or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Wee Wah Lake unless such structure was in existence in the same location prior to February 20, 1987. Notwithstanding the preceding sentence, the concrete permanent structure at the Wee Wah Lake shall be permitted to remain. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory, the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.
- F. No person shall place, install or otherwise erect a nonpermanent structure on Wee Wah Lake unless

such structure was legally in existence on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Wee Wah Lake may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure.

- G. No rebuilding as authorized by Subsection E above, or installation of a nonpermanent structure as authorized by Subsection F above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-4, the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment, and the applicant has obtained approvals of any other board that may be required under the Village Law.
- H. No person shall skate on the frozen surface of Wee Wah Lake, except in areas designated by the Board of Trustees and at such times as the Village Police Department has posted appropriate notice that such activity is permitted.
- I. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Wee Wah Lake.
- J. The Village hereby reserves to itself the authority to promulgate rules and regulations to carry forth the intent of Subsections A and C of this § 65-4, including the authority to limit the age of those who may engage in such activities on an unsupervised basis and the times of the year and times of the day when such activities may be carried out.
- K. The Village further hereby reserves to itself the right and authority to license the operation of the Wee Wah Lake, the immediate and surrounding property annexed thereto, or the uses thereof, to an entity designated by the Village Board of Trustees.
- L. The Village Board of Trustees may, by resolution, allow boats, aquatic recreational devices, or aquatic recreational activities to take place on the Wee Wah Lake so long as the base of launch or operation is the Wee Wah Park.
- M. The Village Board of Trustees may, from time to time and by resolution, allow for the rental of Village-owned boats and aquatic recreational devices at a reasonable fee to assist in the costs of operations. Such fees shall be maintained in accordance with the General Municipal Law.

§ 65-5. Rules and regulations applicable to Pond No. 3.

The following rules and regulations shall apply to the use of the body of water in the Village known as "Pond No. 3":

- A. No person shall place, install, rebuild or otherwise erect any permanent dock, permanent offshore floating platform, boathouse or similar structure on or in the waters or shoreline of Pond No. 3 unless such structure was in existence in the same location prior to February 20, 1987. An inventory of such structures shall be on file with the Village Building Inspector for record. In creating such inventory,

the Village Building Inspector will first record all permanent structures in existence on June 30, 2008. For a structure not in existence on June 30, 2008, to be included in such inventory, prior to June 30, 2009, a property owner must provide evidence to the Village Building Inspector demonstrating that such a structure was in existence prior to February 20, 1987. If a structure has not been so identified to the Village Building Inspector by June 30, 2009, or was not legally in existence on June 30, 2008, it may not subsequently be rebuilt.

- B. No person shall place, install or otherwise erect a nonpermanent structure on Pond No. 3 unless such structure was legally in existence on June 30, 2008, or unless such structure is otherwise in compliance with this chapter. An inventory of such structures on June 30, 2008, shall be made and maintained on file with the Building Inspector. An owner of property abutting Pond No. 3 may place, install or otherwise erect one seasonal, floating or otherwise nonpermanent structure that complies with the requirements of this chapter. Any such nonpermanent structure must be securely attached to the shore, and be limited in size so that it has a lakefront length of not more than 10 feet and does not extend into the lake more than six feet (exclusive of any bridging mechanism described in this subsection). Structures may be attached directly to the shore or may be attached to the shore by a nonpermanent bridging mechanism that itself is not more than four feet wide and does not extend into the lake more than five feet. No person may own or maintain more than one such structure.
- C. No rebuilding as authorized by Subsection A, above, or installation of a nonpermanent structure as authorized by Subsection B, above, shall take place unless a permit therefor has been approved by the Board of Trustees and issued in the name of the Board by the Village Clerk. The Board of Trustees shall issue such permit if the structure complies with the requirements of this § 65-5, the applicant has demonstrated to the satisfaction of the Board of Trustees that the construction or rebuilding will not endanger the water supply or otherwise be detrimental to the Village's environment, and the applicant has obtained approvals of any other board that may be required under the Village Law.
- D. No person shall bathe, swim, wade or otherwise immerse himself or herself in the waters of Pond No. 3 unless he or she is the owner of property that adjoins the waterline of Pond No. 3 or the guest of such property owner.
- E. No person shall skate on the frozen surface of Pond No. 3 except in areas designated by the Board of Trustees and at such time as the Police Department has posted appropriate notices that such activity is permitted.
- F. No person owning or harboring a domestic animal shall permit or allow such animal to enter the waters of Pond No. 3.

§ 65-6. Rules and regulations for all lakes and ponds.

The following rules and regulations shall apply to the use of the three bodies of water in the Village referred to as the lakes in this chapter:

- A. No motor vehicles, as that term is defined in the Vehicle and Traffic Law of the State of New York, shall be parked or left standing on any of the streets of the Village surrounding any of said lakes, except with the written permission of the Board of Trustees or the Chief of Police. Notwithstanding the definition of the term "motor vehicle" contained in the Vehicle and Traffic Law of the State of New York, the term "motor vehicle," as used in this chapter, shall also include a snowmobile, a boat trailer and other recreational vehicle not specifically defined under the Vehicle and Traffic Law of the State of New York, but shall not include fire and police vehicles and vehicles of the Department of Public Works.

- B. Access to any of said lakes for the purposes permitted in this chapter shall be from such locations as have been designated in this chapter. The Board of Trustees may, from time to time, designate additional locations from which persons may have access to any of said lakes for the purposes permitted in this chapter. Notwithstanding the foregoing, the owners and lessees of property adjoining the shoreline of said lakes and their guests, members and invitees shall have access to any of said lakes from such property for purposes permitted in this chapter.
- C. Any person operating or riding as a passenger in any boat on the waters of any of said lakes must, at all times, conform to the safety regulations promulgated by the United States Coast Guard.
- D. This chapter shall not relieve any person from complying with any rule, regulation or law of the State of New York requiring a person to obtain a license before fishing on any of said lakes.
- E. No person shall deposit garbage, refuse, putrescible matter or any other matter that pollutes water in any of said lakes.
- F. No boats that have been treated or otherwise surfaced with antifouling or toxic bottom paints shall be placed in the waters of any of said lakes. The term "antifouling or toxic bottom paints" shall mean paints containing cuprous oxide, tributyltin fluoride or similar compounds.
- G. No person shall place a boat, aquatic recreational device, trailer or dock in any of the lakes unless such has been steam-cleaned or cleaned by other measures approved by the Village in accordance with procedures approved by the Village prior to the time it is initially placed in one of the lakes and at such times thereafter as may be required by rules adopted by the Board of Trustees. Cleaning shall take place at a site that does not drain into one of the lakes. A certificate of compliance with this procedure for each boat or aquatic recreational device must be recorded by the Department of Public Works and filed with the Village Clerk. **[Amended 5-26-2022 by L.L. No. 4-2022]**
- H. No person shall place any single hull boat that is greater than 21 feet in length overall, or place any multi-hull or pontoon boat that is greater than 20 feet in length overall, in or on the waters of any of said lakes unless the boat is an antique electric boat built prior to 1936 and under 30 feet in length. This subsection shall not apply, however, to any single-hull boat that is greater than 21 feet in length overall, or any multi-hull or pontoon boat greater than 20 feet in length overall, which was in service on any of said lakes prior to February 20, 1987; no person shall replace any such boat with another boat greater than 21 feet in length for single-hull boats or 20 feet in length for multi-hull or pontoon boats. **[Amended 9-7-2011 by L.L. No. 3-2011]**
- I. No person hereinafter authorized shall place a boat in or on the waters of the lakes, other than a boat powered by electricity, sails or oars. Any such boat shall be subject to the permit provisions contained in § 65-3 hereof.
- J. No person shall place any pontoon boat on Wee Wah Lake or Pond No. 3. No home-owner or other person shall place more than one pontoon boat on Tuxedo Lake. No homeowner or other person shall place more than a total of three boats of any kind on the lakes, or at any dock, offshore float, floating platform or other similar structure owned by such a person, or permit any other person to moor or maintain a boat at such a structure. The provisions of this § 65-6J shall not apply to the Tuxedo Club or to the Village Boat Club.
- K. No club, organization or other person shall stock any of the lakes with fish without prior written consent from the Board of Trustees.
- L. No ice fishing is permitted on any of the lakes without prior written consent of the Village and prior

written consent of the New York State Department of Environmental Conservation.

- M. The Board of Trustees shall annually appoint one or two individuals to act as Lake Wardens for one-year terms. Such persons shall have such qualifications and duties as are prescribed by the Board of Trustees.
- N. The Board of Trustees may, from time to time, rent boat or nonboat devices, otherwise permitted by Village Code, to rent to taxpayers and Wee Wah Beach members during the summer season. **[Added 5-26-2022 by L.L. No. 4-2022]**
- O. The Board of Trustees may, from time to time, modify the allowable boat devices, nonboat devices, and the sizes thereof by way of resolution. **[Added 5-26-2022 by L.L. No. 4-2022]**

§ 65-7. Prohibited uses and activities.

- A. All uses and activities in or upon the waters of the lakes, except as permitted in this chapter, are prohibited.
- B. Except as otherwise permitted by law or by the Board of Trustees, no person shall fill any portion of a shoreline or construct or erect a bulkhead or retaining wall or encroach in any way upon the waters or land beneath the waters of the lakes and ponds.

§ 65-8. Use of approved fertilizers; ban on use of designated chemicals.

- A. In order to protect the lakes from damage, the Board of Trustees may, by resolution, publish a list of approved fertilizer products that may be used in the Village. The Board of Trustees may also, by resolution, publish a list of chemicals that may not be used in the Village in light of their potential adverse effects on the lakes.
- B. The Board of Trustees shall update the lists described in Subsection A not less frequently than annually and shall publish an annual report on the quality of the water in the lakes for drinking purposes.

§ 65-9. State regulations not affected.

The rules and regulations herein contained shall be in addition to and shall not be deemed to supersede the watershed regulations heretofore promulgated by the Commissioner of Health of the State of New York applicable to the lakes, as set forth in § 133.13 of Title 10 of the New York Compilation of Codes, Rules and Regulations (10 NYCRR 133.13).

§ 65-10. Penalties for offenses. [Amended 5-26-2022 by L.L. No. 4-2022]

- A. Any person who violates any of the provisions of this chapter shall be deemed to have committed a violation of the Village Code pursuant to § 1-12, Penalties for offenses against Code provisions, unless otherwise specified.
- B. Any person who violates any of the provisions of this chapter shall further be deemed to have committed a violation pursuant to the Penal Law of the State of New York punishable as provided in § 1-12 of Chapter 1, General Provisions.
- C. In addition to the above penalty, the Board of Trustees may revoke the permit or any privilege issued or granted to any person pursuant to this chapter who violates any of the provisions of this chapter or any of the terms or conditions of any such permit.

Chapter 66

LAKES BOARD

THIS IS A NEWLY PROPOSED BOARD

GENERAL REFERENCES

A Local Law Creating Chapter 66 of the Code of the Village of Tuxedo Park Establishing a Lake Board

Section 1. The Code of the Village of Tuxedo Park is hereby amended by adding a new Chapter 66 entitled 'Lake Board.'

§ 66-1 Legislative Findings; Purpose.

The Board of Trustees finds that Tuxedo Lake is a vital Village drinking water source requiring heightened protection; Pond No. 3 and Wee Wah Lake are significant recreational, scenic, ecological, and community resources; and activities that materially impact Village lakes may materially affect water quality, shoreline stability, recreation, habitat, and public welfare.

§ 66-2 Establishment.

There is hereby established the Lake Board of the Village of Tuxedo Park, a permanent Village board with specialized jurisdiction over lake-impact matters.

§ 66-3 Membership. Composition. Appointment; term; renewal

The Lake Board shall consist of {five (5) members} appointed by the Board of Trustees pursuant to § 7-718 of the Village Law to serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. The Lakes Board members shall, to the extent practicable include: a waterfront property owner, non-waterfront resident, active recreational user, qualified scientific or technical member, and one at-large member. The Board of Trustees shall, by resolution, annually designate from the members of such Board a Chairman and Deputy Chairman. A quorum shall consist of not less than three members. Any member may be removed by the Board of Trustees for cause after a public hearing. Members shall complete annual training in ethics, Open Meeting Laws, SEQRA, findings based on evidence and review the relevant sections of the Code.

§ 66-4 Jurisdiction.

The Lake Board shall have exclusive jurisdiction over material lake impact issues related to Tuxedo Lake, Pond No. 3, and Wee Wah Lake, involving: construction work, septic and sewer matters, landscaping and fertilizer impacts, runoff and drainage changes, docks and structures, and tree removal.

§ 66-5 Coordination With Other Boards and Conflicts.

Other Village boards shall refer -lake-impact matters to the Lake Board and shall not base decisions -on lake science or lake quality concerns until Lake Board review has occurred. In the event of a conflict between the jurisdiction of other committees and the Lake Boards-, such matters shall be referred to the Lakes Board.

§ 66-6 Science-Based Decisions.

Decisions shall be supported by substantial competent evidence including sampling data, engineering reports, accepted methodologies, site inspections, qualified expert opinion, and historical lake trends and as needed, outside consultants.

§ 66-7 Cost-Benefit and Proportionality.

Before imposing significant conditions, the Lake Board shall evaluate environmental benefit, drinking water protection, recreational burden, cost to applicant, cost to Village, lower-cost alternatives, and proportionality. The least burdensome effective alternative shall be preferred.

TUXEDO PARK CODE

§ 65-6

§ 66-8 Procedure.

Completeness review shall occur within [30 days]. Hearings shall commence within [45 days] where required. Decisions shall be rendered within [62 days] after close of hearing unless extended by consent.

§ 66-9 Monitoring.

The Lake Board shall prepare an annual public report including water clarity, nutrients, bacteria indicators, vegetation, recreational conditions, applications reviewed, and recommendations.

§ 66-10 Appeals.

Decisions may be appealed to the Board of Appeals within thirty (30) days.

Chapter 67**LANDSCAPERS**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 3-20-2024 by L.L. No. 1-2024. Amendments noted where applicable.]

§ 67-1. Definitions.

As used in this chapter, the following words and phrases shall have the following meaning:

LANDSCAPER — Includes any person who engages in the tending, maintaining, managing, trimming, removing, creating or laying out of lawns, gardens, flower beds, shrubbery, trees or landscaping of every nature and description on other than his own property.

PERSON — Includes any individual, firm, partnership or corporation.

PRIVATE PROPERTY — Includes all real property, improved or unimproved, owned by any municipal corporation, corporation, person, partnership, firm, association or otherwise and which is not included in the definitions of public highway and public place in this section.

PUBLIC HIGHWAY/VILLAGE STREET — Includes any street for its full width from property line to property line, including the sidewalk area, whether or not installed.

PUBLIC PLACE — Includes any real property available to or open to use by all or a majority of the property owners or residents of the Village of Tuxedo Park.

§ 67-2. License required.

It shall be unlawful for any person to perform as a landscaper in the territorial limits of the Village of Tuxedo Park unless they shall have first obtained and shall have then in force a gardener's license as hereinafter provided.

§ 67-3. Application for license; issuance; scope.

- A. Every person who desires to perform as a landscaper in the Village of Tuxedo Park may apply to the Village Clerk for a license on forms to be furnished by the Village Clerk. Such license may be granted by the Village Clerk upon payment of the fees as provided for in hereof. No application for a license shall be denied until after a hearing by the Board of Trustees, held on due notice to the applicant, at which hearing the applicant shall be entitled to be heard with respect to its qualifications and the grounds of its application. The Board's determination shall be to either direct the Village Clerk to issue the license or deny the license, in which case the grounds for such denial by the Board shall be included in the decision.
- B. Such license shall cover the licensee as well as all the employees of such licensee.
- C. No license shall be issued to a person if a prior license issued hereunder to such person or to a firm, partnership or corporation of which such person was a principal was revoked, except upon good cause shown by such person at a hearing before the Board of Trustees, when requested by such person.
- D. Elementary, high school students and caretakers residing on property shall be exempt from the provisions of this section.
- E. An application for a license shall include:

- (1) The name and business address of the applicant.
- (2) If the applicant is a corporation, the name, age and residence address of each officer and director.
- (3) If the applicant is a limited liability company, the name and residence address of each member.
- (4) If the applicant is a natural person, his or her age and residence address.
- (5) The applicant's place of business for the past five years.
- (6) The license numbers, vehicle identification numbers and state of registration of each vehicle to be used in providing the service. If a licensee acquires a new vehicle during the term of a license, the licensee shall provide the Village Clerk with the vehicle information prior to using such vehicle for landscaping services in the Village.
- (7) The name, address and day and nighttime phone numbers of the person or persons who shall be responsible to the Village for compliance with the requirements of this chapter as regards the applicant's performance of gardening or landscaping services within the Village of Tuxedo Park.
- (8) The name and address of an agent who shall be a natural person and who shall be authorized and shall agree by verified statement to accept notices, summonses or appearance tickets issued by the Village Board or its designated employee or officer with respect to violations by the permittee of any Village law or ordinance or any rules or regulations thereunder. Any notice, summons or appearance ticket shall be deemed to have been duly and legally served upon the permittee when served personally upon or sent by registered or certified mail, return receipt requested, to the agent designated herein.
- (9) Proof of general liability and motor vehicle insurance.
- (10) Proof of workers' compensation insurance for any employees.

§ 67-4. Duration of license.

A landscaper license shall be issued as of the date of granting of the same and shall expire on the last day of December of the same year, unless the same is sooner revoked, as herein provided.

§ 67-5. License fees.

The license fee and license renewal fee shall be set from time to time by resolution of the Board of Trustees.

§ 67-6. Suspension of license.

- A. The Village Board, after a hearing, upon at least seven days' notice to the licensee, at which hearing the licensee shall be given an opportunity to be heard, may suspend or revoke any permit issued, in its discretion, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for the license.
 - (2) The violation of any provision of this chapter or any of the terms or conditions imposed upon the granting of a license.
 - (3) Conducting of applicant's business, enterprise or activity in an unlawful manner or in such a way as to constitute a breach of the peace or to constitute a menace to the health, safety or

general welfare of the public.

- (4) Any transfer or assignment of the license to any person, firm or corporation.
 - (5) Other good cause.
- B. Upon the suspension or revocation of a license, it shall be unlawful for the landscaper to conduct business in the Village of Tuxedo Park until a new license is issued upon appropriate application.
- C. Notice of revocation or suspension of a permit shall be given in writing, setting forth specifically the grounds therefore.

§ 67-7. Regulations.

The following regulations shall be observed by all landscapers and their employees:

- A. No landscaper or employee of a landscaper shall do or perform or cause, suffer or permit any of the following acts:
- (1) Operate any power or manual lawn mower or other power equipment earlier than 8:00 a.m. nor later than 4:30 p.m. on weekdays or at any time on Saturdays, Sundays or legal holidays; provided, however, that such equipment may be operated between the hours of 9:00 a.m. and 6:00 p.m. on Sundays and legal holidays if not more than one such piece of equipment is in use at any one time and such use is by a person who resides on the property where the equipment is being operated. Notwithstanding the aforesaid restrictions, leaf blowing activities may be performed on any Saturday in November prior to the Thanksgiving holiday of each year between 9:00 a.m. and 4:30 p.m. This subsection shall not preclude the operation at any time of such equipment as may reasonably be required in case of emergency conditions where the emergency reason is provided to the Village Building Department and approved as an emergency by the Building Department in writing.
 - (2) Place or cause to be placed any garbage, refuse, cuttings, leaves, wood or other materials upon any public highway or public property, except at locations and in a manner designated for such placement. All lawn cuttings, leaves and debris accumulated from real property located in the Village of Tuxedo Park must be removed by the permittee and disposed of at the permittee's own cost or composted on the customer's property pursuant to NYSDEC regulations.
 - (3) Scatter or cause to be scattered any garbage, refuse, cuttings, leaves or other waste materials from the custody of such persons onto any public highway, public place or private property without the permission of the property owner.
 - (4) Use any chemicals designated by the Village as not permitted, in accordance with Village Code § 65-8.
 - (5) Violate the Village Code, including, but not limited to, §§ 100-14, 65-6E, and 70-6, and any other provision of the Village Code applicable to the work performed by the licensee.
- B. The landscaper's license shall be maintained by the landscaper or their designee and displayed on a vehicle located at the work site.

§ 67-8. Renewal.

Beginning at any time during the month of December of each current year, the holder of a then valid current

§ 67-8

TUXEDO PARK CODE

and unsuspended license may apply for the renewal and reissue of such license for the following year (and if applied for in January or after for the remainder of that year). No license renewal or reissue will be made if at the time of application therefor the said license is under a suspension, except upon good cause shown by such landscaper after a hearing before the Board of Trustees.

§ 67-9. License Not Transferrable

No license issued under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the landscaper to whom it was issued nor shall such license be used for any vehicles other than the vehicles stated in the application.

§ 67-10. Records and Reports

- A. The Village Clerk shall issue and receive applications and issue licenses and receipts.
- B. The Village Clerk shall keep a record of all licenses issued or withheld pursuant hereto and shall keep all other records necessary or appropriate thereto.
- C. The Village Clerk shall submit a report from time to time to the Village Board enumerating the applications received and stating the action taken thereon.

§ 67-11. Penalties

Any person committing an offense against any provision of this chapter or any rule or regulation adopted pursuant to this chapter or any restriction or condition contained in a license issued pursuant to this chapter or placing any lawn cuttings, leaves and debris on a public highway or public property in a location or manner not permitted by this chapter shall be guilty of an offense of this chapter. Such offense shall be punishable as provided in the general penalty provisions of the Code of the Village of Tuxedo Park.

Chapter 70**PEACE AND GOOD ORDER**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-13-1953, amended in its entirety 12-21-1990 by L.L. No. 1-1990. Subsequent amendments noted where applicable.]

§ 70-1. Legislative intent.

This chapter is intended to preserve the public peace, good order, safety and welfare of the people of the Village of Tuxedo Park and to regulate the use of public and private premises.

§ 70-2. Definitions.

In addition to the definitions contained in Chapter 1 hereof, the following terms shall have the meanings indicated:

BUILDING — In addition to its ordinary meaning, includes any structure, vehicle or watercraft used for overnight lodging of persons or used by persons for carrying on business therein, or an enclosed motor truck trailer. Where a building consists of two or more units separately secured or occupied, each unit shall be deemed both a separate building in itself and a part of the main building.

DWELLING — A building which is usually occupied by a person lodging therein at night.

ENTER OR REMAIN UNLAWFULLY — A person "enters or remains unlawfully" in or upon premises when he is not licensed or privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders does so with license and privilege unless notice against trespass is personally communicated to him by the owner of such land or other authorized person or unless such notice is given by posting in a conspicuous manner.

NIGHT — The period between 30 minutes after sunset and 30 minutes before sunrise.

PREMISES — Includes the term "building," as defined herein, and any real property.

PROPERTY OWNER — For purposes of this chapter only, any individual or entity noted on the Village tax records as a property owner, family members of such property owner(s), and residents of the property.[Added 11-12-2008 by L.L. No. 6-2008]

REAL PROPERTY BOUNDARY — The real property ownership division reflected on real property tax maps and other real property instruments filed in the Orange County Clerk's Office, including its vertical extension, which separates the real property owned or controlled by one person or entity from real property owned or controlled by another person or entity.[Added 8-25-2015 by L.L. No. 3-2015]

§ 70-3. Entering or remaining unlawfully prohibited.

No person shall knowingly enter or remain unlawfully in or upon any public or private premises within the Village of Tuxedo Park.

§ 70-4. Use of Village-owned property.

- A. Under no circumstances shall any person, firm or corporation be permitted to damage, build upon, pave, fill, excavate, timber upon or conduct any other encroachment or unauthorized use of any Village-owned property, including public highways and lake beds.
- B. Exemptions may be granted only upon prior review and written permission from the Board of Trustees.

§ 70-5. Discharge of firearms.

- A. The discharge of firearms in the Village is restricted to the discharge of shotguns with birdshot only on the property of the owner or the property of another with written permission and in compliance with any other state, federal or local law.
- B. The provisions of this chapter shall not apply to the use of recurve bows for target practice only, provided that proper safety precautions are observed.
- C. The use of compound bows or crossbows are prohibited.
- D. Any person violating this section shall be fined not less than \$500 nor more than \$1,000 for a first offense; nor less than \$1,000 nor more than \$2,000 for a subsequent offense thereof.

§ 70-6. Restricted activities.

- A. Work creating noise beyond the subject property line that is clearly audible by a reasonable person of normal and average auditory sensitivities, including noise resulting from the delivery, removal or use of heavy equipment, construction, demolition, excavation, tree cutting, lawn mowing, leaf blowing or other landscaping work, exterior repairs or any other such work, shall be permitted on weekdays between 8:00 a.m. and 4:30 p.m. No such activity shall be permitted on Saturday or Sunday or on any New York State recognized holiday, except that leaf blowing activities may be done on any Saturday in November prior to the Thanksgiving holiday of each year between 9:00 a.m. and 4:30 p.m. **[Amended 4-24-2004 by L.L. No. 2-2004; 11-12-2008 by L.L. No. 6-2008; 8-25-2015 by L.L. No. 3-2015]**
- B. Excepted from the restrictions in Subsection A above are snow or ice removal by snowblowers and other machinery for the purpose of removing snow or ice, and abatement of imminent hazards. Also excepted from Subsection A above is routine property maintenance, such as minor home repair or improvement projects, and landscaping activities, performed by the property owner, resident or occupier on Saturdays (other than New York State recognized holidays), between 9:00 a.m. and 4:30 p.m. and on Sundays (other than New York State recognized holidays) from 10:00 a.m. to 2:00 p.m. **[Amended 11-12-2008 by L.L. No. 6-2008; 3-18-2009 by L.L. No. 2-2009; 8-25-2015 by L.L. No. 3-2015]**
- C. Village operations, authorized garbage collection vehicles operating under a permit issued by the Board of Trustees and bona fide medical, fire and utility emergencies are exempt from these restrictions. Other exceptions may be granted by the Mayor, Police Chief or Board of Trustees upon prior written request.
- D. Music and entertainment (whether amplified or not) or any sounds generated by amplification devices creating noise clearly audible beyond the subject property line that disturbs or annoys a reasonable person of normal and average auditory sensitivities shall not be permitted prior to 9:00 a.m. or after 10:00 p.m. on weekdays and Sundays, or prior to 9:00 a.m. on Saturdays. Such music or other entertainment is permitted until midnight on Saturdays. **[Added 8-25-2015 by L.L. No. 3-2015]**

§ 70-6

PEACE AND GOOD ORDER

- E. Any person or entity, including, but not limited to, any property owner, resident, guest, invitee, contractor or subcontractor, violating this section shall be fined a civil fine of not less than \$250 nor more than \$1,000 for the first violation; nor less than \$500 nor more than \$2,000 for a subsequent offense thereof. The continuation of an offense shall constitute, for each day the offense is continued, a separate and distinct violation. **[Added 8-25-2015 by L.L. No. 3-2015]**

TUXEDO PARK CODE

Chapter 71

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-13-1953. Sections 71-1 and 71-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Peace and good order — See Ch. 70.

Access to Village — See Ch. 25.

§ 71-1. Certain activities prohibited.²⁶

It shall be unlawful for any person to hawk, vend, peddle or solicit funds or orders for the purchase or sale of goods, wares, merchandise or other commodities in the streets or public places of the Village or by going from house to house within the said Village.²⁷

§ 71-2. Permission of property owner or occupant required.²⁸

No person shall, within the limits of any residence district of the Village of Tuxedo Park, as defined and established by Chapter 100, Zoning, enter upon the property of any person or ~~corporation~~ entity or seek admission at the house, garage or stable of any person or ~~entity~~ corporation for the purpose of selling or offering for sale or soliciting orders for the sale of any goods, wares or merchandise; or for the purpose of soliciting subscriptions for any book, publication, paper, magazine or periodical; or for the purpose of seeking employment; or for the purpose of soliciting funds or orders for work, labor or services to be performed within or without the Village, without the previous consent or permission of the owner or occupant thereof.

§ 71-3. Religious Solicitations.

To the extent permitted by law, religious solicitations shall be deemed unwanted by all Property Owners unless the Property Owner has pre-authorized general religious solicitations by putting their name and address on an authorized religious solicitations list which shall be maintained by the Police Department and kept at the front gate. This Section 71.3 shall not apply to any religious organization of which the Property Owner is affiliated.

TUXEDO PARK CODE

~~26.23.~~ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

~~27.24.~~ Editor's Note: See also Ch. 25, Access to Village.

~~28.25.~~ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 73**PERMITS AND LICENSES**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 2-21-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Fire prevention permits — See Ch. 53.

Alarm system permits — See Ch. 29.

Garbage collector permits — See Ch. 58.

Alcoholic beverage permits — See Ch. 30.

Sewer connection permits — See Ch. 78.

Building permits — See Chs. 36 and 100.

Street excavation permits — See Ch. 83.

Clearing, filling, grading and excavating permits — See Ch. 40.

§ 73-1. Form of permits.

There shall be no oral permits or authorizations granted. Village officials shall make their determinations in writing, either through letters, memos, adopted forms or in the text of their minutes. One copy hard and digital shall be kept on file in the Village Office at all times.

§ 73-2. Responsibilities of permittee.

It shall be the obligation of the permittee to pay any and all appropriate fees, secure his permit or other authorization and be prepared to present that written approval at the entry gate or anywhere else within the Village when requested by a village official, the Police Department, Department of Public Works or a bona fide agent of the Village.

§ 73-3. Nontransferability.

Building permits, licenses, identification stickers, badges and any other form of authorization issued by the Village shall become the sole property of the initial intended recipient and shall not be salable or otherwise transferable under any circumstances.

§ 73-4. Restrictions on issuance of permits. [Amended 4-22-2009 by L.L. No. 4-2009]

No permits or approvals may be given and no applications may be considered, or placed on any agenda for consideration, by any Village board or official concerning any property that has an outstanding stop-work order or an unresolved violation of the Village Code issued by an appropriate official relating to that property, other than work, actions, or applications designed to remedy such stop-work order or violation if permitted in writing to proceed by the appropriate official.

§ 73-5. Progress of work under permit.

A. The Occupant or General Contractor shall notify the Building Inspector when work under the permit commences.

B.

A.C. All projects involving construction, demolition, renovation, excavation, repair and/or maintenance shall be conducted in an expedient and uninterrupted manner.

~~B-D.~~ It shall not be mandatory that the holder of a building permit or other authorization begin his project immediately unless required by the Village for health, safety, welfare or aesthetic purposes. However, any work once begun, whether requiring a permit or not, must be conscientious, continuous and concerted so as to minimize the period of noise, activity and site disruption.

~~C-E.~~ Should work slow or cease for a period of 90 days, the Village shall be entitled to revoke the building permit, levy daily fines and/or call the associated bond, letter-of-credit or money security deposit. In emergency situations, such as labor strikes, harsh weather or financial hardship, the property owner or occupant may, before or during that ninety-day period, petition the Board of Trustees for a term of dormancy or a permit extension.

~~D-F.~~ Any moneys collected through fines, penalties, assessments, bonds, letters of credit or sacrifice of cash security shall be nonrefundable, regardless of subsequent performance.

§ 73-6. Disaster cleanup extension.

Following a fire, flood, hurricane or other disaster, the affected property owners shall be extended a ninety-day grace period during which to clear and clean up their premises to the Village's satisfaction. In the event of severe hardship, the affected owner may appeal to the Board of Trustees for consideration of a site rehabilitation extension.

§ 73-7. Stop-work orders.

A. The Village reserves the right to issue a stop-work order in any situation that is deemed to violate existing law or threaten health, safety, welfare or the environment.

B. If the Village reasonably believes that a stop work order should be issued and it is feasible to allow some work to continue, then the Building Inspector shall in lieu of a full stop-work order issue a partial stop-work order.

~~A.~~

B-C. Such stop-work order may be issued and posted by the Building Inspector, ~~Mayor~~, Board of Trustees, Chief of Police or Public Works Superintendent and shall cite the violation or condition. Stop-work orders shall require the recipient and any associated entities to immediately and safely cease and desist from all such activity cited in that order.

C-D. Within two business days of notification by the permit holder that the stop work order has been resolved, the Village shall cause the conditions to be inspected, and if resolved shall no later than one business day after such inspection remove such stop work order. It shall be the obligation of the Board of Trustees to expeditiously examine and analyze the said condition and promptly determine the extent of violation or endangerment.

D-E. In the event the Village determines (1) that the stop-work order has not been cured, or (2) the recipient feels that an alternate plan of operation is warranted then the recipient shall have The recipient shall, after full compliance with the stop-work order, be granted the right to petition the Board of Trustees with his own testimony, evidence and/or alternative plan of operation.

E-F. Resumption of any activity subsequent to a stop-work order shall be permitted only upon written authority of the Building Inspector ~~Mayor~~ or Board of Trustees.

§ 73-8. Fees.

Fees for permits and/or licenses issued by the Village shall be set from time to time by resolution of the Board of Trustees.²⁹

§ 73-9. Ultimate authority for permissions granted.

Except as specifically provided elsewhere in this Code, when permission is required from a Village official or officials or such official is authorized to grant an exemption from a requirement therein, the final authority for such permission or exemption is vested in the Board of Trustees.

29-26. Editor's Note: The current fee resolutions are on file in the office of the Village Clerk.

PROPERTY MAINTENANCE

Chapter 75

PROPERTY MAINTENANCE

[HISTORY Adopted by the Board of Trustees of the Village of Tuxedo Park: Art. I, 2-19-1981 by L.L. No. 1-1981; Art. II, 1-15-1985 by L.L. No. 1-1985; Art. III, at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. IV, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Sections 75-3, 75-9, 75-11A, § 75-13 and 75-17A amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Storage tanks — See Ch. 87.

Maintenance of alarm systems — See Ch. 29.

Abandoned or junked vehicles — See Ch. 93.

Fire prevention — See Ch. 53.

Watershed protection — See Ch. 97, Art. III.

Dumping; garbage collection — See Ch. 58.

Firewood storage — See Ch. 100, § 100-14.1.

Roadside conditions — See Ch. 83, Art. IV.

ARTICLE I
General Standards
[Adopted 2-19-1981 by L.L. No. 1-1981]

§ 75-1. Title.

This article shall be known as the "Property Maintenance Law of the Village of Tuxedo Park" and may be referred to herein as the "Property Maintenance Law" or as "this article."

§ 75-2. Purpose.

The purposes of this article shall be.

- A. To provide for the public health, safety and welfare.
- B. To avoid, prevent and eliminate the maintenance or creation of hazards to the public health or safety.
- C. To avoid, prevent and eliminate conditions which, if permitted to exist or continue, will depreciate or tend to depreciate the value of adjacent or surrounding properties.
- D. To prevent the creation, continuation, extension or aggravation of blight.
- E. To preserve property values in the Village.
- F. To prevent the physical deterioration or progressive downgrading of the quality of housing facilities in the Village.
- G. To prevent and eliminate physical conditions in or on any property which constitute nuisances and are thereby potentially dangerous or hazardous to life, health or safety of persons on or near the premises where such conditions exist.
- H. To establish minimum standards governing the maintenance and condition of land, buildings, structures and premises in the Village.
- I. To fix responsibilities and duties thereof upon owners, lessees, operators and occupants of property.
- J. To provide for administration and enforcement.
- K. To fix penalties for the violation of this article.

§ 75-3. Definitions.

For the specific purposes of this article, the following terms, whenever used herein or referred to in this article, shall have the respective meanings assigned to them hereunder unless a different meaning clearly appears from the context:

CONSTRUCTION MATERIALS — New or used materials for the construction, renovation or alteration of buildings or structures, including but not limited to foundation and masonry materials, lumber, roofing materials, plumbing and electrical materials, doors, windows, screens, tanks, fences, rails and balustrades, etc.[Added 2-21-1990 by L.L. No. 1-1990]

DETERIORATED FENCE — A fence of any kind composed of any material or fabric anywhere on a person's property that is not in a state of good repair due to any one or a combination of the following conditions:

- A. The fabric thereof (wire, slats, posts, pickets etc.) becoming dislodged from the supporting structures or posts.
- B. The supporting structures or posts not being vertical, i.e. at right angles to the plane of the horizon or capable of supporting the fence fabric.
- C. The fabric of the fence being in a rotted, decayed or unmaintained condition, or overgrown with nonarbor cultural growth. **[Added 1-21-1998 by L.L. No. 2-1998]**

DETERIORATED STRUCTURE — Any structure or building, including a dwelling, of which any exterior component part, such as its exterior walls or fabric, windows, chimneys, roofs, decks, terraces or parts thereof, is in a state of structural dilapidation, ruin or decay to the extent that such state of dilapidation, ruin or decay is visible to the naked eye of an observer from any public way or street or any adjoining property, notwithstanding that such a condition may not constitute a dangerous building or an unsafe condition under §§ 53-10 and 75-24 of this Code, respectively. **[Added 1-21-1998 by L.L. No. 2-1998]**

EXTERIOR OF PREMISES — Those portions of a building or structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto; and the open land space of any premises outside of any building or structure erected thereon.

NUISANCE —

- A. Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New York, its governmental agencies or the regulations and laws of the Village.
- B. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of premises where said condition exists.

OCCUPANT — Any person residing, living or sleeping in or on the premises or having actual possession, use or occupancy of a dwelling premises, or any person or entity in possession of or using any premises, or part thereof, whether or not the owners thereof and regardless of the duration of time of such possession, use or occupancy.

OPERATOR — Any person, persons or entity, not the owner, who has charge, care or control of a dwelling or premises, or a part thereof, with or without the knowledge, consent or authority of the owner.

OWNER — Any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof, or who shall have charge, care or control of any lot, premises, building, structure or part thereof as owner or agent of the owner, or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lessee of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this article and shall have responsibility over the portion of the premises so sublet, leased or assigned.

PREMISES — A lot, plot or parcel of land, right-of-way or multiples thereof, including the buildings or structures thereon.

REFUSE OR RUBBISH — All discarded, useless, unusable, unused or worthless solid waste matter or materials, combustible or noncombustible, including but not limited to garbage; trash; ashes; paper; paper goods and products; wrappings; cans; bottles; containers; junk; glass; boxes; crockery; wood; plastic; rubber; leather; furniture; household goods; appliances; bedding; scrap lumber; scrap metal;

construction material; inoperable machinery, or parts thereof; garden or farming implements and supplies; tires; abandoned, inoperative or unusable automobiles and vehicles; and solid commercial or industrial waste.

STRUCTURE — A combination of materials which forms a construction, such as buildings, platforms, sheds, swimming pools, tennis courts of all types and fences, whether above, below or at ground level.

VILLAGE — The Village of Tuxedo Park in the County of Orange and State of New York.

§ 75-4. Higher standards to prevail.

In any case where the provisions of this article impose a higher or stricter standard than set forth in any other ordinance, law or regulation of the Village of Tuxedo Park, or under the laws or regulations of the State of New York or any of its agencies, then the standards as set forth herein shall prevail; but if the provisions of this article impose a lower or lesser standard than any other regulation, law or ordinance of the Village, or of the laws and regulations of the State of New York or any of its agencies, then the higher standard contained in any such other ordinance, regulation or law shall prevail.

§ 75-5. Compliance with other standards.

Compliance with this article shall not constitute a defense against any violation of any other ordinance or law of the Village applicable to any structure or premises, nor shall any one act of compliance constitute a defense against any subsequent or other violation of this article.

§ 75-6. Responsibility of owners, operators and occupants.

Owners, operators and occupants shall have all the duties, obligations and responsibilities prescribed in this article, and no such person or entity shall be relieved of any duty, obligation or responsibility hereunder, nor be entitled to assert, as a defense against any charge made against him or them for violation of this article, the fact that another owner, operator or occupant or any other third person or entity is also responsible therefor and in violation thereof.

§ 75-7. Application of other laws.

- A. Application of Building Code. Any alterations to buildings, structures or appurtenances thereto, or changes of use therein, which may be caused directly or indirectly by the enforcement of this article shall be done in accordance with all applicable sections of any Building Code heretofore or hereafter adopted by the Village.³⁰
- B. Application of Zoning Law. Nothing contained in this article or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of the zoning laws of the village.³¹

§ 75-8. Duties of owners, operators and occupants.

In furtherance of the purposes of this article, it shall be the duty and responsibility of the owner, operator or occupant of premises to comply with any or all of the requirements and standards of this article to keep the premises free of conditions which constitute violations hereof and to promptly remove, prevent or abate such conditions.

^{30-27.} Editor's Note: See Ch. 36, Building Construction.

^{31-28.} Editor's Note: See Ch. 100, Zoning.

§ 75-9. Exterior maintenance standards. [Amended 2-21-1990 by L.L. No. 1-1990]

The exterior of all premises shall be kept free of the following matter, materials or conditions:

- A. Refuse, as hereinabove defined.
- B. Rubbish, as hereinabove defined.
- C. Construction materials.
- D. Abandoned, uncovered or structurally unsound wells, shafts, towers, chimneys, exterior cellar openings, basement hatchways, foundations or excavations.
- E. Abandoned iceboxes, refrigerators, boilers, hot-water heaters, television sets and other similar major appliances.
- F. Nuisances, as hereinabove defined.
- G. Vehicles or parts thereof, including boats and trailers, motorized or not, licensed or unlicensed, registered or unregistered, which vehicles or parts thereof are or have been junked, abandoned, dismantled or are in a state of visible disrepair.
- H. Fallen trees, limbs or branches within 50 feet of a public roadway or neighboring property line.
- I. Deteriorated fences. **[Added 1-21-1998 by L.L. No. 1-1998]**
- J. Deteriorated structures. **[Added 1-21-1998 by L.L. No. 2-1998]**

§ 75-10. Administration and enforcement.

- A. Enforcement Officer; appearance tickets. The Building Inspector of the Village of Tuxedo Park is hereby designated as the officer charged with the enforcement of this article and is hereinafter referred to as the "Enforcement Officer." The Enforcement Officer is hereby authorized to issue appearance tickets, pursuant to the Criminal Procedure Law of the State of New York, to secure the enforcement of this article.³²
- B. Enforcement procedure. Whenever the Enforcement Officer determines that there is or has been a violation of any provision of this article, he shall give notice of such violation to the person, persons or entities responsible therefor under this article. Such notice shall be in writing and shall include a concise statement of the reasons for its issuance. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by registered or certified mail to the last known address of the person or entity upon which the same is served, as shown by the most recent assessment roll of the Village; or a copy thereof is handed to said person or persons; or a copy thereof is left at the usual place of abode or office of said persons or entities. Notice shall be given as aforesaid within or without the Village. The notice shall also state that unless the violation is abated, removed, cured, prevented or desisted from within 10 days of the date of service of such notice, exclusive of the date of service, an appearance ticket shall issue for such violation. The Enforcement Officer may, at the time he issues the notice, extend the period for compliance with the violation stated in the notice for a period in excess of the aforesaid 10 days if, in his judgment, the abatement, removal, prevention, cessation of or cure of the condition violated cannot reasonably be effected within the ten-day period; and in such cases, the Enforcement Officer shall state such reasonably required extended period in

^{32,29.} Editor's Note: See also Ch. 3, Appearance Tickets.

the notice, which shall then be applicable instead of the aforesaid 10 days.

- C. Emergency conditions. Whenever the Enforcement Officer finds that an emergency condition in violation of this article exists, which condition requires immediate attention in order to protect the public health or safety, he may issue an order by service of notice in the manner set forth above, reciting the existence of such an emergency condition and requiring that such action be taken by the violator as soon as it is reasonably necessary to meet the emergency. Notwithstanding any other provision of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but, upon objection in writing to the Enforcement Officer, any such person shall be afforded a hearing before the Board of Trustees of the Village as soon as is reasonably possible. After such a hearing and decision by the Board of Trustees as to the existence or nonexistence of the emergency condition, the Board of Trustees may continue such order in effect or modify or withdraw it.

§ 75-11. Penalties for offenses.

- A. Criminal penalty. Any person or entity who shall violate any of the provisions of this article or any order promulgated hereunder shall, upon conviction, be punishable as provided in § 1-12 of Chapter 1, General Provisions.³³
- B. Civil penalty. Any person or entity who has violated any of the provisions of this article or any order promulgated hereunder shall be subject to a civil penalty enforceable and collectible by the Village in the amount of \$100 for each such violation. Such penalty shall be collected by and in the name of the Village for each day that such violation shall continue.
- C. Injunction. In addition to the above-provided penalties and punishment, the Board of Trustees of the Village may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain, by injunction, the violation of this article or any order promulgated hereunder.

^{33,30.} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

ARTICLE II
Trees and Shrubs
[Adopted 1-15-1985 by L.L. No. 1-1985]

§ 75-12. Trimming or removal required.

It shall be the duty of every owner of real property within the Village of Tuxedo Park to trim or remove, as circumstances may require, any trees or shrubs located on such owner's real property when such trees or shrubs, or their branches or roots, are a menace to the public or to the streets, sidewalks or underground or above-ground improvements.³⁴

§ 75-13. Enforcement Officer designated.³⁵

The Board of Trustees of the Village of Tuxedo Park may appoint a person to enforce the provisions of this article, who shall be known as the "Enforcement Officer." This article may also be enforced by the Police Chief, Board of Trustees, Building Inspector or Public Works Superintendent.³⁶

§ 75-14. Notice of determination.

The Enforcement Officer shall determine whether particular trees and shrubs constitute a menace pursuant to § 75-12 above, specifying the reason therefor. If the Enforcement Officer determines that any such tree or shrub constitutes such a menace, the owner of the real property upon which such tree or shrub is located shall be served personally or by certified mail with a written notice by the Enforcement Officer. Such notice shall inform such owner that such determination has been made and shall require such owner to trim or remove such tree or shrub, as circumstances may require, within 30 days after such service.

§ 75-15. Failure to comply with notice.

Failure to trim or remove such tree or shrub pursuant to such notice and within such time shall be a violation of this article.

§ 75-16. Work done by Village; recovery of costs.

Upon such failure, the Enforcement Officer may cause such tree or shrub to be trimmed or removed. The Enforcement Officer shall certify to the Board of Trustees of the Village the expense paid or incurred for such trimming or removal. The Board of Trustees shall thereupon assess such expense upon the real property involved, and such charge shall constitute a lien and charge upon the real property upon which it is levied until paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

§ 75-17. Penalties for offenses.

- A. A person committing an offense against any provision of this article shall, upon conviction, be punished as provided in § 1-12 of Chapter 1, General Provisions. [Amended 2-21-1990 by L.L. No. 1-1990]
- B. The remedies provided herein shall be cumulative and shall be in addition to any other remedies

^{34,31.} Editor's Note: See also Ch. 83, Streets and Sidewalks, § 83-10.

^{35,32.} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

^{36,33.} Editor's Note: See also Ch. 3, Appearance Tickets.

provided by law.

ARTICLE III

Brush, Grass and Weeds**[Adopted 2-21-1990 by I.L. No. 1-1990]****§ 75-18. Hazardous growths prohibited.**

No brush, tall grass, rubbish or weeds which constitute a fire or health hazard to the residents of the Village of Tuxedo Park or to adjoining properties shall be permitted to grow, accumulate or spread on any real property in the Village.

§ 75-19. Notice to remove.

In the event that the Village Board determines that there exists such brush, grass, rubbish or weeds which constitute a fire or health hazard as described above, the Village Board shall direct the Building Inspector to give written notice to the owner of such real property to spray, remove, cut or trim the same as may be necessary to remove such hazard. Such notice shall be given in writing by certified mail, return receipt requested, to the owner of such property and to the owner's last known address as appears on the latest assessment roll of the Village of Tuxedo Park. Such notice shall direct that such hazard shall be removed within 30 days of the mailing of such notice.

§ 75-20. Removal by Village; recovery of costs.

In the event that the owner of such real property fails to comply with said notice and remove the hazard, the Village Board may authorize the Public Works Department or such other person, department or independent contractor as it shall deem appropriate to remove, cut or trim such brush, grass, rubbish or weeds causing the hazard or to spray the same, charging the total cost thereof to the owner of such real property, which cost shall be assessed and constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged, and the same shall be collected in the same manner and at the same time as other Village charges.

§ 75-21. Applicability.

The provisions of this article shall not apply within the property lines of any lands or highway easements owned by another municipal corporation or political subdivision of the State of New York.

ARTICLE IV

Construction and Site Safety**[Adopted at time of adoption of Code³⁷]****§ 75-22. Designation of hazardous conditions.**

Any property upon which there exists ruins, ditches, open trenches, pits, inactive construction, foundations, open wells, retaining walls or the like and whose unimpeded vertical drop exceeds five feet shall be considered hazardous.³⁸

§ 75-23. Safety precautions required.

Owners and/or occupiers of such property shall be required, within 60 days of enactment of this article, or thereafter 60 days from the inception of such hazard, to provide a temporary cover, railing, barricade or other protective means for excluding both adults and small children. An application for a building permit shall then be filed within the subsequent sixty-day period, proposing a permanent method of eliminating the hazard or securing the site.

§ 75-24. Notice to remedy conditions.

These and any other site conditions deemed conducive to falls, caveins, fires, drowning or similar hazard may be cited by the Police Department, Board of Trustees, Public Works Superintendent, Planning Board or Building Inspector. Upon written notice from any of these officials, the property owner or occupier shall, within seven days, reply to the Board of Trustees and either request a hearing from that Board or submit a timely plan for correcting the cited conditions. The decision of the Board of Trustees shall be binding, and corrective measures must be completed within the Board's specified time period.

§ 75-25. Performance of work by Village; penalties for offenses.

- A. In cases of emergency, or whenever a property owner or occupier fails to make the required changes, repairs or improvements, the Village or its designee shall have the right to enter said property and perform any or all corrective measures. The Board of Trustees shall thereupon assess such expense upon the real property involved, which shall become a lien upon the property.
- B. In addition, penalties as provided in § 1-12 of Chapter 1, General Provisions, may be levied on any party or entity convicted of noncompliance with this article.

^{37,34.} Editor's Note: See Ch. 1, General Provisions, Art. I.

^{38,35.} Editor's Note: For safety precautions required at street excavation sites, see Ch. 83, Streets and Sidewalks, § 83-3.

Chapter 76**REGULATION OF DEVICES IN PUBLIC RIGHT-OF-WAY AND EASEMENTS**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 6-20-2018 by L.L. No. 2-2018. Amendments noted where applicable.]

§ 76-1. Legislative intent.

It is the intent of this chapter to regulate devices in public rights-of-way and easements.

§ 76-2. Title.

This chapter shall be entitled "Regulation of Devices in Public Rights-of-Way and Easements."

§ 76-3. General provisions.

A. Legislative purpose ~~and~~ intent and policy.

- (1) The Village Board of the Village of Tuxedo Park, New York (the "Village") finds that uses in the public rights-of-way, easements, and other non-private property areas (collectively the "areas") impacting upon the traveling and residential public within the Village must be lawfully regulated to protect the public health, safety, and welfare of all residents as well as those traveling and otherwise using the areas.
- (2) The Village also finds that the Village of Tuxedo Park is unique in its many examples of distinguished architectural, landscape, and site design, and that the Village's a historic scenic, and natural features are integral to its character, identity, and long-term value. The Village further finds that uses, installations, and attachments within the public rights-of-way, easements, and other non-private property areas can materially effect those features and, if left unregulated, may impair the Village's historic character, scenic beauty, physical appearance, and public welfare. site-recognized The Village is recognized and listed on the federal and state Registers of Historic Places and the Village has enacted legislation that protects the aesthetic qualities of the Village and its environs.
- (3) The Village also finds that while utility poles are intended primarily for establishing and maintaining wired transmission facilities, utilities enter into agreements in the region for temporary and permanent attachments to utility poles that are not related to the purposes of utility transmission and include nonutility third-party devices ("nonutility devices") being attached to utility poles owned by utility entities as defined by the New York State Transportation Corporation Law and located in such areas ("utility poles" and "utility entities").
- (4) The Village also finds that permitting nonutility devices to be placed on utility poles within the Village without regulation by the Village presents substantial public safety concerns and is contrary to the public welfare of the Village in that such nonutility devices would be located on and adjacent to the Village's roadways and may materially impair the Village's historic character, scenic beauty, physical appearance, and the safe use and enjoyment of such areas, and could significantly alter the historic character and aesthetic beauty of the Village.
- (5) The Village also finds that in balancing the public safety and welfare concerns and the necessity of nonutility devices on utility poles in the Village, the public safety and welfare must take precedence, absent compelling circumstances.
- (6) This chapter is additionally intended to be certain that all uses of the public spaces owned,

TUXEDO PARK CODE

§ 76-3

controlled or within the jurisdiction of the Village are properly assessed and documented at all times under the Real Property Tax Law of the State of New York.

- (7) This chapter is intended also to protect property values, maintain the physical appearance of the community, preserve the Village's historic character and scenic, ~~historic and~~ natural ~~beauty of and architectural beauty~~ the community, ~~make a more enjoyable and pleasing community, and~~ promote the public welfare and ensure consistency in the installation of ~~any~~ devices

as set forth herein.

B. Definitions. For the purpose of this chapter, the following definition shall apply:

ASSESSOR — The Village's Assessor who is in charge of determining the fair market value of all utility and other similar easements, rights-of-way or other property interests in the Village that are subject to taxation pursuant to the Real Property Tax Law of New York State.

CODE ENFORCEMENT OFFICER — The Village's Office of Building, Zoning and Planning Administration and Enforcement pursuant to Chapter 36 of the Village Code and any Code Enforcement Officer, Building Inspector or any Assistant Code Enforcement Officer or Assistant Building Inspector having jurisdiction over the enforcement of any Zoning Codes, Building Codes or other Codes in the Village.

EASEMENT — A corporeal interest in real property.

INSTALLER — Any individual, entity, company, corporation or others who are hired, volunteer or otherwise are involved with the installation and maintenance of any nonutility devices as defined herein. Said installer shall be appropriately licensed, as required, by the State of New York and Orange County so that all appropriate insurance and other protections for the public are in place and duly filed with the Village Clerk before any installation, maintenance, and/or other work can be done herein. All such documents with regard to the installer shall be attached to any application for a prior permit herein.

NONUTILITY DEVICES — Anything, object, or other physical apparatus to affix to or between a pole or poles, structure or other places, by any nails, clips, fasteners, wire, string or other such fastening method for more than 31 consecutive days. A nonutility device does not include a utility device or any thing, object, or other physical apparatus attached to a utility pole by the Village Police Department or Village Department of Public Works to promote public safety

PERMIT HOLDER — Shall include the person or entity making the application, the person or entity to whom the permit is granted and the owner of the nonutility device(s) as defined herein is or is proposed to be attached.

PERSON — Any individual, corporation, partnership, limited liability corporation, joint venture, profit or not-for-profit entity or other person, firm, owner, lessee, agent or employee whether corporate or otherwise.

RESPONSIBLE PARTY — Any person, permit holder, utility company, owner, operator, licensee, franchise holder, contractor, or other entity that owns, controls, installs, maintains, uses, or is otherwise legally responsible for the utility line, nonutility line, wire, cable, pole, device, or related appurtenance that is the subject of this chapter or § 76-5..

RIGHT-OF-WAY — Any recorded or nonrecorded instrument, document or other tangible compilation of data that purports to provide certain rights to utilize any public areas within the streets, highways, sidewalks or other similar areas where the public or others may travel upon or utilize at any time, including but not limited to, public and private utility easements.

STREET — The term "street" as used herein also includes a highway, road, avenue, roadbeds, lane, parkway or alley which the public have a right to use in whole or in part. The term "pavement" includes a macadam, asphalt, brick, concrete or other similarly improved roadbed, and is only applied to the portion of the street between the sidewalks or established curb lines.

UTILITY COMPANY — Any public or private utility company or other entity that has obtained any rights-of-way or easements to construct, erect or otherwise place utility and/or utility devices along any rights-of-way or easement areas within streets or roads of the Village. This shall also refer to any entity that has received a permit or franchise pursuant to Village Law Section 4-406, 'utility company' as defined by the New York State Public Service Law, and 'transportation corporation' as classified

§ 76-3

REGULATION OF DEVICES IN PUBLIC RIGHT-OF-
by the New York State Transportation Corporation Law.

§ 76-4

UTILITY DEVICES — Any material or compilation of flexible or rigid materials as used and/or

installed by a utility company to provide services pursuant to the New York State Transportation Corporation Law and/or New York State Public Service Law.

UTILITY POLE — Utility poles owned by utility company as defined herein and located in streets, easements and/or rights-of-way.

§ 76-4. Regulation of nonutility devices.

This section applies exclusively to nonutility devices. No nonutility devices as defined herein shall be installed, maintained, placed, or otherwise continue to exist except as set forth herein:

A. Permit required for nonutility devices.

Except as provided herein, it shall be unlawful for any person to install, attach, erect, move, alter, redesign, enlarge or reconstruct any nonutility devices or cause to be erected, attached, moved, altered, redesigned, enlarged, relocated or reconstructed any nonutility devices on any utility pole, tower or similar utility device without first having obtained a permit from the Code Enforcement Officer to do so. If proposed in connection with a Site Plan Application, such nonutility devices shall also be reviewed and approved by the Village Planning Board (as defined by Chapter 1 of the Village Code) under the applicable criteria, the Board of Appeals if a variance is required and reviewed and approved by the Board of Architectural Review under the applicable criteria in Chapter 100.

(1) .

B. Permit application for nonutility devices.

(1) An application for a nonutility device shall be made on a form provided by the Village which application shall include at least the following information:

- (a) The name, physical and e-mail address and telephone number and all other contact information of applicant.
- (b) The location of the pole, building, structure or other location to which or upon which such nonutility devices are to be placed, erected or otherwise attached.
- (c) A color photo of the areas where any such nonutility devices are to be erected or attached.
- (d) All dimensions of any such nonutility devices, and details of its devices and hanging or method of securing to any place.
- (e) The method(s) of illumination including, but not limited to lights or decorative features used to light or causing the brightening of light, of all nonutility devices, if any are naturally or purposefully caused to be illuminated.
- (f) Any markings, including symbols, letters, materials and colors of such nonutility devices.
- (g) Any visual content on or of such nonutility devices.
- (h) Written consent and/or a copy of any agreement made with the owner of the property or property interest upon which such nonutility devices are to be erected.
- (i) Any and all documents by which the owner of the property and property interest referenced herein claims a right to occupy space in areas owned or controlled by the Village.
- (j) The names, address and other information of any utility company that allows, licenses, permits or otherwise consents to the placement of any such nonutility devices in its

claimed right-of-way prior to the filing of an application herein.

- (k) The name, address and all contact information of the installer as defined herein.
- (l) Any other such information as the Building Department or reviewing board may require to ensure compliance with this regulation.
- (m) A copy of any agreement with a utility company authorizing the installation of such nonutility device on the utility company's pole or device.

(2) The fees for such application are set forth in Chapter 36 of this Code.

C. Filing of nonutility device permit application with assessor.

- (1) Upon the filing of an application for nonutility devices permit under this section with the Village, contemporaneous with said application being filed, an applicant for such nonutility devices permit must also simultaneously file copies of the application with the Assessor, the Village Clerk and the Mayor of the Village as defined by Chapter 1 of the Village Code. In addition to the contents of the application set forth previously herein, the application shall also contain all documents that confirm the right to have such nonutility devices established or erected in, over or under areas owned or controlled by the Village or such other areas as claimed by the applicant. Said documentation shall also include the identification of any rights that are claimed by the applicant or any owner of the property or property interests upon which such nonutility devices are to be erected to place such nonutility devices in any street or other areas. If any property interest is claimed, said application shall also include a fair market value determination of the existing rights of the owner of the property or property interest upon which such nonutility devices is to erect and the fair market value of the rights of the nonutility devices permit application if granted. The application shall also include any prior challenges that the owner of the property or property interest upon which such nonutility devices are to be erected previously filed against any Assessor having jurisdiction to review the fair market value of the rights of the owner of the property or property interest upon which the nonutility devices are to be erected.

D. Nonutility device permit procedure.

- (1) Upon the filing of a completed application, the Code Enforcement Officer shall examine the plans, specifications or other information submitted, as well as the area or areas where the nonutility devices are to be erected or as the case may exist. If such nonutility devices are in compliance with all the requirements contained in this regulation, the Code Enforcement Officer shall, within 15 days after completion or his or her review of the permit application, either (a) advise the applicant in writing of any incomplete parts of the application, including but not limited to, failure to obtain Planning Board, BAR or other board approval, if required under the Code; (b) issue a permit for the erection of the nonutility devices or; (c) deny the application. The issuance of a permit shall not excuse the applicant from conforming to any other laws, rules and regulations of the municipality. If the placement of said nonutility devices authorized pursuant to this regulation has not occurred within three months from the date of issuance of the permit, the permit shall become null and void.
- (2) Appeal from permit decision. In accordance with New York Village Law § 7-712-a(4), an appeal to the Village ~~Board of Zoning Appeals~~ Board of Appeals may be taken by any person aggrieved by the Code Enforcement Officer's decision to approve or deny a permit within 30 days from the date of any decision.

E. General installation regulations for nonutility devices and utility devices.

- (1) Installation guidelines. The following guidelines are to be followed with regard to any installation of a nonutility devices pursuant to this regulation:
 - (a) Any nonutility devices shall not be installed outside any public right of way or public area unless a written consent for use by such applicant is submitted with the permit application and on file with the Village Clerk.
 - (b) Any such nonutility devices must be located in a manner consistent with the regulations and agreement provisions of the utility owning the pole or device.
 - (c) Any nonutility devices must be of completely transparent material or be designed so that such nonutility devices is not visible to the public and blends into the pole or device to which it is attached.
 - (d) Prior to installation of any nonutility devices, the installer must comply with any utility company mark-out requirements whether imposed by the utility or by regulation.
 - (e) No such nonutility device or extension thereof may be attached or fastened to any tree, bush or plant or other vegetation regardless of where such tree, bush, plan or vegetation is located.
 - (f) No such nonutility device shall cross over or under or on a Village roadway or Village right-of-way.
 - (g) Any renewal of any agreement with a utility company for any nonutility devices attached to any utility pole or utility device must be provided to the Code Enforcement Officer within 30 days of such renewal.
- (2) Installer guidelines. The installer shall follow all guidelines set forth above and shall also follow any such other directions or requirements of the Code Enforcement Officer of the Village.

F. Maintenance for nonutility devices.

- (1) The permit holder is responsible at all times to maintain their nonutility devices in a neat and orderly condition, in good working order at all times, and in such manner to prevent any deterioration in the physical appearance or safety of such devices that could impact on of persons or places nearby such devices or impact on the historic and scenic nature of the Village.
- (2) Any such unsafe, unsightly, damaged, or deteriorated nonutility devices, that in danger of falling, shall be put in order or removed with 15 days as required in any written notice by the Code Enforcement Officer to the permit holder. If compliance is not achieved within the time period specified in such notice, such devices shall be repaired or removed by the Village and the costs shall be levied and collected against the permit holder in the same manner and under the same penalties as enforcement of any Village Law, rule or regulation.
- (3) All nonutility devices shall maintain all clearances from electrical conductors in accordance with the New York State Public Service Commission's Orders and Regulations as well as the National Electric Safety Code and from all communications equipment or lines located within the Village. Any such nonutility devices and any supporting structures shall maintain appropriate clearance and must not interfere with any surface or underground facilities and conduits for water, sewage, gas, electricity or communications equipment or lines.

G. Abandoned nonutility devices.

- (1) Except as provided in this regulation, any such nonutility devices that does not meet the standards herein for a period of 30 days or more shall be deemed to have been abandoned. Such abandoned nonutility devices are prohibited and shall be removed immediately by the permit holder and/or utility company.
- (2) Upon notification by the Village to the permit holder and/or utility company of any such abandoned nonutility devices, said permit holder and/or utility company shall have 30 days to remove such abandoned devices. Upon failure to remove the nonutility devices within this time period, the Village may remove the nonutility devices upon the expense of the permit holder and utility company. The cost of such removal paid by the Village shall be levied and collected in the same manner and under the same penalties as any other Village Law, rule or regulation assessment of a public improvement.

H. Existing nonutility devices and nonconforming nonutility devices and/or utility devices.

- (1) Any such nonutility devices not in compliance with any provision of this regulation upon its effective date shall be deemed nonconforming.
- (2) Any such nonconforming nonutility devices shall be removed or brought into conformity with the requirements of this regulation within 90 days of the date of enactment of this regulation. If not in compliance within 90 days from the enactment of this regulation, the nonutility devices shall be removed forthwith by the Village and the expense of the same shall be paid by the permit holder and utility company.
- (3) Additionally, any such nonconforming nonutility devices related to any existing use shall be removed or made conforming prior to the issuance of a subsequent permit for such use.

I. Other requirements.

- (1) Any permit holder or utility company shall restore and repair any and all damage that may occur in connection with the installation, maintenance or removal of any nonutility devices.
- (2) The permit holder or utility company shall indemnify and hold harmless the Village, its officials, employees, agents, and others from any claims for personal injury or property damage arising from (or allegedly arising from) or in connection with such installation, use, maintenance, or removal of any nonutility devices and/or utility devices.
- (3) The permit holder and the utility company shall provide a Certificate of Insurance evidencing liability insurance in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregated listing the Village, its officials, employees and agents as additional insureds prior to the issuance of a permit for any nonutility device. Such insurance shall be maintained and each and every Certificate of Insurance shall be on file with the Village Clerk at all times that a nonutility device remains in place.
- (4) In the event any permit holder becomes liable to the Village for any fees, expenses, and/or penalties under this regulation and fails to remit full and complete payment of said fees, expenses, and/or penalties within 30 days, the owner of the utility pole shall be held liable to the Village for any and all amounts remaining due plus 9% interest per annum on said amount. By permitting, facilitating, and/or licensing nonutility devices to be installed within the areas, the owner of the utility pole waives all appeals and agrees to be strictly liable for any amounts due to the Village pursuant to this provision and regulation.

J. Code Enforcement Officer.

- (1) The provisions of this regulation shall be administered and enforced by the Code Enforcement Officer who shall have the power to review and enforce nonutility devices.
- (2) No nonutility devices permit shall be approved by the Code Enforcement Officer except in full compliance with the provisions of this regulation.

K. Appeals.

- (1) In accordance with New York State Village Law § 7-712-a, any order, requirement, decision, interpretation, or determination of the Code Enforcement Officer may be appealed within 30 days of the date of the determination by filing an appeal with the ~~Board of Zoning Appeals~~Board of Appeals by any person aggrieved, or by an Officer, Department, Board or Bureau of the Village.
- (2) Upon filing an appeal, the ~~Board of Zoning Appeals~~Board of Appeals may grant a variance from the terms of this regulation, following the procedure set forth in Village Law.
- (3) Any person aggrieved by a decision of the ~~Board of Zoning Appeals~~Board of Appeals may have that decision reviewed by the Supreme Court of the State of New York in the manner and within the time provided by law.

L. Penalties for offenses.

- (1) In the event of a breach of any of the provisions of this chapter, the Code Enforcement Officer shall notify the permit holder and utility company in writing to remove, repair, or otherwise bring the nonutility devices into conformance within 30 days of the date of such notice. Upon failure to comply with any such notice within the prescribed time, the Code Enforcement Officer shall remove or cause the removal, repair, or conformance of nonutility devices at the expense of the permit holder and utility company. All costs and expenses shall become a lien upon the premises upon which the wire is or was located and shall be levied and collected in the same manner and under the same penalties as any other Village Law, rule or regulation.
- (2) Any person who violates any of the provisions of this regulation or who fails to comply with any order or regulation made herein, or who erects, moves, or alters any nonutility devices in violation of any statement or plans submitted by the applicant and approved under provisions of this regulation, shall be guilty of a violation as the same is defined in the Penal Law and shall be fined \$1,500 for each and every violation and also be subject to imprisonment of a term of not more than 10 days. Each day that such violation is permitted to exist shall constitute a separate violation. If any nonutility devices are erected, altered, or moved in violation of the provisions of this regulation, any Village official may, in addition to other remedies, take appropriate other actions to prevent such unlawful condition from continuing to exist.
- (3) All costs and expenses incurred by the Village in causing the removal or repair of any nonutility devices as specified in this section and the enforcement of this regulation, including but not limited to reasonable attorneys' fees, shall be collected from the permit holder and utility company. Payment shall be made not less than five days after transmittal to the permit holder and the utility company of a written demand for payment. Upon failure to make such payment, such costs and expenses shall be assessed against said permit holder and the utility company and shall be paid and collected as part of the Village tax next due and payable. In addition, the Village may commence any other action or proceeding to collect such costs and expenses. With all said reasonable attorney's fees incurred by the Village being paid by the permit holder and

the utility company.

§ 76-5. Downed Utility Lines

Downed lines and related facilities. Any utility line, nonutility line, wire, cable, pole, or related appurtenance that is downed, damaged, fallen, or left on the ground after a storm or otherwise in any street, right-of-way, easement, or other area owned, controlled, or subject to the jurisdiction of the Village, or in any other location accessible to the public so as to present a hazard to persons or property, shall be promptly secured, repaired, removed, or otherwise abated by the person or entity responsible for such facility. Upon receiving notice of such condition from any property owner, resident, Village officer, emergency responder, or other person, the Code Enforcement Officer may issue written notice to the responsible person, permit holder, utility company, or other operator directing that the hazardous condition be secured immediately and fully abated within 10 business days from the time stated in such notice, which may be extended at the written request of the responsible party, having regard to the nature of the hazard and applicable safety requirements. If the responsible party fails to comply with such notice, the Village may take such actions as are reasonably necessary to protect public safety, and the responsible party shall be liable for the costs and expenses incurred by the Village, in addition to a civil penalty of \$250 for each day or partial day that the violation continues after the time set forth in the notice.

Chapter 78**SEWERS AND SEWAGE DISPOSAL**

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

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Street excavations — See Ch. 83, Art. I.

Lakes and ponds — See Ch. 65.

Water — See Ch. 97.

§ 78-1. Use of sewers restricted; prohibited discharges.

- A. Use restricted to domestic sewage. Design of the sewer system is based on collection of domestic sewage only, and approval by the New York State Department of Environmental Conservation was given for construction and use of sewers for this purpose only. No connection will be permitted to the sanitary sewer system which will carry or deliver any substance or material other than domestic sewage. "Domestic sewage" consists of solid or liquid wastes from toilets, sinks, laundry tubs or bathtubs, shower baths or equivalent plumbing fixtures. Drainage or flow from roofs, cellars, sump pumps, yards, springs, wells, swimming pools or roadways is not domestic sewage, and drainage therefrom into the sanitary sewer system is prohibited.
- B. Sewage from outside the Village. The discharge to the Village sewer system of any sewage or other wastes originating outside the Village boundaries is prohibited.
- C. Disconnection of roof drains, sump pumps, etc. Within one year of the enactment of this chapter, all property owners shall disconnect any rainwater or groundwater collection devices such as gutters, drains, catch basins, culverts, trenches, leaders or sump pumps from any sanitary sewer pipe, septic system or cesspool. Such disconnection shall be performed so as not to create erosion, flooding or damage to adjacent property. Wherever practical, collected rainwater shall be diverted to the storm drainage system or otherwise channeled to existing streams and watercourses.
- D. Purpose. Purposes of these rules and regulations are specifically stated as follows:
 - (1) To prohibit excessive volume and/or inordinate rates of flow of sewage and wastes into the Village of Tuxedo Park system.
 - (2) To prohibit the contribution of sewage or other wastes of a flammable nature or which in any way create a poisonous or hazardous environment for sewerage maintenance and operation personnel.
 - (3) To prohibit the contribution of sewage or other wastes which may impair the hydraulic capacity, operation of the intercepting sewers, force mains, pumping stations, sewage regulators and other structures and appurtenances of the Village of Tuxedo Park system.
 - (4) To prohibit the contribution of sewage or other wastes which may create operating difficulties at the water pollution control plant as it now exists or may be constructed, modified or improved in the future.

- (5) To prohibit and/or regulate the contribution of sewage or other wastes which require, for treatment at the plant, greater expenditures than are required for equal volumes of normal sewage.
- (6) To require, before introduction into the Village of Tuxedo Park sewerage system, the pretreatment or flow control of such wastes as may impair the strength and/or durability of the structures appurtenant to the system or interfere with the normal treatment process or impair the designated uses of the classified receiving waters.
- (7) To provide cooperation with the Orange County Department of Health and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and bacteriological quality of watercourses within or bounding the county.
- (8) To protect the public health and prevent nuisances.

§ 78-2. Definitions.

For purposes of interpreting and applying the terms of these regulations, the following terms shall have the meanings indicated:

BOARD OR BOARD OF TRUSTEES — If not otherwise qualified, refers to the Village Board, and it shall comprehend in its application any persons designated by said Board as its agent or representative.

BUILDING OR HOUSE — Include any structure or enclosure.

HOUSE LATERAL CONNECTION — A connection from a trunk line or lateral sewer of the sanitary sewer system of the Village to the street and curblane of the premises affected.

HOUSE SEWER CONNECTION — A connection between the outside foundation wall of a building and the house lateral connection.

OWNER — Includes tenant, lessee, occupant or user of any premises.

SEWER INSPECTOR — The person appointed as the authorized agent of the Village or his duly authorized deputy or representative in matters following under this chapter.

§ 78-3. Sewer Inspector.

The Board of Trustees shall appoint a Sewer Inspector, who shall be the Board's authorized agent in matters falling under this chapter and who shall exercise those powers which are delegated to him in this chapter or which may be reasonably required to carry out his duties. He shall report to the Board upon applications for sewer connections, inspect and approve construction of such sewer connections and report to the Board any violations of these regulations.

§ 78-4. Sewer connections; expense.

All house sewers or house lateral connections shall be laid and connected in accordance with the rules and regulations herein set forth, and the repair, maintenance and extension of same shall likewise conform to these rules and regulations. The property owner shall bear the entire expense of all connections to the Village sewer from the inside edge of the sidewalk to the house or building, or from the property line to the house or building where the connection is made to a sewer main constructed within a right-of-way crossing private property.

§ 78-5. Connection with public sewer required.

The owner of any house, building or property used for human occupancy, employment, recreation, commerce or other purpose, situated within the Village and abutting on any street, alley or right-of-way in which is, or may in the future be, located a Village sewer, or where a Village sewer is otherwise available or accessible to such house, building or property, is hereby required at his expense to connect with the Village sewer and also at his expense to install suitable toilet facilities therein and to connect such facilities directly with the public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so or as directed by the Board of Trustees. In cases of extreme hardship, such owner may propose an alternate sewage disposal system for review by the Board of Trustees and appropriate health authorities.

§ 78-6. Permit required; application and inspections.

- A. No person shall make any connection with or opening into any Village or public sewer or construct, alter, repair or use any drain or house sewer or other lateral sewer to connect with such public sewer without first obtaining a written permit from the Sewer Inspector. Before any such permit is obtained, an application for the issuance of said permit shall be filed with the Village on such forms as may be supplied. The application shall be signed by an authorized drain layer and by the owner or lessee of the property or his duly authorized agent and shall include or be accompanied by a description and plan of the proposed work and such other pertinent information as may be required by the Sewer Inspector. Such permit shall be kept at the site of the work and be available for inspection by any officer of the Village or member of the Board of Trustees or its duly authorized agent or agents.
- B. The Sewer Inspector shall be notified at least 24 hours before the beginning of any work upon building sewers or connections. Such notice shall be in writing and shall state the time of commencement of such work. No trench shall be filled or any part of pipe or fittings covered until notice has been given to the Sewer Inspector that the work is ready for inspection and such inspection has been made. Every such inspection shall be made as soon as practicable after receipt of notice by the Sewer Inspector, who shall have the power to apply any proper tests to the pipe or fittings. The owner, contractor or other person doing the work shall furnish all necessary tools and labor for such tests and shall remove any defective material or repair any work improperly done, as the Sewer Inspector shall direct, without expense to the Village.
- C. No sewer connection branch shall be opened or pipe laid and no joints made except under the inspection of the Sewer Inspector or his duly authorized representative. All work of laying house sewers and connections shall be done in such manner and at such times as to interfere as little as possible with public travel and convenience, and the drainlayer shall conduct his work as the Sewer Inspector may from time to time direct.
- D. No permit granted by the Sewer Inspector shall be construed to permit any interference with or disturbance of any state, county or Village street or highway pavement or any excavation in any road, street or public place unless the permit shall expressly so provide. No permit shall be granted for such interference or disturbance of said pavement or for excavation for sewer purposes in any public street or public place unless the applicant or drain layer shall first have obtained from the New York State Department of Transportation, Orange County Department of Public Works or Village Superintendent of Public Works, as the case may be, a permit therefor in accordance with requirements of the Department having jurisdiction. The applicant shall provide such liability insurance as may be required before such permit is issued. Any permit fee, bonding or other expense in connection with issuance of a permit for opening any street or pavement shall be paid by the applicant or drain layer. No permit shall be deemed to authorize anything not stated in the application

therefor. The permittee or his duly authorized representative shall guard, barricade and light all excavations and restore all public property in a manner satisfactory to the Village or the department having jurisdiction over such property, as the case may be.

§ 78-7. Insurance requirements.

No licensed plumber or sewer contractor shall perform any work hereunder unless there shall be on file with the Village Clerk and then in force:

- A. An insurance policy, approved by the Village Attorney and issued by an insurance company authorized to do business in this state, to save the Village harmless up to an amount of at least \$100,000 because of death or bodily injury to one person, and up to at least \$250,000 because of death or bodily injury to more than one person, because of any act or omission by such plumber or sewer contractor or his agents or employees in the performance of such work.
- B. An insurance policy, similarly approved and issued, guaranteeing to save the Village harmless up to an amount of at least \$50,000 because of injury to or destruction of the property of others in one accident or casualty, and up to an amount of at least \$200,000 because of injury to or destruction of such property in more than one accident or casualty, ensuing from or brought on directly or indirectly as a result of the prosecution of such work.

§ 78-8. Permit limitations and fees.

- A. Limitations. The permit shall be issued by the Sewer Inspector to the licensed plumber or sewer contractor engaged to perform the work and shall be limited to the work for which performance application has been made. No work shall be started until a permit has been granted.
- B. The permit must at all times be kept on the site of the work, available for inspection by the Board.
- C. Fees. The permit fees shall be established by resolution of the Board. Upon the completion of the work covered by the permit in compliance with this chapter, the Board shall issue a certificate of approval of the work.

§ 78-9. Private sewage disposal systems.

- A. Construction. Where a public sanitary sewer is not available or accessible, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter and recommended installation requirements of the New York State Department of Health until such time as a public sanitary sewer becomes available.
 - (1) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a permit signed by the Sewer Inspector. Application for such permit shall be made on a form furnished by the Village, which form the applicant shall supplement with any plans, specifications and other information deemed necessary by the Board of Trustees or the Sewer Inspector. The fee for such permit shall be in an amount set by resolution of the Board of Trustees.
 - (2) A permit for a private sewage disposal system shall not become effective until installation is completed to the satisfaction of the Sewer Inspector. He shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Sewer Inspector when the work is ready for final inspection before any underground portions are covered. The inspection shall be made within 48 hours of receipt of notice by the Sewer

Inspector or as soon thereafter as practicable.

(3) Pursuant to Chapter 85, in no case shall ejector system equipment be located nearer than 100 feet to any lake or tributary system. No part of any private septic system may be located nearer than 250 feet to any lake, stream or well, nor closer than 50 feet to any property line.

B. Maintenance.

- (1) Any and all sanitary facilities, and appurtenances thereto, situated on private property or serving an individual building or site shall be installed, serviced, repaired, replaced and otherwise maintained in a safe, clean and reliable condition at the sole effort and expense of the property owner or occupier and not the Village of Tuxedo Park. Such sanitary facilities shall include but are not limited to cesspools, septic tanks, tile fields, dosing chambers, grease traps, ejector pumps, house sewer connections, vents and other plumbing not specifically a part of the Village sewer trunk line or lateral line systems as defined in the Village Sanitary Sewer Regulations.
- (2) Cesspools shall be pumped out, inspected and serviced at least once per year. Septic systems and grease traps shall be cleaned, inspected and serviced **at least once every five years**. It shall be the sole responsibility of the property owner to maintain records of all service, repair and replacement to such systems.
- (3) Any private sanitary equipment, operation or use deemed adverse to the health, safety, welfare or aesthetics of the Village may be cited by the Police Department, Board of Trustees, Planning Board, Sewer Inspector or Building Inspector. Upon written notice from any of these officials, the property owner or occupier shall, within seven days, reply to the Board of Trustees and either request a hearing before that Board or submit a timely plan for correcting the cited conditions. The decision of the Board of Trustees shall be binding, and corrective measures must be completed within the Board's specified time period.
- (4) In cases of emergency or whenever a property owner/occupier fails to make the required changes, repairs or improvements, the Village or its designee shall have the right to enter said property and perform any or all corrective measures. All associated costs shall become a lien upon the property and shall be collected in the same manner as taxes. In addition, penalties not to exceed the amount specified in § 1-12 hereof per day from the date of notification may be levied on any party or entity convicted of noncompliance with this subsection.

§ 78-10. Separate connections required.

Each building in the area served by a public sewer must be connected separately and independently with the sewer through the house or building connection branch directly opposite the building or nearest in the downstream direction. Grouping of buildings on one house sewer will not be permitted except by special permission of the Board of Trustees and then only for good reason.

§ 78-11. Connection specifications and materials.

- A. No house or building sewer connecting any property with the Village sewer shall be of an internal diameter less than four inches.
- B. Every building sewer connecting with Village sewers shall be cast iron (ASTM Specification A74 or equal), acrylonitrilebutadiene-styrene (ABS), Schedule 40 polyvinyl chloride (PVC) or other suitable material approved by the Sewer Inspector. Cast-iron pipe only shall be used where, in the opinion of the Sewer Inspector, conditions require its use. Copper pipe may be used only inside a dwelling.
- C. All pipe shall be solidly laid to true grade and in a straight line, as nearly as possible. All changes in

direction shall be made with properly curved pipe or fittings.

- (1) No sewer pipe shall be laid at a depth of less than 36 inches, and any pipe laid under a roadway shall be at least medium-heavy cast iron.
 - (2) All pipe must be surrounded radially to a distance of at least one foot with fine earth, entirely free from stones and rubbish and well and carefully compacted.
 - (3) No building or house sewer connection with the Village sewer shall be laid at a grade of less than one inch fall in four feet without a written permit signed by the Sewer Inspector and specifying the minimum grade that will be permitted.
 - (4) New users shall be required to run house sewer connections to the nearest main line manhole. If the house connection is more than 200 feet from such manhole, the user or his representative shall install another manhole.
 - (5) Rock excavation. Where rock is found in the bottom of the trench, it shall be taken out at least six inches below the bottom of the pipe and the space filled with sand, gravel or other suitable material, thoroughly compacted. No blasting shall be done within 20 feet of public or private sewers and utmost care shall be taken to prevent injury thereto.
- D. All cast-iron pipe and specials must be sound, cylindrical and smooth internally, free from cracks, sandholes or other defects, of uniform thickness and of the grade known commercially as "medium" or "extra heavy."
- E. Acrylonitrile-butadiene-styrene (ABS) solid wall sewer service pipe shall be in conformance with ASTM Specification D2751, with an SDR classification of 23.5. Pipe shall be designed for solvent welded joints.
- F. Schedule 40 polyvinyl chloride (PVC) sewer service pipe shall be in conformance with ASTM Specification D3034, with an SDR classification of 33.5. Pipe shall be designed for rubber compression gasket joints meeting ASTM Specification D3212.
- G. Joints for building laterals.
- (1) Joints shall be gastight and watertight.
 - (2) The greatest care must be taken to prevent the entrance of dirt or sand into any sewer pipe or connection.
 - (3) Cast-iron pipe shall be joined with first-quality lead or jointing compound approved by the Sewer Inspector. The entire joint shall be filled in one pour and thoroughly caulked. If lead is used, each joint in four-inch cast-iron pipe shall be poured with at least three pounds of lead, and each joint in six-inch cast-iron pipe, with five pounds of lead. In all cases, the trench must be kept dry during pipelaying.
 - (4) ABS pipe shall be joined by solvent welding in accordance with the manufacturer's installation instructions. Finished joints shall be watertight and structurally equal to the pipe itself in tensile strength.
 - (5) PVC pipe shall be joined by rubber compression ring gaskets, using appropriate lubricants to prevent displacement or damage during installation. When completed, joints shall be capable of withstanding an internal hydraulic pressure of 25 feet of water and internal vacuum of 22 inches of mercury, without leakage. Joints shall conform to ASTM Specification D3212.
- H. Use of existing building sewers. Building sewers which are in existence at the time of adoption of

this chapter may continue to be used from the building to the point of connection with the Village sewer, provided that the Sewer Inspector determines they are in good condition and otherwise satisfactory to carry domestic sewage and industrial wastes without leakage, and provided, further, that they are used only until such time as the Sewer Inspector may require their replacement by new building sewers, which shall be constructed in accordance with, and within the time limitation required by this chapter.

- I. The foregoing requirements may be modified or added to as the Sewer Inspector, in the exercise of reasonable judgment, may determine.

§ 78-12. Soil lines, vents and traps.

- A. No structure shall be connected to the sanitary sewer system unless there is a soil line extended to a point above the roof and properly vented, or otherwise vented in a manner approved by the Sewer Inspector. In existing houses or buildings not properly vented and on all new construction, a running trap with double hub vent is required and shall be installed in a manner approved by the Sewer Inspector.
- B. Grease traps will be installed where the Board of Trustees or its duly authorized agent may direct. Grease traps must be kept clean at all times at the owner's expense.

§ 78-13. Right of entry; sampling and metering.

- A. The Sewer Inspector and other duly authorized employees of the Village shall be permitted, with proper credentials and identification, to enter on any property at reasonable hours for the purpose of inspecting, measuring, sampling, testing, repairing or disconnecting or for any purpose reasonably necessary to carry out and enforce the provisions of this chapter.
- B. The Village shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. The Village may, at reasonable times, have access to and copy any records, inspect any monitoring equipment or method required by the Village's wastewater discharge regulations and sample any effluents which the owner or operator of such source is required to sample. Where a user has security measures in force, the user shall make necessary arrangements with his security guards so that upon presentation of suitable identification, Village personnel will be permitted to enter without delay.

§ 78-14. Improper use of sewers and property.

It shall be unlawful for any person, firm or corporation to:

- A. Place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the Village or in any area under the jurisdiction of the Village any human or animal excrement, garbage or other objectionable waste except as provided in this chapter.
- B. Construct, use or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage except as provided in this chapter.
- C. Uncover any portion of the public sewers or connections thereto or open any manhole or appurtenance of the sewerage system except under permit signed by the Sewer Inspector.
- D. Open any highway or public grounds for the purpose of making any sewer connection or make or cause to be made any connection with the public sewer except under permit signed by the Sewer

Inspector and under his supervision.

- E. Break, cut or remove any pipe of the public sewer system or make or cause to be made any connection to said public sewers except through connection branches provided for such purpose and except under permit signed by the Sewer Inspector and under his supervision. Limitation of said connection branches shall be designated by the Sewer Inspector.
- F. Discharge or cause to be discharged into any public sewer, directly or indirectly, any overflow or drainage from manure pits, cesspools or other receptacles storing or constructed to store organic wastes or surface water from yards, driveways or roadways.
- G. Connect or cause to be connected with any public sewer, either directly or indirectly, any sediment traps or pipes carrying or constructed to carry hot circulating water, acids, germicides, grease, brewery or distillery washwater or slops, gasoline, naphtha, benzine or similar liquid, oil or any other industrial or trade waste or any other substance detrimental or deemed by the Sewer Inspector to be detrimental to the Village sewers or to the operation of the sewerage system or the sewage treatment works unless adequate and proper preliminary treatment appurtenances and apparatus, as may be approved by the Village, are installed and maintained at the owner's expense so that spent water delivered to the Village sewers will have a pH greater than 5.5 and less than 9.0, as determined by standard acid-alkalinity tests, and free from excess suspended matter capable of obstructing flow in sewers.
- H. Discharge drainage of any automobile waste liquids or gasoline, oils or flammable materials.
- I. Throw or deposit or cause or allow to be thrown or deposited in any fixture, vessel, receptacle, inlet or opening directly connected with any public sewer any garbage which has not been properly shredded or ground and flushed with an ample quantity of water. Use of mechanical garbage grinders producing a finely divided mass properly flushed with an ample quantity of water is permitted under these regulations.
- J. Allow any building sewer connected with the public sewer to be also connected with any privy vault, septic tank, cesspool or underground drain or with any channel conveying water or filth, except such soil pipes and other plumbing work as shall have been duly inspected and approved by the Sewer Inspector.
- K. Except as otherwise provided herein, throw or deposit or cause or allow to be thrown or deposited in any fixture, vessel, receptacle, inlet or opening connected with any public sewer any ashes, cinders, sand, mud, straw, metal, hair, fleshings or similar waste material, or dead animals or waste material of any kind or character (other than feces, urine, toilet paper, liquid house slops or properly ground table garbage) or any other solid or viscous substances capable of causing obstruction to the flow in the sewers or other interference with proper operation of the sewerage system, or any other substances which will solidify or become discernibly viscous at temperatures between 32° and 150° F.
- L. Discharge or cause to be discharged into any public sewer any storm- or surface water, groundwater, subsurface drainage or drainage or flow from roofs, cellars, cistern tanks, springs, wells, sump pumps or swimming pools or, except as may be permitted by the Board of Trustees, any discharge from a vehicle wash rack or wash motor or from any air-conditioning machine or refrigeration unit, cooling water or unpolluted industrial process waters.
- M. Discharge or cause to be discharged any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create any hazard in the

receiving waters or effluent of the Village sewage treatment plant or exceed the limitation set forth in a categorical pretreatment standard. Such toxic substances shall be limited to the average concentrations listed herein in the sewage and include, but not be limited to, any pollutant identified pursuant to Section 1317(a) of Title 33 of the United States Code [33 U.S.C. 1317(a)]. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration by the Board of Trustees.

§ 78-15. Stopping of improper use.

- A. The Board of Trustees may, at any time in its discretion, stop and prevent the discharge into sewers of any substance which it considers may injure the sewers or interfere with their normal operation or obstruct the flow or hinder any process of wastewater treatment; and it may, at any time in its discretion, sever the connection and cause the removal of any tributary sewer or drain through which such detrimental substances are discharged.
- B. No action shall be taken by the Village to implement the foregoing provisions unless the Village shall have given the owner at least 48 hours' notice in writing stating the action to be taken and the grounds therefor, except that such notice shall not be required if immediate action is necessary to prevent injury to the Village sanitary sewerage system or any part thereof.

§ 78-16. Notice of violation.

- A. The Sewer Inspector shall have the responsibility of enforcing the provisions of this chapter. Where a violation is found, the Sewer Inspector shall notify the alleged offender by certified mail of the nature of the violation and prescribe a period of time, not to exceed 30 days, within which the specified violation must be corrected. Such period of time may be extended by the Board of Trustees upon good cause shown by the offender.
- B. If the violation is not corrected within the period specified in said notice or within the time of any extension of said period, the Sewer Inspector may take such action as provided in this chapter.

§ 78-17. Appearance tickets.

The Sewer Inspector or any police officer of the Village is hereby authorized to issue appearance tickets for a violation of any of the provisions of this chapter in the manner prescribed by law.

§ 78-18. Penalties for offenses.

Any person who commits an offense or permits any offense to be committed against any of the provisions of this chapter shall be deemed to have committed a violation pursuant to the Penal Law of the State of New York, punishable by a fine of not more than \$250 or by imprisonment for not exceeding 15 days, or both. A separate violation shall be deemed committed on each day during or on which an offense occurs or continues. A separate penalty may be imposed for each separate violation.

§ 78-19. Civil penalties; additional proceedings.

- A. Any person committing an offense against this chapter shall be subject to a civil penalty enforceable and collectible by the Village in the amount provided by § 1-12 of Chapter 1, General Provisions. A separate offense shall be deemed committed on each day during which or on which an offense occurs or continues.
- B. In addition to the above penalties, the Board of Trustees may also maintain an action or proceeding

in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction an offense against this chapter.

- C. Where any violation of this chapter causes additional expense to the Village, the Village shall have a cause of action against the violator to recover such additional cost. The cause of action may be asserted at the discretion of the Sewer Inspector and shall be in addition to the fine, imprisonment, penalty and injunction hereinabove provided and shall be brought by the Village Attorney in the name of the Village in a court of competent jurisdiction.

§ 78-20. Variances.

Wherever by reason of any extraordinary conditions it is impractical to carry out any of the foregoing provisions or requirements, the Board of Trustees may, upon proof of impracticability and extraordinary conditions, grant a variance therefrom.

§ 78-21. Maintenance and repair.

All house lateral connections and house sewer connections must be maintained in good working condition at the expense of the owner. All necessary repairs shall be promptly made, in compliance with the provisions of these regulations.

§ 78-22. Right to disconnect service.

- A. In the event that any order of the Board or Sewer Inspector to comply with any requirements of these regulations is not complied with within the period specified therein, the Board shall have the right to disconnect the premises affected from the sanitary sewer system and from the Village water system until the violation has been removed.
- B. Premises outside the Village limit which are connected to the Village sewer system will be billed for sewer service at rates set by the Board. In the event of nonpayment of sewer bills, the Board reserves the right to disconnect the premises affected from the sewer system.

§ 78-23. Revocation of permit.

In addition to any other applicable penalty, the Board or Sewer Inspector shall have the right to revoke any license or permit issued by it in the event of any violation by the licensee or permittee in the performance of work done under such permit.

§ 78-24. Sewer rents or charges. [Amended 2-16-2022 by L.L. No. 2-2022]

- A. Establishment of sewer rents and amounts, generally.
- (1) There are hereby established sewer rents for the use and service of the sewer system of the Village of Tuxedo Park. "Sewer system" as used in this article shall mean all sewer pipes and other appurtenances which are used or useful in connection with the collection, treatment or disposal of sewage, industrial waste and other wastes which are owned operated or maintained by the Village of Tuxedo Park, including sewage pumping stations and sewage treatment and disposal works. The calculation of sewer rents shall be based upon the consumption of water on the premises served by the Village's sewer system.
- B. Sewer Rent Fund; use of fund.

- (1) Any revenues derived by the Village from sewer rents, including penalties and interest, shall be deposited in a separate and distinct fund, to be kept in accordance with the General Municipal Law, and known as the "Sewer Fund."
- (2) The Sewer Fund shall be used for all Village expenses associated with:
 - (a) The payment of the costs of operation, maintenance, and repairs of the sewer system, or such part or parts thereof for which sewer rents have been established and imposed;
 - (b) The payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer rents have been established and imposed;
 - (c) The construction of sewage treatment and disposal works with necessary appurtenances, including pumping stations, or for the extension, enlargement, or replacement of, or additions to, such sewer systems, or part or parts thereof.
- (3) A sewer rent charge shall be assigned to owners of properties located within or without the corporate limits of the Village who contribute wastes to the Village sanitary system.

C. Imposition of sewer rents.

- (1) In addition to any and all other fees and charges provided by law, the owner of any parcel of real property connected with the sanitary sewer system of the Village of Tuxedo Park shall pay a sewer rent for the use of such sanitary sewer system.
- (2) A sewer rent shall be assigned to owners of properties located within or outside the corporate limits of the Village of Tuxedo Park who contribute wastes to the municipal sanitary sewer system.
- (3) The sewer rent shall be based on the unit fee schedule determined by the Village Board of Trustees by resolution and such rents shall be based upon water consumption by individual property owners. The proportionate sewer rents based on water usage shall be fair and equitable.
- (4) The sewer rent assigned to any property owner who is not connected to the public water system, but who is connected to the public sewers, shall be based on the estimated or measured volume of sewage determined by the Sewer Inspector. Such charges shall be expressed in terms similar to water charge arrangements.
- (5) The Board of Trustees may, from time to time, modify the sewer rent originally or previously assigned to any property owner so long as such modification is rational and equitable.

D. Connection costs.

- (1) All buildings requiring sewer service as of January 1, 1964 will be provided by the Village with a six-inch building sewer to within five feet of the property line. The cost of the remaining portion of the building sewer shall be the responsibility of the property owner.
- (2) The cost of the building sewer to sewer for all buildings requiring sewer service after January 1, 1964 shall be borne by the property owner.
- (3) Subdivisions developed after January 1, 1964 and utilizing any portion of the Village sewage works shall bear the cost of the installation of public sewers and building sewers in the subdivisions.

§ 78-24

SEWERS AND SEWAGE DISPOSAL

- (4) A sewer service charge for transportation, treatment and operation and maintenance costs shall be levied against property owners within such subdivisions.
- E. Changes in basis for sewer rents.
 - (1) The Village reserves the right to change the basis for determining sewer rents.
- F. Users not connected to public water system.
 - (1) The sewer rent assigned to any property owner who is not connected to the public water supply system, but who is connected to the public sewers, shall be based on the estimated or measured volume of sewage determined by the Sewer Inspector.
 - (2) The sewer service charge assigned to any property owner with both a public and private water supply whose contribution of sewage to the public sewers exceeds the volume of public water consumed by that owner, as evidenced by his or her water bill, shall be established by the Village. The basis for determining such sewer rent shall be the estimated or measured volume of sewage entering the public sewers.
- G. Quarterly billing.
 - (1) Sewer service charges shall be billed quarterly.
- H. Penalty for nonpayment.
 - (1) Each property owner of the Village of Tuxedo Park who shall owe to the Village a sewer rent or service charge for more than 30 days following the bill's date shall have added to such bill and shall pay in addition to the amount thereof a penalty for the first month following such period and an additional penalty for each month thereafter that the same remains unpaid. Said penalties shall be modified from time to time by resolution of the Board of Trustees.
- I. Lien upon real property.
 - (1) Sewer service charges shall constitute a lien upon the real property served by sewers, and such lien is prior to every other lien or claim, except the lien of an existing tax, water rent or local assessment.

TUXEDO PARK CODE

Chapter 83

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Penalties for offenses — See Ch. 1. § 1-12.

Use of restricted roads — See Ch. 25, Art. II.

Public consumption of alcoholic beverages — See Ch. 30.

Garbage collection — See Ch. 58.

Roads surrounding lakes and ponds — See Ch. 65.

Damage to Village property — See Ch. 70.

Permits generally — See Ch. 73.

Trees and shrubs overhanging roads — See Ch. 75, Art. II.

Streets in subdivisions — See Ch. 85.

Storage tanks under roads — See Ch. 87.

Vehicle and traffic regulations — See Ch. 94.

Driveways — See Ch. 100.

ARTICLE I

Excavations and Other Road Work**§ 83-1. Permit required.**

- A. No person, partnership, corporation or other entity shall, in the absence of emergency conditions, make any excavation, trench, channel or other opening in a Village road right-of-way nor break or otherwise disturb the pavement thereof unless such person shall first obtain a permit, in writing, as hereinafter provided, authorizing such opening. Application shall be made on forms prescribed by the Village Board and submitted with the application fee, if any, to the Village Clerk. The fee shall be established by resolution of the Village Board.³⁹
- B. In the event that emergency conditions exist which require that a road opening to be made before the requirements of this Article can reasonably be complied with, then such opening may be made upon the oral application to, and approval of the Public Works Superintendent or the Mayor. For the purpose of this article, "emergency conditions" shall be deemed to be breaks in sewer lines, waterlines or gas lines, or damage or disturbance to electric power lines or any other catastrophe which may, if unrepaired, endanger the health, safety or welfare of the Village.

§ 83-2. Issuance of permit.

Any permit required under this article, except an oral permit granted pursuant to this article, shall be granted only at a Village Board meeting upon resolution and majority vote of the Board. An affirmative vote on such motion shall authorize the Mayor or other Village officer designated by the Village Board, upon a resolution adopted, to sign such permit and issue the same, subject to such conditions as the Board shall impose, including but not limited to lighting, barricading, erection of warning signs or other safety devices.

§ 83-3. Barricades and flashing signals required.

- A. Every trench, excavation and construction site, and all materials used in connection therewith, located within the right-of-way of a public thoroughfare within the Village of Tuxedo Park upon any abutting premises where the operations in connection therewith shall interfere with or encroach upon the public way shall be protected on all sides by a horizontal barricade of wood, or other solid material, colored yellow or orange and not less than 48 inches in height. Each such barricade shall be equipped with battery-operated flashing signals not more than six feet apart along its entire length and attached no lower than 48 inches nor higher than 60 inches from ground level.
- B. No person shall use or cause to be used for signals or warning lights any lamp, lantern, smudge pot or other device utilizing an open flame or a combustible or flammable fuel.

§ 83-4. Time restrictions on road work.

- A. Road closings. Except as otherwise permitted by the Board of Trustees, no road shall be closed to traffic for repair or other purpose for more than 24 hours.
- B. Every permit issued hereunder shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, permittee shall, prior to the expiration of the permit, present in writing to the Superintendent of Public Works a

^{39,36.} Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the Superintendent of Public Works, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work. Any such extension shall be in writing, signed by the Superintendent of Public Works. **[Amended 10-19-2022 by L.L. No. 7-2022]**

ARTICLE II
Prior Notice of Defects

§ 83-5. Prior notice required; liability of Village.

No civil action shall be maintained against the Village of Tuxedo Park or Department of Public Works for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Village Clerk or Public Works Superintendent and there was a failure or neglect, within a reasonable time after the giving of such notice, to repair or remove the defect, danger or obstruction complained of, and no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert unless written notice thereof, specifying the particular place, was actually given to the Village Clerk or Public Works Superintendent and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 83-6. Submission of notices.

The Public Works Superintendent shall transmit in writing to the Village Clerk, within five days after the receipt thereof, all written notices received by him pursuant to this article and § 6-628 of the Village Law. The Village Clerk shall cause all written notices received by him or her pursuant to this article and § 6-628 of the Village Law to be presented to the Village Board within five days of the receipt thereof or at the next succeeding Village Board meeting, whichever shall be sooner.

ARTICLE III
Unpaved Village Roads

§ 83-7. Use restricted.

Trails, fire roads, bridle paths and other unpaved Village-owned courses as restricted to resident pedestrians and horseback riders only. No unauthorized vehicles of any kind are permitted on these roads and trails unless a temporary written permit is secured from the Police Chief, Mayor or Board of Trustees.

§ 83-8. Use for access to Village prohibited.

None of these courses may be used for Village access or egress except under special conditions authorized by the Police Chief, Mayor or Board of Trustees.⁴⁰

§ 83-9. Termination of use.

Any use of Village property deemed to be a nuisance or detrimental to the public health, safety, welfare or aesthetics may be terminated by any of the above officials without prior notice.

^{40-37.} Editor's Note: See also Ch. 25, Access to Village.

ARTICLE IV
Roadside Conditions

§ 83-10. Obstructions or encumbrances prohibited. [Amended 10-19-2022 by L.L. No. 7-2022]

Any roadside condition occurring or emanating from private property or utility installations in the Village right-of-way, but adversely affecting the safety, health and welfare along, on or adjacent to any Village road or right-of-way shall be corrected by the subject property owner or utility company at their sole expense. Such conditions shall include but are not limited to deteriorating road walls and fences, clogged or diverted culverts, gutters and drainage ditches, overhanging tree branches and other vegetation, utility equipment and gear that is not part of the active utility infrastructure, brush and vegetation that interferes with utility wires access, trees and limbs that pose a threat to utility wires, untended trash receptacles and enclosures, misplaced mailboxes, lawn sprinklers, plowed snow and other protrusions or intrusions from private property onto any roadway or pathway.⁴¹

§ 83-11. Notice of violations; time limit for compliance. [Amended 10-19-2022 by L.L. No. 7-2022]

- A. These or any other roadside or roadbed conditions deemed adverse to the health, safety or welfare of the Village may be cited by the Police Department, Board of Trustees, Planning Board, Building Inspector or Public Works Superintendent. Upon written notice from any of these officials, the property owner or occupier shall, within seven days, reply to the Board of Trustees and either request a hearing from that Board or submit a timely plan for correcting the cited conditions. The decision of the Board of Trustees shall be binding, and corrective measures must be completed within the Board's specified time period.
- (1) When the Village determines that a utility pole in a Village road right-of-way is damaged and poses a potential threat to public safety, the Village shall notify any public utility with a plant on the damaged pole that it must remove its plant from the damaged pole within 15 days of receiving such notification from the Village. For the purposes of this article, a "plant" shall be defined as the cables, terminal, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.
- (2) When the Village determines that a double pole is in a Village road right-of-way, the Village will notify the public utility which owns the double pole that the pole must be removed within 90 days or be subject to penalty. For the purposes of this article, a double pole shall be defined as any damaged utility pole or old utility pole from which the plant has been removed, in whole or in part, which is attached or in close proximity to a new utility pole.
- B. Permit requirements. The Village shall include in all permits for the installation or removal of utility poles in Village rights-of-way the following provision:
- (1) The permittee shall have 90 days to remove a double pole following the installation of a new pole in its immediate vicinity. Failure to do so may result in penalties as provided by law.

§ 83-12. Work done by Village; recovery of costs.

In cases of emergency or whenever a property owner or occupant fails to make the required changes, repairs or improvements, the Village or its designees shall have the right to enter said property and perform any or all corrective measures. The Board of Trustees shall thereupon assess the expense thereof upon the

^{41-38.} Editor's Note: See also Ch. 75, Property Maintenance.

real property involved, and such charge shall constitute a lien and charge upon the real property upon which it is levied until paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

- A. These or any other roadside or roadbed conditions deemed adverse to the health, safety or welfare of the Village may be cited by the Police Department, Board of Trustees, Planning Board, Building Inspector or Public Works Superintendent. Upon written notice from any of these officials, the property owner or occupier shall, within seven days, reply to the Board of Trustees and either request a hearing from that Board or submit a timely plan for correcting the cited conditions. The decision of the Board of Trustees shall be binding, and corrective measures must be completed within the Board's specified time period.
- (1) When the Village determines that a utility pole in a Village road right-of-way is damaged and poses a potential threat to public safety, the Village shall notify any public utility with a plant on the damaged pole that it must remove its plant from the damaged pole within 15 days of receiving such notification from the Village. For the purposes of this article, a "plant" shall be defined as the cables, terminal, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.
 - (2) When the Village determines that a double pole is in a Village road right-of-way, the Village will notify the public utility which owns the double pole that the pole must be removed within 90 days or be subject to penalty. For the purposes of this article, a double pole shall be defined as any damaged utility pole or old utility pole from which the plant has been removed, in whole or in part, which is attached or in close proximity to a new utility pole.
- B. Permit requirements. The Village shall include in all permits for the installation or removal of utility poles in Village rights-of-way the following provision:
- (1) The permittee shall have 90 days to remove a double pole following the installation of a new pole in its immediate vicinity. Failure to do so may result in penalties as provided by law.

TUXEDO PARK CODE

Chapter 85

SUBDIVISION OF LAND

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 2-18-1987 by L.L. No. 4-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Planning Board — See Ch. 17.

Building construction — See Ch. 36.

Clearing, filling, grading and excavating — See Ch. 40.

Necessity for fire hydrants — See Ch. 53, Art. III.

Permits generally — See Ch. 73.

Construction and site safety — See Ch. 75, Art IV.

Sewers and sewage disposal — See Ch. 78.

Streets and sidewalks — See Ch. 83.

Storage — See Ch. 87.

Water — See Ch. 97.

Zoning — See Ch. 100.

ARTICLE I
General Provisions

§ 85-1. Planning Board authority.

By a resolution adopted by the Board of Trustees on January 14, 1956, and as affirmed by L.L. No. 2-1987,⁴² pursuant to the provisions of Article 7 of the Village Law, the Planning Board of the Village of Tuxedo Park, New York, has the power and authority to approve plats for subdivisions within the Village of Tuxedo Park.

§ 85-2. Policy.

It is declared to be the policy of the Board of Trustees, in enacting this chapter, and the Planning Board, in approving plats, to consider land subdivisions as part of a plan for the orderly development of the Village. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace and with a minimum of detrimental effects on the water supply and total environment of the Village. ~~Proper provision shall be made for drainage, water, sewerage and other needed improvements. Proposed streets shall compose a safe and convenient system conforming to the Official Map as it may be adopted and shall be properly related to the proposals shown on the Comprehensive Plan, and all streets shall be of such width, grade and location as to accommodate prospective traffic and facilitate fire protection, snow removal and other emergency services.~~

§ 85-3. Definitions.

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

BOARD — The Planning Board of the Village of Tuxedo Park.

COMPREHENSIVE PLAN (or COMPREHENSIVE PLANNING BASIS): For purposes of this chapter and the “in accordance with a comprehensive plan” requirement under applicable New York law, the Village’s comprehensive plan is evidenced by the comprehensive planning basis reflected in the Village’s duly adopted local laws and planning instruments, taken as a whole, including (as applicable) § 85-2 (Policy), Chapter 100 (Zoning), the Official Map, and any duly adopted or incorporated-by-reference studies, reports, maps, surveys, inventories, or historic district documentation that articulate the Village’s planning objectives, existing conditions, and development policies. Nothing herein shall be construed to require that such comprehensive plan be contained in a single standalone document.

EAF — SEQRA Environmental Assessment Form as referenced in 6 NYCRR Part 617.[Amended 3-18-2009 by L.L. No. 3-2009]

EIS — SEQRA Environmental Impact Statement as referenced in 6 NYCRR Part 617.[Amended 3-18-2009 by L.L. No. 3-2009]

ENGINEER — The duly designated Engineer of the Village of Tuxedo Park, or, if there be no such official, the planning consultant or engineer employed by or assigned to the Village Planning Board.

FINAL APPROVAL — Full approval of the final map or plat. It grants authority to proceed when it is duly filed and all conditions are met.

LOT LINE REVISION — The change in boundary, merger or joining of parcels affecting two or more parcels.[Added 2-21-1990 by L.L. No. 1-1990]

MASTER PLAN — A comprehensive plan prepared by the Planning Board pursuant to § 7-722 of the Village Law, which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the Village of Tuxedo Park and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

§ 85-1

SUBDIVISION OF LAND

§ 85-3

OFFICIAL MAP — A map established by the Board of Trustees, pursuant to § 7-724 of the Village Law, showing streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Board of Trustees or additions thereto resulting from approval of

42-39. Editor's Note: See Ch. 17, Planning Board.

subdivision plats by the Planning Board and the subsequent filing of such approved plats.

PLAT — The final map, drawing or chart, on tracing cloth or Mylar, on which the subdivider's plan of subdivision is presented to the Planning Board for approval, and which, if approved, will be submitted to the Orange County Clerk or Registrar for recording.

PRELIMINARY APPROVAL — The conceptual approval of the subdivision after review of the preliminary layout. Such approval implies no authority to sell individual lots or perform construction or site work of any kind.

PRELIMINARY LAYOUT — The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

SUBDIVIDER — Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or others.

SUBDIVISION — The division or redivision of real property into two or more parcels, tracts of land, lots, plots, blocks, sites or other divisions of land for the purpose of sale, lease, transfer of ownership, or development. For jurisdiction purposes, the term "subdivision" shall include re-subdivision and lot line revisions as herein defined. **[Amended 2-21-1990 by L.L. No. 1-1990]**

VILLAGE — The Village of Tuxedo Park.

ARTICLE II
Procedure

§ 85-4. Approval required; submission of application.

- A. Whenever any subdivision of land is proposed, the subdivider or owner thereof, or his agent, shall, in accordance with the provisions of this chapter, apply in writing to the Board, secure full final approval and file the plat with the Orange County Clerk before any sale or any offer to sell any lots in such subdivision is made and before any permit for site work or construction is granted with regard to such subdivision or any part thereof.
- B. The application of the subdivider, owner or agent to the Board shall conform to the specifications in Articles III and IV of this chapter and shall be submitted at least 10 days prior to the formal meeting at which such application is scheduled for review.
- C. Lot line revisions. [Added 2-21-1990 by L.L. No. 1-1990]
- (1) A subdivider may apply to the Planning Board for classification of his subdivision as a lot line revision. The Planning Board shall be permitted to make such a classification under the following conditions:
- (a) The application does not create any new building parcels.
- (b) The application does not create or increase any nonconformity with the Zoning Law of the Village.
- (c) The application, in the opinion of the Planning Board, does not present any major planning issues and would not be reasonably expected to result in more than minimal adverse impact on the policy considerations set forth in § 85-2. In making such determination, the Planning Board may consider whether the proposed lot line revision would materially change access or frontage conditions, materially alter the location of a development envelope in a manner that could affect historic lot patterns or landscape character, or materially increase demands on the Village's limited infrastructure or emergency service capabilities.
- (2) In the event that a subdivision is classified as a lot line adjustment revision, the applicant shall be permitted to file a deed effecting the lot line adjustment revision, together with appropriate notice, to Orange County Real Property Tax Services and the local assessor without the requirement of plat review, public hearing or recording of the plat. Accordingly, where a lot line revision is classified pursuant to Subsection C(1), the Planning Board may permit abbreviated review and may waive preliminary plat requirements, but final Planning Board approval and filing or recording in the manner required by applicable law shall still be required.

§ 85-5. Compliance required; contents of application. [Amended 3-18-2009 by L.L. No. 3-2009]

The preliminary layout, topographic map, street profiles and formal subdivision plat and all procedures relating thereto shall in all respects be in full compliance with the provisions of §§ 7-728 and 7-730 of the Village Law, this chapter, including but not limited to 85-2, and all other applicable regulations, except where variation therefrom may be specifically authorized by the Board provided, however, that in the case of a lot line revision pursuant to § 85-4.C, the application materials shall be those required by the Planning Board as reasonably necessary for review under this chapter. In addition, the application must include a payment of all applicable fees. The Board may also require a monetary deposit to cover the costs of professional engineering, inspection and consultation, and any excess funds will be returned to the applicant after the final plat is filed.

§ 85-6. Submission of preliminary layout. [Amended 3-18-2009 by L.L. No. 3-2009]

§ 85-4

SUBDIVISION OF LAND

§ 85-6

The preliminary layout and its supporting documentation, as described in § 85-39, shall be submitted to the Board in the specified form and quantity. The Board shall study the preliminary layout, environmental impacts, street design, safety, water, sewer, impact on roads, impact on the first responder infrastructure, impact on other utilities, impact on other topography, siting, aesthetics, drainage, etc., in connection with Village Law § 7-728, the Zoning Law,⁴³ Master Plan, Official Map, state and county requirements, 85-2 and

43.40. Editor's Note: See Ch. 100, Zoning.

general suitability to the neighboring properties and the Village as a whole.

§ 85-7. Review of preliminary layout.

The Board shall discuss the preliminary layout with the subdivider or his agent at a regular monthly meeting. After discussion and site inspection, the Board shall communicate to the subdivider, consistent with the policy considerations set forth in § 85-2.
~~The Board shall discuss the preliminary layout with the subdivider or his agent at a regular monthly meeting. After discussion and site inspection, the Board shall communicate to the subdivider:~~

- A. The specific objections or changes which it will require in the preliminary layout.
- B. The nature and extent of required public improvements, assessments or utility fees.⁴⁴
- C. The amount and duration of required performance bonds or letters of credit.
- D. The requirement for Orange County Planning Commission review if adjacent to Tuxedo Town land.
- E. The requirement for Orange County Department of Health review if the subdivision involves three or more lots within three years (Public Health Law, Article 11, Title II) or incorporates wells or septic systems.

This section shall apply to subdivision applications requiring submission of a preliminary layout pursuant to § 85-6; lot line revisions shall be processed pursuant to § 85-4.C.

~~E.~~

§ 85-8. Time limit for decision on preliminary layout.

- A. Within 60 days of the applicant's submission, the Board shall vote on the preliminary layout. The sixty-day period, however, shall not begin unless and until:
 - (1) The application is complete and in compliance with the Village Law, these regulations, the Zoning Law and all other governmental requirements.
 - (2) The applicant or his agent is present at each relevant meeting.
 - (3) All State Environmental Quality Review Act studies and procedures are completed, if applicable. [Amended 3-18-2009 by L.L. No. 3-2009]
 - (4) All associated fees, bonds and deposits have been rendered in full.
- B. The sixty-day interval may be extended at the applicant's request if approved by the Board.
- C. The preliminary layout shall be deemed disapproved unless there are at least three favorable votes.

§ 85-9. Submission of final plat. [Amended 3-18-2009 by L.L. No. 3-2009]

The subdivider shall, within six months of preliminary approval, file with the Board the final subdivision plat, technical specifications, and other supporting materials in accordance with § 85-40, provided, however, that the foregoing shall not apply to a lot line revision classified pursuant to § 85-4.C(1) and processed pursuant to § 85-4.C(2). The final plat shall be on tracing cloth or Mylar film in sheets 20 inches wide by 40 inches long and to a scale of not more than 100 feet to the inch; except that, when more than one sheet is required, an additional index sheet of the same size shall be filed, showing, to appropriate scale, the entire subdivision on one sheet, with lot and block numbers. Before the Board acts on the final subdivision plat, it shall review in detail the subdivision requirements of § 85-40 of this chapter and hold a public hearing thereon in compliance with Village Law.

§ 85-6

TUXEDO PARK CODE

§ 85-10

If the subdivider fails to submit a complete final plat application within six months after preliminary approval, the preliminary approval shall lapse and be of no further force or effect, unless the Planning Board grants one or more extensions for good cause shown. Any request for extension shall be in writing, shall state the reasons for the delay and be submitted in writing prior to the expiration of the six-month period. In granting any extension, the Planning Board may impose reasonable conditions, including requiring updated plans, studies, reports, fees, escrow deposits, or other submissions, and may require compliance with any changes in applicable law or circumstances material to the application. Upon lapse, any further submission shall be treated as a new application subject to the laws, regulations, and standards in effect at the time of resubmission.

§ 7-728.

~~44.41.~~ Former Subsection B, regarding preliminary EAF determination and EIS scope, was repealed 3-18-2009 by L.L. No. 3-2009. This local law also provided for the redesignation of former Subsections C through F and Subsections B through E, respectively.

§ 85-10. Approval or disapproval of final plat.

Within 60 days of the submission of the final plat, the Board shall vote to approve, modify and approve or disapprove the subdivision. The sixty-day period, however, shall not begin unless and until the four requisites of § 85-8 are met. The application shall be deemed disapproved unless there are at least three favorable votes. In addition, any approval shall not be deemed final until the subdivider has paid any utility assessments, Village charges or other fees as set down by the Board of Trustees and until the provisions of the following section have been complied with.

§ 85-11. Completion of improvements; performance bond. [Amended 2-21-1990 by L.L. No. 1-1990]

The subdivider shall complete, in accordance with the Board's decision, to the satisfaction of the Engineer and any other official or body authorized by law to act, all the street and sanitary improvements specified in § 7-730 of the Village Law and not specifically waived by the Board, or, alternatively, shall file with the Board a performance bond, letter of credit or cash security deposit complying with such § 7-730 of the Village Law, satisfactory to the Village Attorney as to form, sufficiency, manner of execution and surety, for the completion of such improvements as are not constructed and not approved by the Engineer and any other official or body authorized to act prior to the approval of the plat. The Board shall require a certificate from the Engineer or other designated official as to the satisfactory character of improvements completed and from the Village Attorney or other designated legal advisor as to the adequacy of any bond which may be proffered. The subdivider shall tender offers of cession in a form certified as satisfactory by the Village Attorney of all land included in streets, highways or parks, not specifically reserved by him, but approval of the plat by the Board shall not constitute an acceptance by the Village of the dedication of any street, highway, park or other public open space.

§ 85-12. Filing of plat with County Clerk.

After the completion of these details and notation to that effect upon the plat, it shall be deemed final approval, and, within 90 days thereafter, the subdivider must file the plat with the County Clerk or Registrar. Otherwise such approval shall expire as provided in § 7-728 of the Village Law.

ARTICLE III
Standards and Requirements

§ 85-13. General requirement.

The subdivider shall observe the general requirements and principles of land subdivision found in this article.

§ 85-14. Compliance with other Village regulations.

In general, the proposed subdivision shall conform to the Official Map, Zoning Law and Master Plan. The size, width, depth, area of lots and the use thereof shall comply with the Zoning Law of the Village of Tuxedo Park.⁴⁵

§ 85-15. Streets.

A. ~~The arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided, and streets shall be of a width at least as great as that of such existing connecting streets.~~Policy and Applicability. It is the policy of the Village of Tuxedo Park that the creation of new streets, private roads, lanes, or similar vehicular accessways, whether public or private, shall be discouraged and may be permitted only where necessary and consistent with the historic development pattern, natural landscape, and limited infrastructure capacity of the Village. The standards set forth in this section shall apply only where the Planning Board has determined that a creation of a new street or lane is justified in accordance with B, below.

B. ~~Limitation on New Streets. No subdivision or development proposing the creation of a new public street, private road, or lane shall be approved unless the Planning Board makes specific findings, based on substantial evidence, that:~~

- (1) ~~the proposed lots cannot reasonably be served by frontage on existing streets, private lanes, shared driveways, or access easements;~~
- (2) ~~no reasonable alternative subdivision or site design exists that would avoid the creation of a new accessway;~~
- (3) ~~the proposed accessway is necessary, and not merely convenient, to permit reasonable use of the property consistent with zoning;~~
- (4) ~~the proposed accessway will not result in adverse individual or cumulative impacts on the Village's road network, water supply, sewer system, drainage infrastructure, other utilities, emergency access and services, security, ability to keep the roadways clear of snow, ice and debris or other municipal service obligations; and~~
- (5) ~~the arrangement of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided unless the Planning Board determines that such continuation or projection would conflict with the historic street pattern, topography, infrastructure limitations, or street-limitation policy of the Village of Tuxedo Park.~~

A.

§ 85-13

SUBDIVISION OF LAND

§ 85-15

- B. In general, main roads shall be 25 to 30 feet wide and secondary roads shall be 18 to 25 feet wide. The Board may designate road widths, shoulders and road construction on a per-project basis.
- C. Dead-end or cul-de-sac streets (only to the extent approved under 85-16) shall not in general exceed 750 feet in length and shall be equipped with a turnaround roadway with a minimum radius of 40 feet for the outside curb at the closed end and right-of-way radius of 50 feet, both tangent to the right-hand curb and the right-hand right-of-line, respectively, on the turnaround area.
- D. Care shall be exercised in the layout of lots at street intersections and at switch-back turns.
- (1) Intersections with major roads. Minor or secondary street openings into a major road shall, in general, be at least 500 feet apart.
- (2) Street jogs. Street jogs with center-line offsets of less than 125 feet shall not be permitted except with the approval of the Planning Board.
- E. In general, street lines within a block deflecting from each other at any one point more than 10° shall be connected with a curve, the radius of which for the inner street lines shall not be less than 250 feet on roads and 100 feet on secondary streets. The outer street line in each case shall be parallel to such inner street line.
- F. Minor streets.
- (1) A minor street shall be so designed as to discourage through or heavy traffic in three ways:
- (a) It shall be so laid out as not to provide a short cut to streets or property beyond the proposed subdivision.
- (b) It generally should provide access to no more than five lots.
- (c) Speed of traffic should be discouraged by curved alignment or other means.

45.42. Editor's Note: See Ch. 100, Zoning.

- (2) Access to lots from other than such minor streets shall be permitted only when it is demonstrated to the satisfaction of the Planning Board that compliance with these provisions is physically impossible.
- G. Grades of all streets and proposed driveways shall conform in general to the terrain and shall be the reasonable minimum, but shall not be less than 0.7% nor more than 5% for main thoroughfares nor more than 10% for minor streets and driveways.
- H. Paving. All new streets approved in accordance with A and B, shall be graded and provided with an all-weather base pavement in keeping with specifications and standards approved by the Village Board of Trustees. All pavements shall be approximately 28 feet wide except for minor streets, giving access to no more than five lots, of one acre or more in area. Where these three conditions coexist, pavements may be approximately 20 feet in width.

§ 85-16. Blocks.

The creation of blocks or rigid grid-pattern subdivision layouts is generally inconsistent with the Village's historic development pattern, natural topography, landscape character, and policy of minimizing the creation of new streets, private roads, and lanes, and therefore shall not be approved except as provided below. No subdivision creating a block or rigid grid-pattern layout shall be approved unless the Planning Board finds, based on substantial evidence in the record, that the proposed configuration is necessary because of demonstrated site-specific physical conditions, that no reasonable alternative layout would permit subdivision of the property in a manner more consistent with the purposes and policy of this chapter, including § 85-2, and that the proposed configuration will not result in undue adverse impacts on the public health, safety, or welfare, utilities including with respect to the Village's historic development pattern and landscape character, infrastructure capacity, circulation, emergency access, or the preservation of natural and historic features. In reviewing any such layout, the Planning Board shall consider the extent to which the proposed configuration departs from the Village's established development pattern, requires or facilitates the creation of new internal streets or accessways, or would create a subdivision form inconsistent with the historic, scenic, and environmental conditions this chapter is intended to protect. Any subdivision layout that proposes, relies upon, or would require the creation of a new street, private road, lane, or similar vehicular accessway shall also comply with § 85-15. The burden of demonstrating compliance with these standards shall rest upon the applicant.

~~A block generally shall not exceed 1,200 feet in length.~~

§ 85-17. Lot plan.

It is generally preferred to create developments in a loosely shaped or free-form plan in accordance with Section 85-2, rather than in a rigid grid configuration. Interior parks, culs-de-sac and natural landscaping may be used to maintain the rural atmosphere of Tuxedo Park. Lot layout shall prioritize designs that minimize the creation of new streets, private roads, and lanes, preserve existing topography, vegetation, and natural features, and utilize existing road frontage, shared access, or other alternatives to internal circulation.

Interior open spaces, landscaped areas, and conservation features may be used to reinforce the rural and historic atmosphere of the Village. Cul-de-sac streets shall be permitted only where necessary and in accordance with § 85-15, and shall not be used solely to facilitate subdivision yield or internal circulation.

Where interior open spaces, landscaped areas, private roads, or other commonly maintained features are proposed, acceptable maintenance agreements, easements, or dedications shall be provided and approved by the Village, and shall clearly allocate all long-term ownership and maintenance responsibility without obligation to the Village.

~~Acceptable maintenance agreements or dedications must, however, be approved by the Village.~~

§ 85-18. Visibility at intersections.

- A. Curb radii at intersections shall not be less than 25 feet and property lines measured to the back of curb line or if no curb exists, the edge of pavement, and property lines shall be adjusted accordingly, as required shall be adjusted accordingly.
- B. On a corner lot, no fence, wall or other structure more than 2 1/2 feet above the finished grade at the street center line or from the natural ground level at the point of placement on the lot, whichever permits the greater height, shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 25 feet distant from the point of intersection, measured along said lines.

§ 85-19. Lot lines.

Side lines of lots, so far as practicable, shall be at right angles or radial to street lines.

§ 85-20. Corner lot requirements.

Corner lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building line of each street.

§ 85-21. ~~Large lots.~~ Subdivision Standards.

A. Purpose; applicability. The purpose of this section is to guide review of subdivision applications in a manner consistent with the policy set forth in § 85-2, including protection of historic lot patterns, landscape character, and the capacity and long-term viability of the Village's limited infrastructure and emergency services. This section shall apply to any subdivision plat that would create one or more additional building lots.

B. Unified subdivision standard. In acting on any subdivision application, the Planning Board shall make, written findings, based on substantial evidence in the record (including, where applicable, the SEQRA record), addressing whether the proposed subdivision will result in minimal adverse impact as described in § 85-2, including with respect to historic lot patterns, landscape character, and infrastructure capacity.

C. Access and layout. The Planning Board shall also make written findings, based on substantial evidence in the record, addressing whether the subdivision:

(1) can reasonably be served by frontage on existing streets, private lanes, shared driveways, or access easements, and does not necessitate the opening of a new street, private road, or lane except as may be approved in accordance with § 85-15; and

(2) will not create a lot configuration, frontage pattern, access arrangement, or reserve strip that is reasonably likely to facilitate future further subdivision or boundary connections in a manner inconsistent with the policy set forth in § 85-2 and the access and street standards of this chapter.

D. Relationship to § 85-15. Any subdivision or development that proposes, relies upon, or would require the creation of a new street, private road, or lane to serve any lot created by a subdivision shall be subject to § 85-15. Approval of a subdivision under this section shall not be construed to authorize any such accessway unless and until the Planning Board has made the findings required by § 85-15 and approved such accessway in accordance with this chapter and applicable law.

E. Conditions; enforcement. Where the Planning Board determines that a subdivision may be approved consistent with this section and § 85-2, the Planning Board may impose reasonable conditions that are related to and supported by the record, including but not limited to access arrangements, elimination or

§ 85-15

SUBDIVISION OF LAND

§ 85-22

restriction of reserve strips, conservation or landscape protections, and the placement of notes, covenants, or easements on the filed plat as may be authorized by law, to ensure ongoing compliance and to avoid circumvention of § 85-15.

~~In case a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further subdivision.~~

§ 85-22. Village access.

A. In general, no reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted. No new road, driveway, land strip or parcel shall be permitted whose design could provide access to or across the Village boundary, nor shall any external (town) road, driveway, land strip or parcel be permitted connection to any road or property within the Village.⁴⁶ At or near the Village boundaries, lots shall be created in such a manner so as to form a terminus or buffer from exterior lands.

B. Terminus or buffer. At or near the Village boundaries, lots shall be laid out so as to provide a buffer of not less than 100 feet from exterior lands and to avoid creating a subdivision pattern reasonably likely to facilitate future boundary connections inconsistent with this section. Within such buffer, no street, private road, lane, driveway, or other vehicular accessway shall be created, and the Planning Board may require that the buffer be preserved in its natural state, supplemented with native landscaping, or protected by easement, covenant, or note on the plat, as appropriate to the site and the purposes of this section. This buffer requirement is adopted to preserve the Village's historic development pattern, gated character, internal circulation system, vegetation, topography, drainage patterns, scenic edge conditions, and other natural features, and to minimize clearing, grading, runoff, erosion, and ecological disturbance at the Village boundary. The Planning Board may modify the width or treatment of the buffer, no lower than 50 feet only upon written findings, based on substantial evidence in the record, that strict compliance would be impracticable due to exceptional site-specific conditions or would itself result in greater environmental disturbance, and that the approved alternative will equally or better protect the purposes of this section.

§ 85-23. ~~Curbs and g~~Gutters; storm damage.

Gutters, paved swales, and/or other drainage conveyance measures (including, where appropriate, vegetated swales, infiltration practices, stone-lined channels, and other low-impact or context-sensitive measures) shall be provided where necessary to achieve positive stormwater control and to prevent roadway and roadside erosion, taking into account existing topography, soils, and drainage patterns and the policy set forth in § 85-2, and, to the extent practicable, shall be designed to minimize adverse impacts on the Village's historic, scenic, and natural features consistent with § 85-2. The design and materials of such improvements, and the use and sizing of culverts, catch basins, storm sewers, and related drainage structures, shall be subject to review by the Village Engineer and approval by the Planning Board.

~~Concrete rolled integral curbs and gutters shall be installed on all streets. Curb heights or the depth of paved swales shall be adequate to give positive stormwater control to prevent roadside erosion. Where necessary, culverts, catch basins and storm sewers shall be installed to the satisfaction of the Board.~~

§ 85-24. Sewage disposal and water supply.

A. Every lot shall have gravity connection to a sanitary sewer approved by the Board or other official or body authorized by it to act. Where this is not possible, redundant ejector pump systems may be permitted from a residence to a gravity flow main. Forced mains and septic systems are to be considered prohibited unless they receive approval of the Board, Orange County Department of Health and the Board of Trustees. In no case shall ejector system equipment be located nearer than 100 feet to any lake or tributary stream. No part of any septic system may be located nearer than 250 feet to any lake, stream or well, nor closer than 50 feet to any property line. In the case of septic systems, the Board may require more conservative designs than those issued by the New York State Department of Health. These specifications may include larger tanks and broader absorption fields, lesser slopes and greater separations. The Board shall also be receptive to new technology, if it is demonstrated safe, effective, reliable and fully compatible with the existing collection system.⁴⁷

~~B. For the purposes of applying New York State Public Health Law Article 11, Title II, to the Village of Tuxedo Park, § 1115, Subdivision 1, shall define "subdivision" as any tract of land which is divided into three or more parcels.~~

§ 85-25. Stormwater management.

- A. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.
- B. For the purpose of ascertaining basic suitability, the developer requesting septic approval shall have percolation tests made for each lot, or, in the case of large tracts of similar terrain, for each five acres and for points of topographic and geologic change, and shall show results on the preliminary layout. Any proposed individual disposal system must be indicated, fully specified and accompanied by the approval of the appropriate local, county or state health agency.
- C. Every lot shall have connection to a municipal waterline designed for adequate pressure, flow and quality without detriment to neighboring properties. Where these conditions do not exist, the subdivider shall so provide. Reliance on wells is to be discouraged, but the Board may approve this approach if adequate quality and volume are verified and locations are at least 200 feet from and

~~46-43.~~ Editor's Note: See also Ch. 25, Access to Village, and § 100-22 of Ch. 100, Zoning.

~~47-44.~~ Editor's Note: See also Ch. 78, Sewers and Sewage Disposal.

uphill of any septic system components.⁴⁸

§ 85-26. Preservation of natural features.

Natural features, such as trees, brooks, hilltops and views, shall be preserved whenever possible in designing any subdivision containing such features.⁴⁹

§ 85-27. Street signs.

Appropriate street signs meeting Village specifications and approved by the Engineer as to size and location shall be installed at the intersection of all streets.

§ 85-28. Topsoil protection.

No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed within the area of the subdivision. The terrain or topography of no lot shall be altered except in conjunction with a full building plan which must first be approved by the Building Inspector, Board of Architectural Review and Board of Trustees.⁵⁰

§ 85-29. Trees.

The subdivider shall take adequate measures to preserve existing trees within the subdivision. An overall tree planting plan shall be developed for approval by the Planning Board. Street trees shall be planted on both sides of the street and 10 feet outside of the right-of-way, at intervals of approximately 50 feet, subject to the location of drives, street intersections or other features. All trees shall be at least two inches in diameter and shall have a positive take. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the street right-of-way if approved by the Planning Board.

§ 85-30. Fire protection.

A fire protection plan in the form of appropriately designed and placed hydrants, together with adequate fire/rescue access, shall accompany the preliminary plat plat and shall be approved by the Board of Commissioners of the Tuxedo Fire Department Joint District.⁵¹

§ 85-31. Off-site improvements.

It shall be the responsibility of the subdivider to improve existing Village roads that serve the subdivision so that such roads will comply with § 85-15 hereof. Road improvements and all other necessary off-site improvements, such as water main extensions, tree trimming, road widening, culverts, street lamps, etc., shall be provided by the subdivider and depicted on the preliminary plat.

§ 85-32. Locations and dimensions.

Feasible house locations, driveway courses and all appurtenances shall be depicted for each proposed lot together with an interior dimensioned "box" showing the minimum square area as required by the Zoning Law.⁵² All other relevant dimensions should appear, including setbacks, frontage, lake distance, well/septic

^{48-45.} Editor's Note: See also Ch. 97, Water.

^{49-46.} Editor's Note: See also Ch. 40, Clearing, Filling, Grading and Excavating, and § 100-14 of Ch. 100, Zoning.

^{50-47.} Editor's Note: See also Ch. 40, Clearing, Filling, Grading and Excavating.

^{51-48.} Editor's Note: See also Ch. 53, Fire Prevention, Art. III.

separation, etc.

§ 85-33. Metes and bounds description.

A metes and bounds description of the original parcel as well as of each proposed lot shall be required for preliminary review.

§ 85-34. Underground service lines.

Telephone, electric, CATV, etc., shall be run underground from the road to the residence, and a note to this effect should appear on the preliminary layout. Where not possible, the Board may grant a waiver or consider an alternative approach.

§ 85-35. Unsuitable lots.

- A. No lot shall be created or approved for residential occupancy where, based on substantial evidence in the record, including topography, geotechnical conditions, drainage, flood hazard, erosion potential, utility availability, access conditions, and other site constraints, the lot does not contain a lawful and reasonably buildable area that can be safely developed in compliance with this chapter, Chapter 100, and other applicable law without creating undue danger to health, life, property, public infrastructure, or the environmental resources and policy considerations identified in § 85-2.
- ~~A. Land subject to flooding, rock or mudslide and land deemed by the Board to be uninhabitable shall not be platted for residential occupancy nor for such uses as may increase danger to health, life or property or aggravate the hazard.~~
- B. Where there is a question as to the suitability of any proposed lot for its intended use, the Planning Board may require such surveys, studies, reports, test data, or other competent evidence as it deems reasonably necessary to evaluate the issue. If, after review of the record, the Planning Board finds that safe and lawful development of the lot would require extraordinary engineering measures, unavailable or inadequate utility service, unsafe access, material disturbance of constrained land, or other mitigation insufficient to avoid more than minimal adverse impact under § 85-2, the Planning Board may withhold approval of such lot or require revision of the plat.
- ~~B. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, lack of utilities or similar circumstances, the Board may, after adequate investigation, withhold approval of such lots.~~
- ~~C. No lot shall be platted for residential occupancy if such lot would be in violation of § 100-11, 100-12 or 100-13.1 of the Zoning Law. [Amended 6-10-2009 by L.L. No. 7-2009]~~No lot shall be approved or platted for residential occupancy unless the Planning Board finds, based on substantial evidence in the record, that the lot complies with §§ 100-11, 100-12 and 100-13.1 of the Zoning Law and contains a lawful and reasonably buildable area for the principal building and those improvements necessary for lawful residential occupancy, together with lawful access and utility service, sufficient to accommodate the permitted use without requiring variances, waivers, or design assumptions not approved as part of the subdivision.

§ 85-36. EAF required. [Amended 3-18-2009 by L.L. No. 3-2009]

A completed Part 1 of the Environmental Assessment Form (EAF) must accompany the preliminary layout, if required by state law.

§ 85-37. Variations.

The Planning Board may approve a variation from one or more of the design or improvement requirements of this chapter, upon written application of the applicant, only where the Planning Board finds, based on substantial evidence in the record, that:

A. strict compliance with the particular requirement is impracticable due to exceptional site-specific conditions relating to topography, natural features, existing development, access, utilities, drainage, or other physical characteristics of the property, or that an alternative design will equally or better serve the purposes of this chapter;

B. the requested variation is the minimum necessary to address such condition or to permit such alternative design;

C. the requested variation is consistent with the policy set forth in § 85-2 and will not result in more than minimal adverse impact on historic resources, landscape character, natural systems, infrastructure capacity, public safety, or emergency services; and

D. the requested variation will not conflict with the Village Law, SEQRA, the Public Health Law, Chapter 100, or any other applicable law, and will not frustrate any provision of this chapter for which a separate standard or exception process is expressly provided.

In granting any variation, the Planning Board may impose reasonable conditions related to and supported by the record to ensure consistency with the purposes of this chapter. No variation shall be deemed to authorize any subdivision layout, access arrangement, utility design, or other improvement that would otherwise be prohibited by this chapter unless expressly authorized by the section containing such prohibition.

~~Variations of the general requirements above outlined may be permitted by the Board, on application, when in its judgment special factors warrant such a variation.~~

§ 85-38. Relationship of provisions to state law.

In accordance with New York State Village Law § 7-716, the Tuxedo Park Subdivision Law and other local regulations shall govern where they impose higher standards than are required by Article 7 of the Village Law. Where any applicable state, county, or other law, rule, regulation, or agency requirement defines “subdivision” differently or applies a different numerical threshold for a particular regulatory purpose, such differing definition or threshold shall control only for that specific purpose. Such differing definition or threshold shall not be deemed to amend, limit, or otherwise affect the definition of SUBDIVISION or the Village’s jurisdiction under this chapter.

§ 85-39. Severability

Severability. If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The Board of Trustees hereby declares that it would have adopted this chapter and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more portions may be declared invalid or unenforceable.

ARTICLE IV

Plat Details**§ 85-39. Preliminary layout.**

- A. Subdividers shall present to the Board a preliminary layout. Five copies shall be filed at the scale of not more than 100 feet to the inch, and preferably 40 feet to the inch, showing or accompanied by the following information:
- (1) Proposed identifying title and the name of the Village and county in which the subdivision is located.
 - (2) Name and address of record owner, subdivider and designer of preliminary layout.
 - (3) Location of property lines, existing easements, building, watercourses and other essential features.
 - (4) The identifying title of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
 - (5) The location of any existing sewers and water mains, culverts and drains on the property to be subdivided.
 - (6) Location, names and present widths of existing and proposed streets, easements, building lines, alleys, parks and other public open spaces and similar facts regarding property adjacent.
 - (7) Any changes in the use, height, area and density districts or other regulations under the Zoning Law applicable to the area to be subdivided and any boundaries of such districts affecting the tract; all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 - (8) The width and location of any street or other public ways or places shown upon the Official Map or the Master Plan within the area to be subdivided and the width, location, grades and street profiles of all streets or other public ways proposed by the subdivider.
 - (9) Typical cross sections of the proposed grading, roadways and sidewalks, together with topographic conditions, using a maximum of five-foot contours.
 - (10) Date, true North point and scale.
 - (11) Deed description and map or survey of tract boundary made and certified by a licensed land surveyor.
 - (12) Connection with existing water supply or alternative means of providing water supply to the subdivision as provided in § 1116 of the Public Health Law.
 - (13) Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed as provided in § 1116 of the Public Health Law.
 - (14) Provisions for collecting and discharging surface drainage and providing any necessary easements to the Village.
 - (15) Preliminary designs of any bridges or culverts which may be required.
 - (16) The proposed lot lines with approximate dimensions and suggested location of buildings.

- (17) The proposed location of and type of streetlighting standards and species of street trees; the location of curbs, gutters, water mains, sanitary sewers and storm drains and the sizes and types thereof; the character, width and depth of pavement and subbase; and the location of manholes and basins and underground conduits.
- B. Where the topography is such as to make difficult the inclusion of any such facilities within the public area so laid out, the preliminary layout shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 10 feet in width and which shall provide satisfactory access to an existing public road or other public open space shown upon the layout or upon the Official Map.
- C. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with the street system of the part not submitted.
- D. All of the information set forth above is required by the Board for the purpose of complying with §§ 7-728 and 7-730 of the Village Law and the Public Health Law and for the information of the public at the public hearings. Due care in the preparation of this material will expedite the process of passing upon the formal subdivision plat.

§ 85-40. Final plat

- A. The subdivision plat submitted for approval and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth or Mylar-type film. The size of the sheets shall be 20 inches by 40 inches, including a margin of one inch outside ruled border lines on three sides and two inches of border along the left side of the twenty-inch side for binding. Three copies shall be submitted.
- B. The drawing shall be at the scale of not more than 100 feet to the inch. The subdivision plat shall show:
- (1) Proposed identifying title and the name of the Village and county in which the subdivision is located, the name and address of record owner and subdivider and the name, license number and seal of the licensed professional engineer or land surveyor.
 - (2) Street lines, lots, reservations, easements and areas to be dedicated to public use.
 - (3) Sufficient data acceptable to the Engineer to determine readily the location, bearing and length of every street line, lot line and boundary line and to reproduce such lines upon the ground. Where practicable, these should be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.
 - (4) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The final plan shall show the boundaries of the property, location, graphic scale and true North point.
 - (5) The proper designation thereon of those spaces title to which is reserved by the subdivider. For any of the latter, there shall be submitted with the final subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the

provisions made therefor.

- C. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
- D. Before final approval of the plat, there shall be filed with the Planning Board a certificate of the Engineer as to the completion of all improvements required by the Board to his satisfaction in accordance with standards and specifications prescribed by him. For any required improvements not so completed, there shall be submitted with the plat a certificate of the Village Attorney as to the sufficiency of the bond offered in lieu thereof.
- E. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Village practice. If the county, town or Village has established a block and lot system, the block numbers shall be obtained from the appropriate official.
- F. Permanent reference monuments shall be shown thus "X". They shall be constructed in accordance with specifications of the Engineer and, when referenced to the state system of plane coordinates, shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Engineer and their location noted and referenced upon the plat.
- G. All lot corner markers shall be permanently located, satisfactory to the Engineer, at least 3/4 inch (if metal) in diameter and at least 24 inches in length, shown thus "O" and located in the ground to existing grade.
- H. Monuments of a type approved by the Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Engineer.

ARTICLE V

Fees

§ 85-41. When required.

- A. Preliminary filing fees as established by resolution of the Board of Trustees shall accompany the preliminary layout.⁵³
- B. A Board review fee for EAF evaluation is also due at the time of preliminary layout filing.
- C. Deposits for engineering analysis, EIS review, etc., shall be determined during the course of subdivision evaluation.
- D. Assessments and utility charges, if any, are determined by the Board of Trustees and become payable upon final approval.
- E. Issuing fees are levied on a per lot basis and are determined by resolution of the Board of Trustees and payable upon approval of the final plat.

~~53-50.~~ Editor's Note: The current fee resolution is on file in the office of the Village Clerk.

Chapter 87**TANKS, STORAGE**

[NOTE TO BOT We noticed that there was nothing in the code prohibiting the installation of new underground oil tanks under 1,100 gallons. We did not address but wanted to alert you to this potential omission.]

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 1-16-2002 by L.L. No. 1-2002.⁵⁴ Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Permits generally — See Ch. 73.

Environmental quality review — See Ch. 47.

Property maintenance — See Ch. 75.

Fire prevention — See Ch. 53.

Water — See Ch. 97.

Hazardous substances — See Ch. 60.

Zoning — See Ch. 100.

§ 87-1. Purpose and intent.

- A. The purpose of this chapter is to establish guidelines, rules and directives regarding the installation, abandonment, replacement and location of tanks used for the storage of petroleum products and water. The intent of this legislation is to protect the watershed of the lakes in the Village and the purity of the waters of the lakes, including Tuxedo Lake which is the sole water supply for the entire Village.
- B. This chapter is to be read and utilized in conjunction with the New York State Petroleum Bulk Storage Code. Any inconsistency between the provisions hereof and said Code and its implementing rules and regulations shall be resolved in favor of the New York State Code and regulations.
- C. No permit issued hereunder shall relieve the owner from obtaining such other permissions as may be required by the Zoning Law (Chapter 100) with regard to tanks, including permission of the Boards of Architectural Review and Planning.

§ 87-2. Definitions.

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

~~**BUILDING INSPECTOR** — The duly appointed Building Inspector of the Village or anyone designated by the Village Board of Trustees qualified to perform the duties of the Building Inspector as herein set forth. The Building Inspector shall also be the enforcement officer described in the New York Petroleum Bulk Storage Code. [See 6 NYCRR §§ 614.7(c) and 614.13(e)[JS3]].~~

LIQUEFIED NATURAL GAS — Sometimes referred to a "LNG" (liquefied natural gas) or LPG (liquefied petroleum gas) means natural gas cooled to its liquefied state.

NEW YORK PETROLEUM BULK STORAGE CODE — Title 10 of Article 17 of the New York Environmental Law and the rules and regulations of the New York Commissioner of Environmental Conservation contained at 6 NYCRR Parts 612, 613 and 614.

OWNER — Any person who shall have legal or equitable title to any premise upon which a tank is located,
TUXEDO PARK CODE § 87-2

54.51. **Editor's Note: This local law also repealed former Ch. 87, Storage Tanks, adopted 2-21-1990 by L.L. No. 1-1990.**

PERSON — Any natural person, corporation, partnership, firm, association or other legal entity by whatever name.

PETROLEUM — Hydrocarbon-based oils and fuels of any kind.

PIPING SYSTEM — Any system of pipes, mains or conduits of whatever material leading to or from a tank.

PROPANE — A manufactured petroleum hydrocarbon gas cooled to its liquified state.

TANK — Any enclosed container fabricated of any material whether located above or below the ground designed or intended to hold petroleum, natural gas, propane or water, no matter what the cubic capacity of said container.

VILLAGE ENGINEER — The engineer duly appointed by the Board of Trustees in the manner provided for by law or any specific engineering professional retained by the Village for purposes of administering this chapter in conjunction with the Building Inspector.

§ 87-3. Applicability.

This chapter shall apply to the location, installation, construction, reconstruction, removal, maintenance, replacement, relocation and abandonment of any tank anywhere in the Village no matter what its size, volume or content. Notwithstanding the foregoing, tanks holding or intended to hold petroleum having a capacity in excess of 1,100 gallons shall be governed by the applicable provisions of the New York Petroleum Bulk Storage Code. All propane tanks with a capacity of five US gallons or less shall be exempt from the provisions of this chapter.

§ 87-4. Compliance required.

- A. It shall also be unlawful to and no person shall install, construct, rebuild or relocate a tank or related piping system, covered by the terms hereof, except after the issuance of a building permit issued by the Building Inspector. Additionally, after the completion of any work commenced pursuant to such a building permit, no person shall place into operation any new, reconstructed or relocated tank or related piping system unless he shall have been issued a certificate of compliance with this chapter and the applicable provisions of the New York Petroleum Bulk Storage Code.
- B. It shall be also be unlawful for any owner to allow or permit any person to install, remove, construct, rebuild or relocate or operate any tank or related piping system on lands owned by him unless a building permit and/or certificate of compliance required hereby is first obtained. The owner of any such land shall be deemed to know of all such activity and shall be responsible hereunder regardless of any actual knowledge of such activity.

§ 87-5. Applications for building permits and certificates of compliance.

- A. The Building Inspector, in conjunction with the Village Engineer, shall, from time to time, prescribe the form of applications for building permits for all tanks as required hereby. Such forms can be obtained at the Village office and shall be submitted in triplicate and be accompanied by at least the following information and materials.
 - (1) A site-specific installation plan prepared by a licensed tank installer or a professional engineer licensed by New York State.
 - (2) Proof of the contractor's registration with the NY DEC, if applicable.

- (3) Proof of any required plumbing licenses from any agency having licensing jurisdiction.
 - (4) Proof of liability and workers' compensation insurance in amounts to be determined by the Building Inspector naming the Village as an additional insured party.
 - (5) A plan for disposal of any contaminated soils or water at a NY DEC-approved site.
 - (6) The appropriate application fees as set by the Board of Trustees.
- B. The Building Inspector, in conjunction with the Village Engineer, may require the submission of such other relevant and additional information as he may require in order to review such an application.

§ 87-6. Standards for review of building permit applications.

All applications for a building permit for a tank covered by this chapter shall be reviewed by the Building Inspector and the Village Engineer. In his review, the Building Inspector shall, for tanks designed or intended to hold petroleum, use the criteria set forth in the New York State Petroleum Bulk Storage Code and this Chapter 87. With regard to all other tanks, he shall use the standards set forth herein as well as best available technology. In issuing any such building permit he may attach thereto as a condition thereof any reasonable conditions that he deems fit under the circumstances. If the Building Inspector denies any such application, he shall set forth the reasons for such denial in detail in writing.

§ 87-7. Location of tanks.

~~A.~~ ~~Except as specified in § 85-24, n~~ No tank designed or intended to hold petroleum ~~or sewage~~ shall be closer than 100 feet to the shoreline of any lake, reservoir, active stream, ignition source or drinking water well. [Note to BOT Section 885-24 of the Subdivision code already deals with sewage which is 250 feet.]

~~A-B.~~

~~B-C.~~ Notwithstanding the foregoing limitations, in the situation of the proposed replacement of an existing tank designed or intended to hold petroleum on a lot that cannot conform with these separation distances, such a tank may be replaced only in the same location as the tank sought to be replaced unless the Building Inspector or Village Engineer determines a safer location on the property. Any such replacement tank shall be of double-wall construction and shall have a monitoring mechanism installed in the manner required by the Village Engineer. All such replacement tanks shall also conform with all applicable provisions of the New York State Petroleum Bulk Storage Code.

~~C-D.~~ No tank designed or intended to hold potable water, if below ground, shall be nearer than 100 feet to any sewer line or the component of any underground septic system.

§ 87-8. Design and installation standards for tanks.

- A. Tanks holding petroleum. All such tanks, regardless of size and capacity, shall conform with the minimum design standards set forth in the New York Petroleum Bulk Storage Code and shall be installed in the manner set forth in said code. The intent hereof is to adopt hereby such design and installation standards for such tanks that have a capacity less than 1,100 gallons.
- B. Tanks holding natural gas or propane. All such tanks shall conform with the design standards set forth in NFPA Chapter 58 and shall otherwise:
- (1) Be of rust- and corrosion-inhibiting material.
 - (2) Have appropriate fill connection and relief valving.

- (3) If buried, be anchored and installed by a professional gas supply firm.
- (4) Not exceed 1,000 liquid gallons' capacity per tank.
- (5) Not be located nearer than 50 feet to any ignition source.
- (6) Be capable of supporting any vehicular traffic likely to pass over it.
- (7) If above ground, have protective surrounding bollards.
- (8) Have all related piping adequately buried.
- (9) Not be converted to any other use.

C. Tanks holding water. Water tanks shall:

- (1) If used for potable water storage, be subjected to review by the Orange County Health Department.
- (2) Be enclosed within a secure structure or appropriately buried.
- (3) Not exceed 1,000 USG capacity unless required for emergency fire protection.
- (4) Be regularly maintained and tested by owner to assure water quality compliance.

D. Dry wells and detention tanks. Dry wells and detention tanks shall:

- (1) Be no nearer than 100 feet to any lake or stream.
- (2) Be maintained entirely by the owner and not by the Village.
- (3) Not be used for containing or disbursing any flammable, toxic or hazardous material.

§ 87-9. Installation and backfill.

- A. All tanks shall be installed in the manner called for in the building permit and any conditions attached thereto.
- B. The Building Inspector shall, during the process of the installation or removal of any tank, make field inspections to determine if the conditions of the building permit are being met. The owner shall give at least seven days' notice to the Building Inspector.
- C. It shall be unlawful for any person, or for an owner to allow any person, to backfill against any tank unless the Building Inspector shall have first made a site inspection to determine if the installation of the same complies with the permit and any conditions attached thereto. An owner shall be deemed to know of any such backfill activity and shall be responsible hereunder even if he or she did not have actual knowledge of the same.

§ 87-10. Certificate of compliance.

When a tank has been installed to the satisfaction of the Building Inspector, he shall issue to the owner a written certificate of compliance, and thereupon the owner or his tenants or agents shall be entitled to place the tank and any related underground piping system into operation. No such certificate shall be issued unless the Building Inspector has made a site inspection within 48 hours of completion of installation prior to any backfill being placed against the tank or piping system.

§ 87-11. Operation and maintenance of all tanks.

All tanks, once installed, shall be the responsibility of the owner to maintain and operate such tanks in such a manner as not to cause any leaks or groundwater, surface water or soil contamination in any way. It shall be unlawful for any owner to maintain a tank in such a way that the same leaks, emits excessive vapors, or causes contamination.

§ 87-12. Notice of violation and time limit for compliance.

Any tanks, detention basins, containers or related piping that are constructed, installed, maintained or operated in a manner deemed to be detrimental to the health, safety or welfare of the Village may be cited for these conditions by the Police Department, Board of Trustees, Planning Board, Public Works Superintendent or Building Inspector. Upon written notice from any of these officials, the property owner or occupier shall, within seven days, reply to the Board of Trustees and either request a hearing from that Board or submit a timely plan for correcting the cited conditions. The decision of the Board of Trustees shall be binding, and corrective measures must be completed within the Board's specified time period.

§ 87-13. Performance of work by Village; recovery of costs.

In cases of emergency or whenever a property owner or occupant fails to make the required changes, repairs or improvements, the Village shall have the right to enter said property and perform any or all corrective measures. The Board of Trustees shall thereupon assess such expense upon the real property involved, and such charge shall constitute a lien and charge upon the real property upon which it is levied until paid or otherwise satisfied or discharged. Such charges shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

§ 87-14. Sale of premises with tanks - certificate of compliance.

It shall be unlawful for any person to sell, convey or pass title to any premises in the Village served by a tank designed to hold petroleum unless and until the Building Inspector shall have issued his certificate that such tank complies with the provisions of this chapter and of the New York Petroleum Bulk Storage Code. The Building Inspector shall not issue such a certificate unless he is in receipt of an inspection report relative to such tank and its required compliance certified to him by a licensed installer or an engineer licensed by the State of New York and, further, until he shall have made an inspection of said premises to verify the date contained in such report. The seller or grantor of any such premises shall be obligated to present such a certificate of compliance to the purchaser or grantee at or before the passage of title thereto.

Chapter 89**TAXATION**

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

ARTICLE I**Cold War Veterans Exemption**

[Adopted 3-18-2009 by L.L. No. 1-2009]

§ 89-1. Findings.

The New York State Legislature enacted a new section of the Real Property Tax Law, § 458-b, which permits local governing boards to adopt a local law granting Cold War veteran residential property owners an exemption from taxation. The Village of Tuxedo Park Board of Trustees has determined that such a local law would be in the best interest of the Cold War veterans residing in the Village. The enabling legislation enacted by the State Legislature requires that localities must adopt a local law in order to afford those veterans such exemption.

§ 89-2. Definitions.

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

ACTIVE DUTY — A full-time duty in the United States Armed Forces, other than active duty for training.

ARMED FORCES — The United States Army, Navy, Marine Corps, Air Force, and Coast Guard.

COLD WAR VETERAN — A person, male or female, who served on active duty in the United States Armed Forces, during the time period from September 2, 1945, to December 26, 1991, and was discharged or released therefrom under honorable conditions.

LATEST CLASS RATIO — The latest final class ratio established by the State Board pursuant to Title I of Article XII of the New York Real Property Tax Law for use in a special assessing unit as defined in Real Property Tax Law § 1801.

LATEST STATE EQUALIZATION RATE — The latest final equalization rate established by the State Board pursuant to Article XII of the New York Real Property Tax Law.

QUALIFIED OWNER — A Cold War veteran, the spouse of a Cold War veteran, or the unremarried surviving spouse of a deceased Cold War veteran. Where the property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.

QUALIFIED RESIDENTIAL REAL PROPERTY — Property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the unremarried surviving spouse of a Cold War veteran, unless the Cold War veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization.

SERVICE CONNECTED — With respect to disability or death, that such disability was incurred or

§ 89-1

TAXATION

§ 89-4

aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval or air service.

§ 89-3. Authority; exemptions.

- A. The Board of Trustees of the Village of Tuxedo Park hereby elects, pursuant to § 458-b of the Real Property Tax Law, to grant the following exemption to qualifying residential real property: 15% of

the assessed value of the property, to the extent that it does not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

- B. In addition to the exemption provided in Subsection A above, where a Cold War veteran has received a compensation rating from the United States Department of Veterans Affairs or the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of the property multiplied by 50% of the Cold War veteran disability rating, to the extent that it does not exceed \$40,000, or the product of \$40,000 multiplied by the latest state equalization rate of the assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

§ 89-4. Limitations.

- A. This exemption from taxation is applicable to Village taxes, but not to those taxes levied for school purposes.
- B. If a Cold War veteran receives an exemption under § 458 or 458-a of the New York Real Property Tax Law, such veteran shall not be eligible to receive this exemption.
- C. The exemption provided for in § 89-3A shall be granted for a period of 10 years. Such 10 years shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this article where a qualified owner owns qualifying residential real property on the effective date of this article. Where a qualified owner does not own qualifying real property on the effective date of this article, the ten-year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least 60 days after the date of purchase of the qualified real property, provided that the veteran applies for and is granted an exemption on such assessment roll. If the property is sold or replaced with other residential real property, the exemption may be granted for the unexpired portion of the remaining ten-year period.

Chapter 90**TREE ADVISORY BOARD**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 12-8-2015 by L.L. No. 4-2015. Amendments noted where applicable.]

§ 90-1. Purpose.

The intent of the Village Board in adopting this chapter is to establish the "Tuxedo Park Tree Advisory Board," which shall be responsible for advising and educating on issues pertaining to trees and wooded plants in the Village of Tuxedo Park, New York and to maintain the status of "Tree City USA."

§ 90-2. Title/Board established.

There is established for the Village of Tuxedo Park a citizen's advisory board to be known as the "Tuxedo Park Tree Advisory Board."

§ 90-3. Membership and compensation.

The Tuxedo Park Tree Advisory Board shall consist of five members who live or work in the Tuxedo Park area and whom the Mayor, with the approval of the Tuxedo Park Village Board, shall appoint. The members shall serve without compensation for services performed. One Board member shall be the Superintendent of the Department of Public Works, or in his/her absence, the designated supervisor of the Village Department of Public Works.

§ 90-4. Appointments/terms of office.

The term of the members of the Tree Advisory Board shall be up to three years. In the event a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. The first Board shall serve as follows: one member, shall be the head of the Villages' Department of Public Works, two members shall serve for two years each, and two members shall serve for three years each. The Mayor may remove members, without a hearing, for inefficiency, neglect of duty, or irreconcilable conflict.

§ 90-5. Meetings.

- A. The Board shall have at least one regular meeting three times per year. The Board shall determine meeting dates and times. Special meetings may be held as often as the Board deems necessary or as directed by the Mayor or Village Board.
- B. For purposes of conducting the Board's business, exercising its powers and for all other purposes, a quorum of the Board shall consist of three or more members. Any action taken by a majority of those present, when those present constitute a quorum at any regular or special meeting of the Board, shall be deemed and taken as the action and decision of the Board.
- C. The Board shall elect such officers as it deems necessary to conduct business. The Board shall adopt such rules of procedure as it deems necessary.
- D. The Board shall keep written minutes of all meetings held and all business transacted. All records of the Board shall be open to public inspection, except those that may be exempt from public disclosure under Village or state law.

§ 90-6. Duties of the Advisory Board.

The Tree Board shall acquire authorization from the Tuxedo Park Village Board prior to undertaking any project and shall be responsible to the Village Board for its duties and actions. The duties of the Tree Board shall include, but not be limited to, the following:

- A. Promote the responsible planting of trees on public and private property.
- B. Promoting public education about trees.
- C. Promoting proper tree maintenance.
- D. Advocating trees within the Village of Tuxedo Park.
- E. Providing for aesthetics within the Village of Tuxedo Park through the formulation and implementation of tree programs.
- F. Developing programs and projects while working with other community groups to enhance Village beautification.
- G. Developing innovative and joint funding for tree projects from a variety of sources.
- H. Providing the Mayor and Village Board with a twice yearly report regarding Tree Board activities. The first in February of each year and the second at the direction of the Tree Board or Village Board.
- I. Develop, maintain and provide a tree standard manual for proper tree planting, maintenance and care of trees and wooded plants, by development of landscaping and/or tree ordinances within the Village, as well as reviewing project plans for compliance with said ordinances as requested by Village staff.

§ 90-7. Tree City USA.

By adopting this chapter, Village of Tuxedo Park agrees to maintain the status of Tree City USA Program by meeting the four standard requirements:

- A. Establish a Tree Board or department.
- B. Establish a Tree Care Local Law.
- C. Provide a community forestry program with an annual budget of at least \$2 per capita.
- D. Support Arbor Day by observance and a proclamation.

§ 90-8. Severability.

If any section, sentence, clause or phrase of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this chapter.

TOWERS AND WRECKERS

Chapter 91

TOWERS AND WRECKERS

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Abandoned vehicles — See Ch. 93.

Access to Village — See Ch. 25.

Vehicles and traffic regulations — See Ch. 94.

§ 91-1. Procedure for summoning tow service.

A licensed tower performing towing service for the Village or called by a police officer shall perform on a rotating basis. When the owner or driver of a disabled vehicle indicates a choice of a specific licensee, that licensee shall be called, and no wrecker shall be assigned from the rotating list. No licensee shall respond to the scene of an accident except upon notification by the police officer in charge in police headquarters or upon request of the driver or owner of a disabled vehicle.

§ 91-2. Disabled vehicles not involved in accidents; impoundment.

Motor vehicles not involved in accidents but which are otherwise disabled and which are disrupting the flow of traffic and whose owners do not otherwise request assistance from a licensee, or motor vehicles which are to be impounded for other reasons, shall be towed away by licensees from the nonaccident roster on a rotating basis. All vehicles directed to be impounded by a police officer will be towed to the place of impoundment designated by the police officer.

§ 91-3. Right of owner to call wrecker; time limit for removal of vehicle.

Nothing in this chapter shall prevent the owner, lessee, agent or driver of a vehicle which is disabled from calling a wrecker of his choice to remove his vehicle; provided, however, that such vehicle is removed within 24 hours.

§ 91-4. Police power to remove vehicles.⁵⁵

The Police Department shall have the power to require wreckers to remove vehicles where:

- A. There is obstruction of a public right-of-way or private property.
- B. A vehicle has been vandalized or presents a fire or safety hazard or an attractive nuisance.
- C. A vehicle is parked on any road or street during snow removal operations.

^{55-52.} Editor's Note: See also Ch. 94, Vehicles and Traffic, § 94-24, for removal of vehicles parked or abandoned on highways.

Chapter 93**VEHICLES, ABANDONED AND JUNKED**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park at time of adoption of Code 2-21-1990 by L.L. No. 1-1990; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Vehicles abandoned on highways — See Ch. 94.

Property maintenance generally — See Ch. 75.

Outdoor storage of vehicles — See Ch. 100, § 100-15.

Towers and wreckers — See 91.

§ 93-1. Title.

This chapter shall be known as and entitled the "Abandoned and Junk Vehicles Local Law of the Village of Tuxedo Park."

§ 93-2. Purpose.

The outdoor storage of abandoned, junked, discarded or unregistered vehicles on privately owned property within the Village of Tuxedo Park is detrimental to the health, safety and general welfare of the community and constitutes a detriment to a clean, wholesome, safe and attractive environment that is important to the community. The storage of such vehicles endangers the person and property of members of the community and constitutes a potential nuisance to the children of the community. The fuel tanks of abandoned or junk vehicles contain gasoline or petroleum fumes and constitute an everpresent danger of explosion. Abandoned or junk vehicles often contain broken glass and sharp metal edges and usually are stored or abandoned with batteries containing harmful acids. The control of the outdoor storage of abandoned or junk vehicles on privately owned property in the Village is therefor regulated for the preservation of the health, safety and general welfare of the community.

§ 93-3. Definitions.

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

ABANDONED VEHICLE — The intent of the owner of a vehicle not to use it on the public **roads and streets highways** or as a conveyance in the manner for which said vehicle was originally designed shall establish it as abandoned. The intent of the owner shall be determined by the physical condition of the vehicle, any statements as to its abandonment, the length of time since the vehicle was last used, whether the vehicle is currently registered and other relevant facts.

DISCARDED VEHICLE — Any vehicle which the owner thereof, as established by the surrounding circumstances, does not intend to recover the possession of, or any vehicle the owner of which cannot be found after due and reasonable inquiry.

JUNK VEHICLE — Any vehicle in such condition as to cost more to repair and place the same in operating condition than the reasonable market value before such repair.

PREMISES OR PROPERTY — Includes all parcels of real property privately owned, situated in the Village of Tuxedo Park, whether occupied or vacant.

OWNER OF VEHICLE — Any person, firm, corporation or association having the property in or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person and including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

UNREGISTERED VEHICLE — Any vehicle which may be registered with the State of New York and is not currently registered. The fact that a vehicle which may be registered with the State of New York does not display a current license plate or displays an expired license plate shall be presumptive evidence of the fact that such motor vehicle is not currently registered.

VEHICLE — Every motor vehicle or other conveyance originally designed and intended to be operated, drawn or driven or capable of being operated, drawn or driven upon a public highway by any power other than muscular power, together with all conveyances popularly referred to as "snowmobiles," "all-terrain vehicles" and "jitneys," as well as any other substantially rebuilt, modified or altered motor vehicles. For the purpose of this chapter, the term "motor vehicle" shall include but not be limited to automobiles, trucks, buses, motorcycles and trailers.

§ 93-4. Outdoor storage on private property prohibited.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of property within the Village of Tuxedo Park, to store or deposit or cause or permit to be stored or deposited an unregistered, abandoned, junk or discarded vehicle, or part or piece thereof, on any private property within the Village unless:

- A. Such vehicle is not visible from any public road or neighboring properties; or
- B. Such vehicle is under repair, reconstruction or refurbishing by the owner thereof, who must actually be residing upon the premises. Such vehicle must be maintained and protected so as not to create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises for more than one month.

§ 93-5. Notice to remove; procedure for removal.

Any vehicle that is deemed abandoned, junk, discarded or unregistered, as defined in this chapter, may be removed from the premises on which it is located by the Village of Tuxedo Park in the manner hereinafter provided:

- A. The Building Inspector or a police officer, upon detecting an abandoned, junk, discarded or unregistered vehicle, shall serve written notice on the person owning the premises on which the same is located ordering such person to remove the same or cause the same to be removed therefrom within 10 days of the date of such service or to file written notification that the vehicle has been abandoned on his property by another. Such notice shall also contain a description of the premises, a statement as to the location thereon of the vehicle, reference to this chapter and to the fact that the location of such vehicle on such premises is in violation of this chapter. If such premises is owned by more than one person, personal service on any one of such owners shall suffice; however, as to any owner not personally served with such notice, or if no owner can be located upon whom to make personal service, the Building Inspector or police officer shall mail such notice to owners not personally served, or to the owner and to all the owners if no owner was personally served, by registered mail to their or his last known address as shown on the latest completed assessment roll of the Village. In

addition, such Building Inspector or police officer shall post conspicuously a copy of such notice on the premises upon which such vehicle is located.

- B. At the expiration of 10 days after the service or mailing and posting of such notice, if such abandoned, junk, discarded or unregistered vehicle has not been removed or if the property owner has not, in writing, informed the Building Inspector or police officer that the vehicle was abandoned on his property by another, the Building Inspector or police officer shall report such fact to the Village Board in writing. Such report shall recite the violation, the notices given as required hereunder and the failure to comply therewith and may include or refer to photographs of such vehicle and of the premises upon which it is located. Such report shall be entered in the official minutes of the Village Board by the Village Clerk, and any such photographs shall be filed in the Village Clerk's office. The Village Board shall thereafter hold a public hearing upon 10 days' prior notice published in the official newspaper of the Village and posted on the signboard of the Village. Such notice of hearing shall include a statement that the purposes of the hearing are to give the property owner where the vehicle is located and the person owning such vehicle an opportunity to be heard as to why the same has not been removed and also for the Village Board to receive proposals for the removal of such vehicle.
- C. After the hearing, the Village Board may contract for the removal of such abandoned, junk, discarded or unregistered vehicle. Any expense to the Village in accomplishing such removal may be assessed by the Village Board on the real property from which such vehicle was removed, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as other Village charges.
- D. Upon notification from the property owner, within the ten-day period, that the abandoned, junk, discarded or unregistered vehicle was abandoned on his property by another, the Building Inspector or police officer shall make an inquiry in an attempt to identify the last registered owner of the vehicle so that said vehicle owner can be joined in all subsequent proceedings as set forth herein:
 - (1) For a vehicle with plate numbers affixed, to the jurisdiction which issued the number plates.
 - (2) For a vehicle with no number plates affixed, to the Department of Motor Vehicles.
- E. Following identification of the last owner of the vehicle, the Building Inspector or police officer shall report in writing to the Village Board describing the location of the vehicle along with information identifying the last registered owner, who shall be sent a written notice, as set forth hereinabove, by certified mail, to his last known postal address.
- F. The Village Board shall thereafter hold a public hearing upon 10 days' prior notice published in the official newspaper of the Village and posted on the signboard of the Village. Such notice of hearing shall include a statement that the purposes of the hearing are to give the person identified as the last registered owner, as well as the property owner where the vehicle is located, an opportunity to be heard as to why they should not be charged directly or as a lien and charge against the property for removal of said vehicle and also for the Village Board to receive proposals for the removal of such vehicle.
- G. The cost of removal of the vehicle shall not become a charge against the property owner, as set forth in Subsection C hereinabove, if the Building Inspector or police officer has:
 - (1) Received proper notification from the property owner within the ten-day period set forth in Subsection A hereinabove that the vehicle was abandoned on his property by another without his knowledge and/or consent; and

- (2) Been unable to identify the last registered owner.

TUXEDO PARK CODE

Chapter 94

VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 12-21-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Use of restricted roads — See Ch. 25.

Towers and wreckers — See Ch. 91.

Transportation of hazardous substances — See Ch. 60.

Abandoned or junked vehicles — See Ch. 93.

Parking near lakes and ponds — Ch. 65.

Parking of certain vehicles — See Ch. 100, § 100-15.

Streets and sidewalks — See Ch. 83.

ARTICLE I
General Provisions

§ 94-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purposes 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 the purposes of this chapter:

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

HOLIDAYS — New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

OFFICIAL TIME STANDARD — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 94-2. Authority to install traffic control devices.

The Department of Public Works shall install and maintain traffic control devices when and as required under the provisions of this chapter, to make effective the provisions of this chapter, and may install and maintain such additional traffic control devices as 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.

§ 94-3. Schedules; adoption of regulations.

- A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.
- B. Regulations shall be adopted by the Board of Trustees in accordance with provisions of the Village Law and the Vehicle and Traffic Law or by an officer or agency authorized by the Board of Trustees to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

ARTICLE II Traffic Regulations

§ 94-4. Use of roads by certain nonmotorized vehicles and horses.

With the exception of conventional two-wheeled bicycles, horses and horse-drawn vehicles, all nonmotorized forms of transport are prohibited from all Village roads. Such prohibited vehicles include those devices commonly known as skateboards, scooters, carts, "soapbox" racers, sleds, sleighs, skates and skis and any other device that, in the opinion of the Chief of Police, ~~Mayor or~~ Board of Trustees, may interfere with normal road traffic. Exceptions may be authorized on a per-case basis by the Chief of Police, ~~Mayor or~~ Board of Trustees.

§ 94-5. Use of roads by ~~motorized vehicles heavy or extra-wide vehicles, buses or trucks; access.~~

- A. No ~~(i) All Terrain Vehicles (ATV's), (ii)~~ tracked vehicles, tractor-trailers, dumptrucks, ~~buses,~~ earthmoving equipment or vehicles over 10 tons gross vehicle weight (GVW) or more than 12 feet in overall height or eight feet in overall width or 30 feet in length shall be permitted on any Village road unless previously authorized by the Chief of Police, ~~Mayor,~~ Board of Trustees or Public Works Superintendent.
- B. Vehicles of more than two axles or with more than four road wheels and having an authorized purpose to operate within the Village may do so only on Monday through Friday between 8:00 a.m. and 4:30 p.m. Friday hours will be 8:00 a.m. to 1:00 p.m. from Memorial Day to Labor Day. No such vehicles shall be operated within the Village on any other day or hour or any New York State recognized holiday. A maximum of up to eight deliveries per authorized day shall be permitted to any one property, work site, or building project.⁵⁶ [Amended 4-24-2004 by L.L. No. 1-2004]
- C. The Village, through ~~its its Mayor,~~ Police Chief and Public Works Superintendent, reserves the right to deny road access or to halt any bus, truck or heavy equipment operating on its roads or upon private property when deemed detrimental to the general health, safety, welfare or tranquility of the community.⁵⁷
- D. School buses, vehicles owned and operated by the Village, utility-company vehicles making emergency repairs and authorized garbage collection vehicles operating under a permit issued by the Board of Trustees⁵⁸ are exempt from these restrictions. Other exceptions may be granted by the ~~Mayor,~~ Police Chief or Board of Trustees upon prior written request by the vehicle owner or operator.

§ 94-6. Traffic control signals and devices.

- A. Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (§ 94-31A), attached to and made a part of this chapter.
- B. Traffic control devices shall be installed and operated at the locations described in Schedule I (§ 94-31B), attached to and made a part of this chapter, and all vehicles shall come to a full stop at such traffic control devices.

§ 94-7. Speed limits. [Amended 1-15-2025 by L.L. No. 1-2025]

The maximum speed at which vehicles may proceed on or along any streets or highways within the Village

^{56,53.} Editor's Note: See also Ch. 70, Peace and Good Order, § 70-6.

^{57,54.} Editor's Note: See also Ch. 25, Access to Village.

^{58,55.} Editor's Note: See also Ch. 58, Garbage, Rubbish and Refuse, Art. IV.

is hereby established at 25 miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule II (§ 94-32) shall be as indicated in said schedule.

§ 94-8. One-way streets.

The streets or parts of streets described in Schedule III (§ 94-33), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

§ 94-9. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule IV (§ 94-34), attached to and made a part of this chapter.

§ 94-10. Prohibited turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule V (§ 94-35), attached to and made a part of this chapter.

§ 94-11. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule VI (§ 94-36), attached to and made a part of this chapter.

§ 94-12. Stop intersections.

The intersections described in Schedule VII (§ 94-37), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 94-13. Yield intersections.

The intersections described in Schedule VIII (§ 94-38), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 94-14. Licensed Drivers.

Only licensed or properly permitted drivers shall be permitted to operate motorized vehicles on Village roads.

ARTICLE III
Parking, Standing and Stopping

§ 94-1~~54~~. 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.

§ 94-1~~65~~. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule IX (§ 94-39), attached to and made a part of this chapter.

§ 94-1~~76~~. No stopping.

No person shall stop a vehicle upon any of the streets or parts of streets described in Schedule X (§ 94-40), attached to and made a part of this chapter.

§ 94-1~~87~~. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule XI (§ 94-41), attached to and made a part of this chapter.

§ 94-1~~98~~. Parking prohibited certain hours.

No person shall park a vehicle between the hours specified in Schedule XII (§ 94-42) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XII, attached to and made a part of this chapter.

§ 94-2~~019~~. No stopping certain hours.

No person shall stop a vehicle during the times specified in Schedule XIII (§ 94-43) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XIII, attached to and made a part of this chapter.

§ 94-2~~10~~. No standing certain hours.

No person shall stand a vehicle during the times specified in Schedule XIV (§ 94-44) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XIV, attached to and made a part of this chapter.

§ 94-2~~21~~. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XV (§ 94-45) at any time between the hours listed in said Schedule XV of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule XV, attached to and made a part of this chapter.

§ 94-2~~32~~. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XVI (§ 94-46) except at the angle designated and only within the painted stall lines. On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked

with the front thereof nearest the curb.

§ 94-2~~4~~3. Loading zones.

The locations described in Schedule XVII (§ 94-47), attached to and made a part of this chapter, are hereby designated as loading zones.

ARTICLE IV

Removal and Storage of Vehicles**§ 94-2~~5~~4. Authority to impound vehicles.**

- A. When any vehicle is parked or abandoned on any highway, street or public parking lot within this Village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Chief of Police.⁵⁹
- B. When any vehicle is found unattended on any highway, street or public parking lot within the Village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Chief of Police.

§ 94-2~~6~~5. Storage and charges.

After removal of any vehicle as provided in this article, the Chief of Police may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom stored of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.

§ 94-2~~7~~6. Notice of removal.

It shall be the duty of the Chief of Police to ascertain to the extent possible the owner of the vehicle or the person having the same in charge, and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same. Said Chief of Police shall also without delay report the removal and disposition of any vehicle removed as provided in this article to the Village Clerk.

^{59-56.} Editor's Note: For removal of abandoned vehicles from private property, see Ch. 93, Vehicles, Abandoned and Junked.

ARTICLE V
Miscellaneous Provisions

§ 94-287. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

§ 94-298. When effective.

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York, this chapter and any regulations adopted hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any regulations adopted hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

~~§ 94-29. (Reserved)~~

~~§ 94-30. (Reserved)~~

ARTICLE VI
Schedules

{NTD VILLAGE BOARD: We recommend that these schedules are reviewed by the appropriate authorities}

§ 94-31. Schedule I: Traffic Control Signals and Devices.

- A. Signals. In accordance with the provisions of § 94-6A, traffic control signals shall be installed at the following described intersections:

Intersection

(Reserved)

- B. Devices. In accordance with the provisions of § 94-6B, traffic control devices shall be installed at the following locations:

- (1) Main Gate.
- (2) South Gate.

§ 94-32. Schedule II: Speed Limits.

In accordance with the provisions of § 94-7, speed limits other than ~~25~~³⁰ miles per hour are established as indicated upon the following streets or parts of streets:

Name of Street	Speed Limit (mph)	Location
(Reserved)		

§ 94-33. Schedule III: One-Way Streets.

In accordance with the provisions of § 94-8, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Clubhouse Roa	East	From Tower Hill Road to East Lake Stable Road
Continental Road	North	From Tower Hill Loop to Clubhouse Road

§ 94-34. Schedule IV: U-Turn Prohibitions.

In accordance with the provisions of § 94-9, no person shall make a U-turn at any of the following locations:

Name of Street	Location
(Reserved)	

§ 94-35. Schedule V: Prohibited Turns at Intersections.

In accordance with the provisions of § 94-10, no person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
(Reserved)				

§ 94-36. Schedule VI: Prohibited Right Turns on Red Signal.

In accordance with the provisions of § 94-11, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

Name of Street	Direction of Travel	Prohibited Right Turn on Red Signal Onto
(Reserved)		

§ 94-37. Schedule VII: Stop Intersections.

In accordance with the provisions of § 94-12, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign on	Direction of Travel	At Intersection of
Circuit Road	East	Clubhouse Road
Clubhouse Road	South	Tuxedo Road
Clubhouse Road	South	West Lake Road
Continental Road	North	Laurel Road
East Lake Road	North	Tuxedo Road
East Lake Stable Road	East	Clubhouse Road
East Lake Stable Road	South	Tuxedo Road
Fox Hill Road	East	Tuxedo Road
Laurel Road	South	Continental Road
Lookout Road	East	Circuit Road
Lorillard Road	South	Wee Wah Road
Lorillard Road	South	West Lake Road
Mountain Farm Road	East	West Lake Road
Pine Road	East	Tuxedo Road
Ridge Road	South	East Lake Road

Stop Sign on	Direction of Travel	At Intersection of
Tower Hill Road	South	Tuxedo Road
West Lake Stable Road	South	West Lake Road

§ 94-38. Schedule VIII: Yield Intersections.

In accordance with the provisions of § 94-13, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on	Direction of Travel	At Intersection of
East Lake Road	East	Tuxedo Road
East Lake Road	Both	West Lake Road
East Lake Road	South	Ridge Road
Crows Nest Road	North	East Lake Road
Pine Hill Road	East	Ridge Road
Switchback Road	Both	Pine Road
Turtle Point Road	Both	West Lake Road
West Lake Road	North	Clubhouse Road
West Lake Stable Road	South	Ontio Road

§ 94-39. Schedule IX: Parking Prohibited at All Times.⁶⁰

In accordance with the provisions of § 94-15, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Continental Road	Both	At any location used for the purpose of access to the lakes
East Lake Road	Both	At any location used for the purpose of access to the lakes
Lorillard Road	Both	At any location used for the purpose of access to the lakes
Wee Wah Road	Both	At any location used for the purpose of access to the lakes
West Lake Road	Both	At any location used for the purpose of access to the lakes
West Lake Stable Road	Both	At any location used for the purpose of access to the lakes

^{60-57.} Editor's Note: See also Ch. 65, Ponds and Lakes, § 65-7A.

§ 94-40. Schedule X: No Stopping.

In accordance with the provisions of § 94-16, no person shall stop a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
(Reserved)		

§ 94-41. Schedule XI: No Standing.⁶¹

In accordance with the provisions of § 94-17, no person shall stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Continental Road	Both	At any location used for the purpose of access to the lakes
East Lake Road	Both	At any location used for the purpose of access to the lakes
Lorillard Road	Both	At any location used for the purpose of access to the lakes
Wee Wah Road	Both	At any location used for the purpose of access to the lakes
West Lake Road	Both	At any location used for the purpose of access to the lakes
West Lake Stable Road	Both	At any location used for the purpose of access to the lakes

§ 94-42. Schedule XII: Parking Prohibited Certain Hours.

In accordance with the provisions of § 94-18, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 94-43. Schedule XIII: No Stopping Certain Hours.

In accordance with the provisions of § 94-19, no person shall stop a vehicle between the times specified upon any of the following described streets or parts of streets:

^{61-58.} Editor's Note: See also Ch. 65, Ponds and Lakes, § 65-7A.

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 94-44. Schedule XIV: No Standing Certain Hours.

In accordance with the provisions of § 94-20, no person shall stand a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
(Reserved)			

§ 94-45. Schedule XV: Time Limit Parking.

In accordance with the provisions of § 94-21, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

Name of Street	Side	Time Limit; Hours/ Days	Location
(Reserved)			

§ 94-46. Schedule XVI: Angle Parking.

In accordance with the provisions of § 94-22, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

Name of Street	Side	Angle (degrees)	Location
(Reserved)			

§ 94-47. Schedule XVII: Loading Zones.

In accordance with the provisions of § 94-23, the following described locations are hereby designated as loading zones:

Name of Street	Side	Location
(Reserved)		

TUXEDO PARK CODE

Chapter 97

WATER

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

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Sewers — See Ch. 78.

Fire hydrants — See Ch. 53, Art. III.

Street excavations — See Ch. 83.

Lakes and ponds — See Ch. 65.

Water tanks — See Ch. 87.

Permits generally — See Ch. 73.

ARTICLE I
Water Service

§ 97-1. Management and control of water system.

- A. The management of the water system of the Village of Tuxedo Park shall be under the supervision and control of the Board of Trustees.
- B. No person shall make or have in existence any attachment to or connection with any of the pipes or mains of the Village, nor make any repairs, additions or alterations to the service pipes, except on the consumer's side of the meter, without prior written notice to and approval by the Board of Trustees, and no pipes shall be covered until said repairs, additions or alterations have been inspected and approved by a representative of the Village.
- C. All persons who hereafter make applications for water service or who continue the use of the water service after the taking effect of this chapter will be deemed to have assented thereto and to have agreed to conform to the provisions of this chapter and to pay the water rents hereby established.

§ 97-2. Service connections.

- A. Application for water service.
 - (1) Application for water service shall be made to the Village by the property owner or his authorized representative on the application form supplied for such purpose by the Village. The fee for the tapping of the water main shall be paid at the time of filing the application and shall be in an amount set by resolution of the Board of Trustees.
 - (2) For three-fourths-inch to two-inch connections, all taps and connection to the main shall be made by the Village at the standard fee set by the Board of Trustees. Connections over two inches in size and connections to service subdivisions shall be made by the Village at a cost to the applicant determined by the Board of Trustees, or such connections may be made by the applicant or his representative at his own expense. All such connections, however, shall be of the material and type specified by the Village, and all installations shall be made subject to supervision and approval by the Village.
 - (3) Water required for construction or other temporary purposes shall only be used after written application to the Board of Trustees for permission to use the same, and the Board shall have the right and power to fix such terms as the Board may deem proper for such temporary use.
- B. Service pipes and mains.
 - (1) Service pipe from the curb cock to the meter shall be laid at least four feet below the ground at all points and shall be of Type K copper tubing with no soldered joints permitted underground. The size of any service pipe hereafter installed shall be 3/4 inch to two inches in diameter. Any other size must be approved by the Board of Trustees. It shall be the responsibility of the consumer or his representative to dig and install the service line to the water main.
 - (2) No T or other fitting through which water can be taken will be permitted on the service pipe between the main and the meter.
 - (3) No branch will be allowed to be inserted in any service pipe without a written permit from the Village. Where branches already exist not provided with stop- or curb cocks, in case of default in payment of water rent by any one customer, the main service may be cut off until the back

charges are paid, and the Village shall not be liable for damages to any other customer who may thus be deprived of water.

- (4) In the event that a change in ground elevation leaves a service pipe insufficiently buried, the consumer shall promptly lower his service pipe or take other corrective action to conform to the new ground elevation. In case the consumer fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed, and a charge will be made to cover the labor and expense to the Village resulting from the consumer's failure to do so.
- C. Inspection. No material shall be removed from or placed over existing water mains and service lines without Village inspection and approval.
- D. Curb stops and curb boxes. All curb stops and curb boxes, including valves and valve boxes on connections, will be subject to the control of the Village and will be kept accessible to the Village and its authorized employees at all times.
- E. Cross-connections to other sources. No pipe or fixture connected with the mains of the Village shall be connected with pipes or fixtures supplied with water from any other source or with any apparatus which may endanger the quality of the Village water supply.

§ 97-3. Metered service.

- A. Furnishing of meters; maintenance, repair and testing.
 - (1) The Village shall furnish five-eighth-inch, three-fourth-inch and one-inch meters with nipples. Larger sizes shall be provided by the consumer and shall be of a size, type and make approved by the Village. Installation of all meters and couplings shall be the responsibility of the consumer.
 - (2) The Village shall maintain, repair and test all meters when necessary. On meters larger than two inches, all maintenance, repairs and testing shall be done by or at the expense of the consumer. In case of any question as to maintenance, repair or testing, the Village's decision shall be final.
- B. Meter installation.
 - (1) The consumer or his representative shall install a shutoff valve on the street side of the meter and shall install a shutoff valve in the house before and after the meter. Meter connections have male threads and plumbing must be designed so as to receive the meter.
 - (2) The Village will maintain all meters up to and including two inches in size insofar as ordinary wear and tear is concerned. However, in case of damage by freezing, hot water or external damage, the consumer will be liable for the cost of the repairs. The Village recommends the installation of suitable equipment, properly located and installed, to prevent backflow of hot water which may cause damage to the meter or damage to the consumer's plumbing.
- C. Location and reading of meters.
 - (1) The consumer shall provide a place acceptable to the Village for the location of the meter. Meters shall be accessible for inspection and reading by the Village's authorized representative, at any reasonable hour. The Village shall not be responsible for abnormally high meter readings from meter failure if it has not been possible to gain access to the meter for reading on a quarterly basis.

- (2) Outdoor meter pits may be installed in special cases on written approval of the Village. Such meter pits must be installed in accordance with Village specifications and at the expense of the property owner. Any consumer wishing to install an outdoor water meter reader may do so upon approval of the Board of Trustees and at the expense of the property owner.
- D. Right to remove and test meters. The Village reserves the right to remove and test meters and to substitute another meter in its place.
- E. Testing of meters.
 - (1) The Village will test its meters in accordance with the prevailing rules of the Village of Tuxedo Park. In case of a disputed account involving the accuracy of a meter, the Village will test the meter upon the request of the consumer. A fee for such test, in an amount set by resolution of the Board, shall be payable in advance of the test.
 - (2) In the event that the meter is found to overregister in excess of 2% at any flow within the normal test flow limits, the fee will be returned to the consumer; otherwise, it will be retained by the Village. In case a meter is found to overregister or underregister, proper adjustment will be made.

§ 97-4. Responsibility for maintenance and repair.

- A. The consumer shall protect all service pipes, meters and appurtenances from damage by frost or freezing.
- B. The owners of premises into which water is introduced by a service pipe shall be required to maintain in perfect order and repair, at the owner's expense, the said service pipe and its fixtures and appurtenances from the curb box to and into the premises.
- C. The consumer shall notify the Village promptly of any leak, defeat or damage affecting the service pipe between the property line and the point where metered.
- D. The Village's responsibility for repair, replacement or maintenance of service lines shall not go beyond the curb cock or shutoff valve nearest the outer perimeter of the property in question nor shall the Village be responsible for the repair, replacement or maintenance of any shutoff valves within any privately owned buildings. In cases where strict compliance with these regulations would create undue or extreme hardship, the Board of Trustees may, at its discretion, vary the limits of responsibility of the Village on a case-by-case basis.
- E. No gate valve located on any consumer's property shall be covered over with any material.

§ 97-5. Village rights and liability.

- A. The Village or its authorized agents shall have full power to enter premises of any consumer at all reasonable hours to install meters, read meters and examine the fixtures, plumbing and manner of using water and to maintain meters, boxes and valves under Village control.
- B. The Village reserves the right to limit the amount of water furnished any consumer should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use; or said Village may entirely shut off the water supply used for any manufacturing purposes or for furnishing power or for lawn sprinkling, car washing, outside use or as otherwise adopted by regulation of the Board of Trustees, at any time, by giving reasonable notice of such intended action, or in the case of making or constructing new work or in making repairs or in

emergency, the right is reserved to shut off water from any consumer without notice for as long a period as necessary.

- C. The Village shall not be liable for any damage or loss of any name or kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever.
- D. The right is reserved to amend this chapter and make contracts in all proper cases. The Village undertakes to use reasonable care and diligence to provide a constant supply of water at a reasonable pressure but reserves the right, at any time, after due notice (unless an emergency occurs), to turn off the water supply in case of extensions, repairs, suspected contaminants in water mains or other necessity, without liability for damages for lack of water or for any damage which may result from the turning off of the water supply.
- E. Whenever any of the provisions of this chapter are violated, the water supply may, in the discretion of the Village, be shut off and the meter removed.

§ 97-6. Opening of fire hydrants.

- A. No person shall open, interfere with or draw water from any fire hydrant in the Village without a written permit from the Village therefor, except that hydrants may be opened by or on order of any member of a Fire Department within the Tuxedo Fire District in case of fire for the purpose of attaching thereto fire hose and equipment.
- B. Whenever a hydrant has been opened and used, notification of such fact shall be promptly given to the Village.
- C. No tools or implements shall be used to open hydrants except such as are furnished by the Village or Fire Department.

§ 97-7. Payment for water service.

- A. Nonregistering meters.
 - (1) The reading of a duly installed meter, showing the amount of water consumed, shall be used for all billing purposes except when it appears that the meter has ceased to register or has registered inaccurately.
 - (2) In cases where it is found that a meter has ceased to register or has registered inaccurately and it cannot be determined by reasonable test the percentage of inaccuracy, an estimated bill for the billing period may be rendered to the consumer. This estimated bill will be based upon the amount of water consumed in the corresponding period in prior years, except where it appears that there has been a change in occupancy of the premises or in the use of water, in which case an equitable adjustment shall be made.
- B. Change of occupancy. The consumer shall notify the Village in writing of any change in ownership. No adjustment of bills between owners will be made by the Village unless due notice has been given to the Village prior to the mailing of the bill.
- C. Discontinuance at written notice of consumer. Any consumer may discontinue water service by giving the Village written notice not less than 10 days prior to the date of discontinuance. All liability for service charges rendered after the discontinuance date shall cease. The fee to discontinue water service shall be in an amount set by resolution of the Board.

- D. Restoration of service charge. When water service has been discontinued on written order of the consumer or for violation of these rules, and service is again desired by the same consumer, a charge will be made for reconnection, in an amount set by resolution of the Board of Trustees.

§ 97-8. Water rents and charges; water bills.

- A. The water rents and schedule of charges for water shall be in such amounts as the Board of Trustees may establish from time to time by resolution of the Board at a regular meeting thereof. Said schedule of rates and charges shall be posted in the office of the Village Clerk and may reflect a different rate for consumers situated inside the Village and outside the Village.
- B. All bills are payable quarterly. If not paid within 30 days after rendition, a penalty of 10% will be added.
- C. Water rents and charges and penalties thereon shall be a lien upon the real property upon which the water is used and may be collected in accordance with § 11-1118 of the New York State Village Law.
- D. All water charges to consumers outside of the Village must be paid in full within 30 days from the invoice date or water service will be discontinued, and service will not be resumed until approved by the Board of Trustees.
- E. Water billing regulations.
- (1) The Board of Trustees of the Village of Tuxedo Park, in all cases where water service is provided by the Village to persons other than a property owner, shall hold the property owner liable for the payment of water rents and for observation of Village regulations regarding the use of the water system.
 - (2) Water bills shall be rendered to property owners unless a property owner shall make written application to the Village requesting that water bills be rendered directly to a tenant or other persons occupying the property owner's premises. Such application shall contain a statement that the property owner will assume responsibility for the payment of all such bills and that he will pay in full to the Village any amounts and penalties which remain unpaid.
 - (3) In regard to the installation of water meters, it shall be the policy of the Village to install not more than one meter for each service connection to the main, regardless of the family units served by that connection, unless the Village shall receive a written application as above described from the property owner.

§ 97-9. Discontinuation of service for violations.

Water service may be discontinued for any one of the following reasons:

- A. For use of water other than as represented in the application or through branch connections on the street side of the meter or place reserved therefor.
- B. For willful waste or use of water through improper and imperfect pipe and fixtures (including service pipe) or by any other means.
- C. For molesting or tampering with any main or service pipe, seal, meter or any other appliance owned by the Village.
- D. For cross-connecting pipes carrying water supplied by the Village with any other source of supply or

with any apparatus which may endanger the quality of the water supply.

- E. For refusal of reasonable access to the property for the purpose of inspection or for reading, repairing, testing or removing a meter.
- F. For failure to pay any water bill within 30 days after rendition.
- G. For refusal of reasonable access to any consumer's property for the Village to repair or replace water mains and laterals.

§ 97-10. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction, be guilty of a violation, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment

ARTICLE II

Wells**§ 97-11. Connection to Village system required.**

It shall be the property owner's obligation to obtain appropriate approvals, extend water mains and connect into the Village water system. In cases of extreme hardship, the applicant may propose an alternate water supply system, including a well, for review by the Village, Orange County Health Department and Department of Environmental Conservation.

§ 97-12. Legislative findings.

The use of wells for domestic water supply presents concerns regarding adequate water pressure, volume, quality and consistency. In addition, wells are generally inadequate for fire fighting, and their proliferation may cause aquifer depletion.

§ 97-13. Use of wells restricted.

Wells may be permitted in cases where they constitute a backup system to municipal water or where the well is used solely for nonpotable purposes such as lawn watering and car washing. In this instance, the applicant, as a part of his proposal, must demonstrate that his well will not adversely affect his neighbor's water supply and that the well and municipal systems are thoroughly separate and isolated.

§ 97-14. Existing wells exempt.

Those wells that are legally operational and those for which drilling has legally begun at the date of this Article shall be permitted to continue. All others shall be prohibited or require an approval as specified above.

~~ARTICLE III~~
~~Watershed Protection~~

~~§ 97-15. Authority to protect.~~

- ~~A. Much of the Village is watershed property whose runoff enters the main reservoir (Tuxedo Lake) and the two secondary reservoirs. Therefore, the Board of Trustees shall have authority to halt, ban, alter or intercede in any activities which may adversely affect lake ecology and/or water quality.~~
- ~~B. Such activities as the use of fertilizers, herbicides, pesticides, road salt and other deicers, asphalt or tar, the deposit or dumping of garbage, organic matter or waste products and all other potentially contaminating conditions shall be subject to regulation by the Board of Trustees.~~

TUXEDO PARK CODE

Chapter 100

ZONING

[HISTORY Adopted by the Board of Trustees of the Village of Tuxedo Park 2-18-1987 by L.L. No. 1-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Use of restricted roads — See Ch. 25.

Building construction — See Ch. 36.

Clearing, filling, grading and excavation — See Ch. 40.

Environmental quality review — See Ch. 47.

Necessity of fire hydrants — See Ch. 53, Art. III.

Permits generally — See Ch. 73.

Subdivision of land — See Ch. 85.

Storage — See Ch. 87.

Abandoned or junked vehicles — See Ch. 93.

ARTICLE I
General Provisions

§ 100-1. Short title.

This chapter shall be known and may be cited as the "Zoning Law of the Village of Tuxedo Park."

§ 100-2. Definitions.

Unless otherwise expressly stated, the following words shall, for the purpose of this chapter, be interpreted or defined as herein indicated:

A. Word usage.

- (1) Words used in the present tense shall include the future tense; the singular number includes the plural and the plural the singular.
- (2) The word "shall" is always mandatory.
- (3) The word "person" includes a corporation, association, partnership, estate, trust and personal representative of a decedent, as well as an individual.
- (4) The words "built" or "constructed" shall be construed to include "erected, altered, converted, enlarged and reconstructed."
- (5) 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."

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

ACCESSORY BUILDING — A building which is subordinate and accessory to the principal building or use and is used for purposes customarily incidental to those of the principal building or use, including but not limited to a private boathouse, dock, private garage, carport, shed, corral, private ring or stable, swimming pool and appurtenant bathhouse, cabana, terrace or deck, toolhouse, children's playhouse, tennis court or platform tennis, racquetball or similar game court or private greenhouse.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use of the land or building.

ADVERTISE — Advertise shall mean any form of communication for marketing that is used to encourage, persuade or manipulate viewers, readers or listeners into contracting for goods and/or services as may be viewed through various media including but not limited to, newspapers, magazines, flyers, handbills, television commercials, radio, signage, direct mail, websites or text messages.**[Added 6-20-2018 by L.L. No. 1-2018]**

ALTERATION — A change, rearrangement or demolition of any structural element of a building, including but not limited to walls and partitions, floors, roofs, doors and windows.

BUILDING — Any structural enclosure, including but not limited to a house, garage, cabana, stable, shed, cottage, gazebo, boathouse, greenhouse, folly, animal shelter, playhouse, carport or any remaining part thereof.

BUILDING AREA — The aggregate of the maximum horizontal cross section area of the building on a lot, excluding cornices, eaves, gutters or chimneys projecting not more than 18 inches, steps,

one-story porches, bay windows not extending through more than one story and not projecting more than five feet, balconies and terraces.

BUILDING, HEIGHT OF — The vertical distance measured from the lowest finished grade on the perimeter of the foundation to the highest point of the structure.

BUILDING, PRINCIPAL — A building designed to be used as the main dwelling house or building on the lot.

BUILDING, RESIDENCE — Any house or building which is occupied in whole or in part as a home, residence or sleeping place of one or more persons.**[Amended 12-21-1990 by L.L. No. 1-1990]**

CONVERSION — Any change in the use of a building whether or not it involves physical or structural alterations. This does not preclude physical changes being construed as a conversion.

DWELLING, ONE-FAMILY — A detached building designed for and occupied as a home or residence for not more than one family, as defined herein.

ENVIRONMENTAL ASSESSMENT FORM (EAF) — SEQRA Environmental Assessment Form as referenced in 6 NYCRR Part 617.**[Amended 3-18-2009 by L.L. No. 3-2009]**

FAMILY — Any number of individuals related by blood, marriage or adoption, or not more than three persons who are not so related, living together as a single housekeeping unit, using rooms and housekeeping facilities in common and having such meals as they may eat at home generally prepared and eaten together.

FENCE — A dividing or enclosing or screening structure of rails, pickets, wires, boards, posts, stones or other materials, which structure shall include walls, dikes, trellises, berms, ballustrades, etc.

GARAGE, PRIVATE — A building used for the storage of motor vehicles and the storage of garden machinery and recreational equipment owned and regularly used by or on behalf of the owners or tenant of the lot on which it is erected and for a purpose accessory to the permitted use of the lot.

GROUND FLOOR — The lowest story entirely above the level of the ground in the front of the building.

GUEST — A friend, acquaintance or other individual residing in a household for a temporary period of time not to exceed eight weeks per calendar year whose stay involves no remuneration in money, barter, gift, services, loan or other form of compensation.⁶²**[Amended 12-21-1990 by L.L. No. 1-1990]**

HOME OCCUPATION — An occupation for gain or support conducted only by members of a family residing on the premises and conducted entirely within the dwelling, provided that no article or service is sold or offered for sale except as may be produced by members of the immediate family residing on the premises.

HOUSEKEEPING UNIT — The single home, residence or sleeping place of one or more persons cooking and doing the work of keeping house as a family.

KENNEL — Facilities for caring for four or more dogs.

LOT — A parcel or portion of land occupied or designed to be occupied by one principal building and its accessory buildings or uses customarily incident to it, if any, including such yards or open space uses in connection with such buildings as are required by this chapter, the area of such lot to be measured to the street line only. Premises are included within the definition of the word "lot."

^{62-59.} Editor's Note: The former definition of "home occupation," which immediately followed this definition, was repealed 4-20-2011 by L.L. No. 1-2011.

LOT, CORNER — A parcel of land at the junction of and fronting on two or more intersecting streets.

LOT, DEPTH OF — The mean distance from the street line of the lot to its opposite rear line, measured in the general direction of the side lines of the lot.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINE — Any line dividing one lot from another.

LOT, THROUGH — An interior lot having frontage on two parallel or approximately parallel streets.

LOT, WIDTH OF — The mean width of a lot measured at right angles to its depth.

NET FLOOR AREA — The area enclosed by the inside surface of walls and having headroom of at least six feet six inches, including living, eating, cooking, sleeping, circulation, service, utility and all other related household spaces, but excluding garages, storage areas, carports, parking spaces and areas below the first floor.**[Amended 12-21-1990 by L.L. No. 1-1990]**

NONCONCOMPLYING BUILDING OR STRUCTURE — A building or structure, lawfully existing on February 17, 1987 (the day immediately preceding the effective date of this chapter), or a building or structure lawfully existing on the day immediately preceding the effective date of any amendment to this chapter affecting such building or structure, which does not conform to the building regulations or bulk table restrictions presently applicable in the zoning district in which that building or structure is located, irrespective of the use to which such building or structure is put.**[Amended 6-10-2009 by L.L. No. 5-2009]**

NONCONFORMING USE — Any use of a building or structure, lot or land, or part thereof, lawfully existing on February 17, 1987 (the day immediately preceding the effective date of this chapter), or the use of a building or structure, lot or land, or part thereof, lawfully in existence on the day immediately preceding the effective date of any amendment to this chapter affecting such use, consistently carried on thereafter, which does not conform to the use restrictions presently applicable in the zoning district in which that use is being conducted.**[Amended 6-10-2009 by L.L. No. 5-2009]**

OFFICE — A room or rooms in which a person regularly transacts business and carries on a business or occupation where primary records, files or other data are kept and/or a telephone is used to initiate, conduct or conclude business transactions.

OWNER — Includes, in addition to the person who has title to the land in fee, the occupant or a tenant, an architect or contractor or any individual acting as an agent for the owner, tenant or occupant.**[Amended 12-21-1990 by L.L. No. 1-1990]**

OWNER-PREPARED PLANS — Plans, drawings, sketches, specifications, or other documents submitted in support of an application that are prepared by the Owner (or by an Owner's authorized agent who is not acting as a licensed design professional for the project) and that depict existing and proposed conditions with sufficient clarity and scale to allow review by the Village. Owner-Prepared Plans may be accepted for work and only where the Building Inspector, Planning Board, and/or Board of Architectural Review (as applicable) determines that the work does not require design by a New York State licensed architect, professional engineer, land surveyor, or other licensed professional under applicable law, and does not involve structural design, means and methods of construction, grading or stormwater design, utility engineering, boundary determinations, or other technical matters requiring professional certification. Submission of Owner-Prepared Plans shall constitute a certification by the Owner that the information shown is true and accurate to the best of the Owner's knowledge and that the Owner assumes responsibility for any inaccuracies or omissions; provided, however, that acceptance of Owner-Prepared Plans shall not be deemed approval of any violation of law, shall not relieve the Owner from compliance with the New York State Uniform Fire Prevention and Building Code or other applicable requirements, and shall not limit the authority of the Village or any reviewing board or official to require plans prepared and sealed by a licensed professional whenever deemed necessary for public safety, code compliance, environmental review, or adequate

PASSENGER VEHICLE — A registered automobile or motorcycle used primarily for the nonrecreational transportation of people. It does not include pickup trucks, limousines for hire, motor homes, trailers, commercial vehicles, tractors, trucks, utility vans, buses, wagons or equipment for construction, landscaping or other commercial purposes.[**Amended 12-21-1990 by L.L. No. 1-1990**]

PERMANENT RESIDENCE PURPOSES — For the purposes of this chapter, "permanent residence purposes" shall consist of occupancy of a residence building by the same natural person or family for 30 consecutive days or more and a person or family so occupying a residence building shall be referred to herein as the permanent occupants of such residence building. The following uses of a residence building by the permanent occupants thereof shall not be deemed to be inconsistent with the occupancy of such residence building for permanent residence purposes:[**Added 6-20-2018 by L.L. No. 1-2018**]

- (1) Occupancy of such residence building for fewer than 30 consecutive days by other natural persons living within the household of the permanent occupant such as house guests,

provided that there is no monetary compensation paid to the permanent occupants for such occupancy; or

- (2) Incidental and occasional occupancy of such residence building for fewer than 30 consecutive days by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, provided that there is no monetary compensation paid to the permanent occupants for such occupancy; or
- (3) Occupancy of such residence building by caregivers, nurses or other persons providing caregiving or medical services to a permanent occupant or a member of her family.

SERVANT — A paid employee whose principal occupation is to provide personal or household services for the occupants of a dwelling.

SETBACK — The horizontal distance from any lot line to the part of the building or the story respectively which is nearest such lot line.

SIGN — Includes the word "billboard" and means any advertising structure, sign, picture, word or device for the advertisement thereon or thereby of any commodity, service, thing or direction.

STABLE, PRIVATE — An accessory building in which not more than five horses are kept for private use of the owner and not for hire, remuneration or sale.

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above it, then the space between any floor and the ceiling or roof next above it.

STORY, HALF — A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STRUCTURE — Any combination of materials or fabrication which forms a construction, such as but not limited to any building, driveway, road, tennis court, gate post, barn, dock, antenna, steps, pool, tank, fence, wall, trellis, headwall, bridge, utility pole, tower, berm, tent, paved walk, corral, ring, lean-to, foundation, etc.

STUDIO — The workroom of an artist or photographer, but not including any commercial motion-picture, computer, radio or television facility. **[Amended 12-21-1990 by L.L. No. 1-1990]**

SUBSTANDARD LOT — A lot, the area or dimension of which was lawful on February 17, 1987 (the day immediately preceding the effective date of this chapter), or a lot the area or dimension of which was lawful on the day immediately preceding the effective date of any amendment to this chapter affecting the area or dimensional requirements of such lot, which does not conform to the area and dimensional requirements presently applicable in the zoning district in which that lot is located. **[Added 6-10-2009 by L.L. No. 5-2009]**

TAILORING TO THE NATURAL TERRAIN — All structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities must be constructed so as to minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical recontouring of the natural terrain, and take advantage of the screening potential of existing vegetation and land features. **[Added 6-10-2009 by L.L. No. 7-2009⁶³]**

VILLAGE — The incorporated Village of Tuxedo Park.

^{63-60.} Section 9 of this local law provided that the following are exempted from this local law: normal repairs and maintenance that do not alter the design, materials or appearance of a structure and construction which had received all necessary final approvals from the Planning Board and/or Board of Architectural Review, or received a final filed decision from the ~~Board of Zoning Appeals~~ **Board of Appeals** granting a variance upon a determination that such construction is on a ridge line or at the end of a precipice, prior to 8-20-2008.

YARD — The space between any building or part of a building and any lot line or street line.

- A. **FRONT YARD** -- A yard across the full width of the lot extending from the front wall of the building to the street line.
- B. **REAR YARD** -- A yard across the full width of the lot from the rear wall of the building to the rear line of the lot.
- C. **SIDE YARD** -- A yard extending from the front yard to the rear yard between the building and the adjacent side line of the lot.

ARTICLE II
Zoning District

[Amended 6-23-2008 by L.L. No. 4-2008; 6-10-2009 by L.L. No. 7-2009]

§ 100-3. District established.

For the purpose of promoting, preserving and protecting the public health, safety and general welfare of the community, and to protect the significant historic and scenic assets of the Village, the following zoning districts are hereby established.

Map Designation

District Name

A4	
	Five Four -Acre Single-Family Residence
G-O	Gateway Overlay
RLP-O	Ridge Line and Precipice Overlay

§ 100-4. Zoning Map.

The boundaries of the Village and the zoning districts are defined as shown on a map entitled "Official Zoning Map of the Village of Tuxedo Park," which map is made a part of this chapter with the same force and effect as if the matters and things shown on said map were all fully described herein.⁶⁴ The Board of Trustees may by resolution amend said map to define the boundaries of all zoning districts in conformance with this chapter and may also require by resolution that mapping of the above-noted overlay districts be further defined on a property-specific basis for clarity of determining whether individual properties are within or without such overlay districts in whole or in part. The limits of such mapping of individual properties shall be conclusive for the delineation of the boundaries of overlay district areas.

ARTICLE III
Application of Regulations

§ 100-5. Compliance required.

After the effective date of this chapter, no building or structure or land or any part thereof in the Village shall be used or maintained for any purpose other than the uses permitted therefor by this chapter. No building, structure or part of a building or structure in the Village shall be erected, altered, converted, enlarged, demolished or maintained except in conformity with the provisions of this chapter, nor shall any building, structure or part of a building or structure in the Village be used or maintained if erected, converted or enlarged other than in conformity with the provisions of this chapter.

ARTICLE IV

District Regulations

§ 100-6. Permitted uses. [Amended 2-21-1990 by L.L. No. 1-1990]

No building or any premises shall be used or maintained and no building shall hereafter be constructed, enlarged or reconstructed or used for any purpose except one or more of the purposes enumerated below:

- A. One-family dwelling.
- B. Such accessory uses as are customary in connection with the foregoing use and are incidental thereto, provided that an accessory building existing as of the effective date of this chapter may be used for residence purposes for guests or employees of the owner or tenant of the principal building, subject to the granting of a permit by the ~~Board of Zoning Appeals~~Board of Appeals; and provided, further, that a boathouse under no circumstances shall be used for residence purposes; and provided, further, that such accessory building and its principal building independently both meet all provisions of the laws of the Village and the New York State Uniform Fire Prevention and Building Code.
- C. The front, side or rear yards may be used for the open-air parking of up to five registered passenger vehicles of the owner, his family or his household employees, which vehicles are frequently and regularly used and parked no closer than five feet to any property line. Vehicles in excess of this number shall be screened or housed so as not to be visible from the public roads and neighboring properties.
- D. Public utility or municipal structures necessary for the service of the area. Notwithstanding the foregoing, the construction of pipelines for the purpose of transmission of refined or unrefined petroleum products anywhere within the Village is prohibited.⁶⁵ [Amended 1-26-2016 by L.L. No. 1-2016]
- E. A nameplate not over one square foot in area may be erected. It shall not be attached to any tree or fence but, rather, shall be attached to a standard sunk in the ground. Customary nameplates listing the name of the owner of the property and/or the house name shall not require a permit.
- F. Any existing multifamily dwelling legally in existence as of February 17, 1987, shall be permitted. [Added 6-10-2009 by L.L. No. 5-2009]
- G. A residence building shall only be used for permanent residence purposes. It shall be unlawful to advertise occupancy or use of a residence building for other than permanent residence purposes. A person or entity (including a principal of any entity) who rents property from a premises owner or lawful lessee who is in violation of this chapter shall be deemed to have committed a separate and independent violation of this chapter. [Added 6-20-2018 by L.L. No. 1-2018]

§ 100-6.1. Gateway Overlay District (G-O). [Added 6-23-2008 by L.L. No. 4-2008]

- A. Findings.
 - (1) The Board of Trustees finds that many landscape and geological features and improvements, as herein referenced, having a special scenic character, including a special historic or aesthetic interest or value, have been altered or changed in the past, notwithstanding the feasibility of preserving and continuing the use of such landscape and geological features and improvements.

^{65-62.} Editor's Note: Former Subsections D and E were repealed 4-20-2011 by L.L. No. 1-2011. This local law redesignated former Subsections F through H as Subsections D through F, respectively.

In addition, distinct areas of landscape, geological and improvement features may be similarly altered or have their distinctiveness destroyed in the future, although the preservation thereof may be both feasible and desirable. It is the belief of the Board of Trustees that applicants for land use development permits should not disregard or destroy the scenic landscape, geological and aesthetic features of the Village; instead, they should, wherever feasible, ensure and further the preservation of such features.

- (2) The Board of Trustees desires to protect the significant historic and scenic landscape of the Village that is an integral element of this "residential park" conceived by Pierre Lorillard that weds "structure to site." The Village of Tuxedo Park is a designated Historic District listed on the National Register of Historic Places and the New York State Register of Historic Places. The gateways that lead to Tuxedo Lake are significant scenic corridors that must be protected to the maximum extent practicable.
 - (3) Despite the best intentions of the Village to encourage development that is in keeping with the historic character of Tuxedo Park, conventional site and subdivision development has the potential to erode the significant historic and scenic character of the community. The Board of Trustees finds that additional regulatory mechanisms are necessary to control activities that occur on gateway properties adjoining the primary Village gateway roads that provide access to Tuxedo Park, namely: Tuxedo Road and South Gate Road.
 - (4) In order to achieve the Village's objective to preserve the character of land within the G-O District while allowing property owners reasonable use of their property, the Village has established the overlay district to permit uses and structures in accordance with the standards set forth herein.
- B. General objectives. It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation of the historic and scenic landscape is a public necessity and is required in the interest of the health, safety and general welfare of the people. The purpose of this section is to institute a zoning district that overlays the ~~Five~~^{Four}-Acre Single-Family Residence (A4) District and provides for additional regulations that are intended to:
- (1) Protect and enhance the historic and scenic qualities of the Village's gateways which are integral visual elements of this National Register Historic District.
 - (2) Subordinate new structures, especially principal buildings, in the landscape, so that the view corridors observed from the Village's gateway roads are protected.
 - (3) Stabilize and improve property values in the Village by prohibiting incompatible disturbances to the landscape.
 - (4) Regulate the location of new structures and limit landscape disturbance to properties in the overlay district during site plan and subdivision plat review in order to effectuate the purposes of this section.
 - (5) Encourage and allow the rehabilitation, improvement or alteration of existing structures to effectuate the objectives of this section.
- C. Uses allowed. The G-O District shall be subject to the district regulations set forth in § 100-6 of the Zoning Law.
- D. Gateway standards.

- (1) Standards. In reviewing any application for site plan or subdivision plat approval, the duties and responsibilities of the Planning Board and the Board of Architectural Review are as specifically set forth in §§ 17-3, 100-54, and all rules and regulations contained in the Code of the Village of Tuxedo Park and all other applicable laws and regulations, and nothing set forth in this section shall alter such duties and responsibilities. For purposes of this section, "approving agency" shall mean either the Planning Board or the Board of Architectural Review as the context shall dictate.
- (2) Gateway standards. The existing rocky woodland landscape provides visual context to this National Register community, especially along the view corridors extending from the Village's two gates, Main Gate and South Gate, to Tuxedo Lake. The Village of Tuxedo Park desires to retain the historic character of the gateways by subordinating and obscuring views of new structures in the landscape so as to allow the historic properties along and visible from the gateway to maintain visual prominence. The following standards shall apply specifically to gateway properties:
 - (a) Buffer required. On all properties within the G-O District, unless the approving agency shall find it infeasible, there shall be a one-hundred-fifty-foot setback buffer zone measured from the edge of the pavement surface of Tuxedo Road and South Gate Road where these roads are adjacent to such G-O District properties. Within such area, there shall be (except as authorized by the approving agency) no new buildings erected or grading or clearing conducted except in conformity with these regulations. Where determined necessary by the approving agency, an increased setback buffer may be required to achieve the objectives of the G-O District.
 - (b) Landscaping. Within the buffer, no property owner or agent shall be permitted to remove or top any live tree over five inches in diameter, measured 48 inches above the ground without approval from the Board of Architectural Review and a permit from the Board of Trustees unless said tree removal has been authorized in conjunction with an approved site plan or subdivision plan. Outside the buffer, tree removal shall be conducted in accordance with the provisions of the Village Code § 100-14, Trees.
 - (c) Access driveways and new roads. Presently, Tuxedo Road and South Gate Road are the principal collector roads through which residents and visitors access the community. These gateway roads are almost devoid of private driveways that provide direct vehicular access to the gateway roads. Most existing properties within the overlay district have frontage on, or otherwise obtain access from, Village roads other than gateway roads. The result is that the gateway roads have maintained their natural, scenic and historic character, as they do not exhibit multiple driveway curb cuts, views of macadam or other driveway surfaces, mailboxes, or other features associated with residential motor vehicle use and conventional subdivision and site design. The lack of driveways on gateway roads also limits potential conflicting vehicular movements thereby improving road safety. In order to preserve the historic and scenic landscape of the G-O District:
 - [1] Driveways shall not be permitted to intersect with gateway roads where vehicular access may be obtained from a Village road other than a gateway road. Driveways may access a gateway road where the approving agency finds that strict application of this provision would eliminate reasonable use of an existing property. The approving agency, at its discretion, may permit shared use of a driveway onto a road other than a gateway road without the need to obtain an area variance to achieve the objective set forth herein.

- [2] Driveways shall take advantage of the screening potential of natural topography and existing vegetation and shall be routed through the property to limit the visibility of said driveways.
 - [3] Where the approving agency determines that a driveway is required to access a gateway road, the approving agency may establish conditions to limit views of the driveway from the gateway road, including but not limited to the route that the driveway shall follow and vegetative screening to limit views of the driveway from the gateway road, while also preserving safe sight distances for ingress and egress to such driveways. Further, the Board of Architectural Review shall have the discretion to determine the materials to be used in driveway construction and the design of landscaping plans and walls.
 - [4] New roads that would enter into a gateway road shall not be permitted.
- (d) Design of structures. Structures, to the extent feasible, shall not penetrate the skyline when viewed from a gateway road. The approving agency may establish a limit on the maximum building height to achieve this objective. Further, the Board of Architectural Review shall have the discretion to require that structures located on sloping sites be built into the existing topography to the maximum extent practicable, so that they conform to the natural contours of the site without excessive blasting, terracing, filling, or mechanical recontouring.
 - (e) Facade orientation. The approving agency shall have the discretion to determine to which road any structure shall front. The approving agency shall determine the orientation of structures on a gateway property, taking into consideration the potential future views of same from the gateway road and potential impact to the view corridor.
 - (f) Materials: texture and color. In order to achieve the objectives of the Gateway Overlay District, the Board of Architectural Review may require the use of materials, colors and textures of construction materials that allow structures to blend into the colors of surrounding vegetation or land features.
 - (g) Location. The approving agency may require that a structure be set farther back from a precipice or other topographic edge visible from a gateway road in order to maintain a natural vegetative buffer and reduce a structure's visibility from a gateway road.
 - (h) Retaining walls. Retaining walls shall be used in a fashion consistent with the objectives of the G-O District, as determined by the approving agency, which may impose limits on the maximum length and height of any retaining wall in order to achieve those objectives. Design of retaining walls shall be certified by a New York State licensed engineer and approved by the Village. Retaining walls shall be designed using materials consistent with existing historic walls within the Village. The approving agency may require that retaining walls be stepped and designed as a series of terraces, as necessary, to allow installation of vegetation to screen the retaining wall system. Terrace width shall be adequate to support vegetative plantings, if terracing is allowed.
 - (i) Cuts. The maximum height of any cut used to establish a building site, a road or a driveway shall not exceed 10 feet unless the approving agency finds that the cut is necessary to achieve the objectives of this section.
 - (j) The Board of Architectural Review shall require the installation of landscaping to mitigate

any erosion or visual impacts associated with proposed cuts or retaining walls.

- (k) Where a new structure would not be adequately screened by natural vegetation, native vegetation shall be planted to augment the existing vegetation and maintain visual integrity of the view corridor from the gateway roads. Native vegetation shall be planted to mimic the existing species composition of the woodland within the Village of Tuxedo Park. The use of earthen berms to screen structures is not in character with the immediate natural surrounds and may be prohibited by the approving agency.
- (l) Disturbances. Disturbances, such as grading, land clearance, utility installation and other activities that reduce natural vegetation on the site shall be limited to the maximum extent practicable. The approving agency shall have the authority to limit the building and disturbance footprint where it finds that disturbance activities would have a deleterious impact on the G-O District.
- (m) Subdivision plat and site plan review. The approving agency may impose limits on the proposed building size, amount of development coverage, and amount of proposed disturbance, in order to reduce or eliminate impacts to the G-O District.

§ 100-6.2. (Reserved)

§ 100-6.3. Additional requirements; procedure. [Added 6-23-2008 by L.L. No. 4-2008]

- A. Subdivision and site plan approval. Any application for subdivision or site plan approval for property located in the G-O district shall include clear topographic data of the site in relation to the gateway roads and shall include, at a minimum, a line-of-sight profile drawing depicting the potential visibility of all proposed structures. The following additional data may be required if the approving agency determines that said data are necessary to ensure that the objectives of the overlay district are achieved:
 - (1) A visual analysis, the methodology of which is to be approved by the approving agency prior to the commencement of the analysis. This may include additional drawings or photo simulations of the proposed structure(s) overlaid on photographs of the site from various distances and perspectives. Said visual analysis shall consider the visibility of any structures during off- and on-leaf conditions.
 - (2) A cultural resource survey documenting the history and architectural features of the property.
 - (3) Details of any vegetation to establish or supplement buffer screening areas.
 - (4) A tree survey documenting the location, type, and diameter breast height (DBH) of every tree five or more inches DBH. In addition, the approving agency may also require an inventory of shrubs and plants for purposes of identifying native species that are present.
 - (5) Sample building materials and color swatches.
 - (6) Additional information as requested by the approving agency in its review jurisdiction provided for by the Village of Tuxedo Park Code.
- B. Existing structures. Nothing in this section is intended to or shall require any action to alter or obscure views of or from a structure existing that may be located within the G-O District at the time of the adoption of this provision or the essential character of the property on which such structure is located.

- C. Permanent restrictions. In order to ensure the permanent achievement of the objectives of the G-O District provisions of this chapter, the approving agency may include, as a condition of any approval it may grant, a perpetual restriction upon development of a property the subject of the application. Such condition may be imposed by map note, resolution recital and/or by the recording of an instrument providing that such restriction shall run with the land. The approving agency may also, in appropriate circumstances, recommend to the Board of Trustees that a conservation easement running to the Village be accepted. In such a case, the conservation easement shall be recorded in the Orange County Clerk's office prior to or simultaneously with the filing of a final subdivision plat with the county or, in the case of a site plan, prior to or simultaneously with the filing of a site plan with the Village Clerk.
- D. SEQRA. Nothing herein shall or is intended to limit the approving agency's authority to conduct SEQRA review or to limit the extent of said review in connection with any application that may apply to land within an overlay district.
- E. Conflicting provisions. If in any case the provisions of this section conflict with other provisions of the Code of the Village of Tuxedo Park, the provisions which impose the more stringent requirement shall apply.
- F. Compliance with other regulations. All development allowed by right or allowed by permit shall also conform to all rules and regulations contained in the Code of the Village of Tuxedo Park and all other applicable laws and regulations.

§ 100-7. Offensive uses.

Without regard to the generality of this article, as limited by the particularization of the foregoing specified uses and purposes, no building or premises shall be used for any purpose which is or may be obnoxious or offensive by reason of causing or emitting odor, smoke, vapor, gas, bright light, dust, garbage, refuse matter, noise or vibrations or that is dangerous or harmful to the health, peace, comfort or safety of the community, that involves any explosive menace or serious fire hazard or that tends in any manner to disturb or annoy the residents of the Village. Further, no building or premises shall be used or neglected in such a manner that causes an unsightly condition in landscaping, siding, litter, debris, derelict vehicles, refuse, construction materials, unfinished or deteriorating structures or any other intrusion on the visual quality of the community.⁶⁶

§ 100-8. Minimum area and bulk regulations.

- A. The following minimum requirements are hereby established:⁶⁷
- B. These specifications shall apply to all buildings and structures on a lot with the exception of those intrusions permitted by § 100-9 below.

§ 100-9. Permitted yard intrusions; decks and terraces.

- A. Certain structures are permitted within the minimum yard dimensions of a lot. These include fences, driveways, bridges, gates, culverts, ornaments, mailboxes, stanchions, lamps, gravel bins and refuse sheds, provided that they comply with the provisions of this chapter, and provided that the necessary permits have been granted for each such intrusion.

^{66,63.} Editor's Note: See also Ch. 75, Property Maintenance.

^{67,64.} Editor's Note: The Schedule of Minimum Area and Bulk Regulations is included as an attachment to this chapter.

B. Decks, porches, patios, verandas, terraces and other above-grade exterior space shall: **[Added 12-21-1990 by L.L. No. 1-1990]**

- (1) Require architectural review and a Building Permit.
- (2) Be limited in size to 25% of the enclosed ground floor area of the associated building.
- (3) Be painted, stained or constructed of materials so as to harmonize with the main structure.
- (4) Be provided with appropriate stairs, rails and to prevent unnecessary hazards.
- (5) Be maintained in an attractive, safe and structurally sound condition.

§ 100-10. Building height restrictions. [Amended 12-21-1990 by L.L. No. 1-1990]

No dwelling or part thereof shall be erected to a height in excess of 3 1/2 stories, nor shall the height of any dwelling building exceed 70 feet, subject to the restrictions of the New York State Uniform Fire Prevention and Building Code. Accessory buildings shall not exceed two stories or 35 feet in height, measured similarly. The Boards may impose heights limits on other structures as they deem appropriate.

§ 100-10.1. Antennas. [Added 12-21-1990 by L.L. No. 1-1990]

Any antenna, fixed or movable and over four feet in length, width or height, including its mounting structure, shall require, before erection or use, a formal Building Permit, including architectural review, just as would any other structure.

§ 100-11. Percentage of lot coverage. [Amended 12-21-1990 by L.L. No. 1-1990]

All construction, including accessory buildings, driveways and other structures, shall not cover more than 25% of the area of the lot.

§ 100-12. Slope restrictions. [Amended 12-21-1990 by L.L. No. 1-1990]

No building or structure shall be constructed on a lot where 75% of the lot area has a slope or grade of 20% or steeper.

§ 100-13. Ridge line and precipice area regulations. [Amended 12-21-1990 by L.L. No. 1-1990; 6-10-2009 by L.L. No. 7-2009⁶⁸]

The entirety of all activities that require a building permit, any part of which is to occur within the mapped Ridge Line and Precipice Overlay District areas, but not activities that require a building permit on that portion of a property occurring wholly outside of the mapped Ridge Line and Precipice Overlay District areas, shall be subject to the following regulations. When the phrase "approving agency" is used in this § 100-13, it shall mean any Village board or official having approval power in connection with an application for a permit or other approval from the Village.

A. Tailoring to the natural terrain.

^{68,65.} Editor's Note: Section 9 of this local law provided that the following are exempted from this local law: normal repairs and maintenance that do not alter the design, materials or appearance of a structure and construction which had received all necessary final approvals from the Planning Board and/or Board of Architectural Review, or received a final filed decision from the ~~Board of Zoning Appeals~~**Board of Appeals** granting a variance upon a determination that such construction is on a ridge line or at the end of a precipice, prior to 8-20-2008.

- A. All structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities are to minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical recontouring of the natural terrain, and shall also take advantage of the screening potential of existing vegetation and land features.
- B. Natural and historic features that provide scenic importance to the mapped areas of the Ridge Line and Precipice Overlay District areas shall be preserved to the greatest extent practicable. These features shall include, but are not limited to, historic structures, stone walls, steps and paths, boulders, natural rock outcroppings, streams, unpaved pathways, and trees and shrubs that are consistent with species typically found in the Village.
- B. Siting and height of structures.
 - (1) To the maximum extent practicable, structures shall be sited at the lowest feasible elevation in order to be as visually inconspicuous as possible when viewed from any public roadway, taking into consideration the property owner's interest in achieving reasonable views that the property would otherwise allow balanced against the detriment to the public viewsheds of the Village.
 - (2) The maximum height of the principal structure, as measured from the lowest grade adjoining the structure to the highest part or feature of the structure, shall be limited to 50 feet in total, but in no event more than 20 feet above the highest elevation of the natural precipice or ridge area within the RLP-O District on which the foundation sits.
 - (3) The maximum height of an accessory structure, as measured from the lowest grade adjoining the structure to the highest part or feature of the structure, shall be limited to 35 feet in total, but in no event more than 20 feet above the highest elevation of the natural precipice or ridge area on which the foundation sits.
 - (4) To the maximum extent practical all structures shall step with or follow the natural terrain to minimize regrading. Landscaping may be directed by the approving agency as mitigation for negative impacts on such public viewsheds.
 - (5) In no case shall a structure pierce the skyline as seen from any public roadway or surface of the Village lakes.
- C. Use and integration of building materials, colors and landscaping.
 - (1) The approving agency may permit construction to follow the style, material, and color of an existing main dwelling.
 - (2) Existing and additional building materials (including but not limited to retaining walls using native stones) shall be used with earth-toned and nonreflective building materials (including but not limited to glazing) to ensure that the structure blends with the surrounding land features.
 - (3) Existing and additional landscaping (including but not limited to vegetation and foundation plantings) shall be used to ensure that the structure blends with surrounding land features and vegetation.
 - (4) Existing vegetation shall be preserved and maintained to the maximum extent practicable.
 - (5) Clear-cutting of trees in a single contiguous area shall be prohibited, unless expressly permitted by the approving agency as part of an approval for a site plan or subdivision application.
 - (6) Where a new structure would not be adequately screened by existing vegetation, appropriate

species that are consistent with noninvasive species typically found in the Village shall be planted and maintained so that there is no obvious disruption of vegetative cover or piercing of the skyline. As determined necessary by the approving agency, this requirement to preserve and maintain vegetation coverage may be enforced by performance and/or maintenance bonds for a reasonable period of time and/or by deed restriction in favor of the Village.

- (7) Regardless of whether there is an application pending for a permit for activity within the Ridge Line and Precipice Overlay District, there shall be no removing, topping, or killing any live tree with five or more inches diameter, measured 48 inches above the ground, within those portions of properties located within the Ridge Line and Precipice Overlay District without approval from the Board of Architectural Review and a permit from the Board of Trustees, unless the tree removal has been authorized in conjunction with an approved site plan, subdivision plan, or other permit issued by the Village. In the event of an emergency, trees may be removed. However, an application shall be made within 10 business days after removal for authorization for such removal, which will obviate the assessment of any fines or other enforcement for such removal if the Board of Architectural Review determines that an emergency existed that likely would cause harm to persons or property if the trees were not removed prior to the time necessary to obtain a permit for their removal. For every tree removed in accordance with this subsection, the approving agency may require replanting of an appropriate number and placement of trees and/or shrubs that are consistent with species typically found in the Village to achieve compensatory coverage.
- D. Use of lighting. The visual impact of the lighting related to any construction shall be reviewed prior to installation by the approving agency. In no event shall the lighting of structure facades be permitted, except for the illumination of the entryways to the structure. For all exterior lighting, all light fixtures shall be fully shielded, i.e., designed, constructed, tamped, and installed in such a manner so that all light emitted, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below a horizontal plane through the fixture's lowest light-emitting part.
- E. Additional submittals.
- (1) Soil stability analysis. A soil stability analysis shall be submitted to the approving agency to demonstrate that the construction will not compromise the stability of the terrain (including any man-made structure on site) and certified to that effect by a New York State licensed geotechnical engineer. The approving agency may waive this requirement if the Village Engineer advises the approving agency that it is unnecessary owing to the particular conditions of the site and the nature of the requested approval.
 - (2) Visual impact analysis. A visual impact analysis shall be submitted to the extent and level of detail commensurate with the circumstances of the requested approval, if the approving agency makes a finding that any structures may have a significant visual impact on the environment. Such visual impact analysis may be required to include a verifiable digital photomontage combining an existing conditions photograph with a three-dimensional computer-aided design ("CAD") model of proposed conditions using match points that are in common in both the three-dimensional model and the photograph to create a verifiable visual simulation of the proposal, during leaf-off - no snow conditions, from distances and vantage points as determined appropriate by the approving agency.
 - (3) Tree survey. A tree survey shall be submitted showing on the site plan the location, type, and diameter of every tree of five or more inches in diameter, measured 48 inches above the ground

that is being proposed to be eliminated. The approving agency may require a photographic record of the vegetative coverage taken from vantage points determined by it to be appropriate given the particular circumstances of the requested approval. In addition, the approving agency may require an inventory of shrubs and plants for purposes of identifying species typically found on the property and determining appropriate compensatory coverage.

§ 100-13.1. Elevations. [Added 6-10-2009 by L.L. No. 7-2009⁶⁹]

Owing to water pressure limitations, no building permit for a new dwelling may be issued by the Building Inspector for a dwelling the foundation of which would be at or higher than 800 feet above sea level if located east of the three Tuxedo lakes or 900 feet above sea level if located west of the three Tuxedo lakes unless and until a written opinion of the Village Engineer states that adequate water pressure exists to service the dwelling and neighboring dwellings on the same waterline.

§ 100-14. Trees. [Amended 12-21-1990 by L.L. No. 1-1990]

Trees shall not be removed for any commercial purposes. No lot owner or agent shall be permitted to remove or top more than four live trees over five inches in diameter, as measured 48 inches above the ground, in any calendar year without approval from the Board of Architectural Review and a permit from the Board of Trustees.⁷⁰ During new construction, trees may be removed only in the approved building area and along the approved driveway course to said building. Normal trimming or pruning of low branches may be carried out without a permit therefor.⁷¹

§ 100-14.1. Firewood storage and temporary enclosures. [Added 12-21-1990 by L.L. No. 1-1990]

A. Storage of firewood.

- (1) Outdoor storage of precut firewood is permitted on the owner's property, provided that:
 - (a) No storage occurs within the minimum front yard, rear yard or side yards as defined in this chapter.
 - (b) The pile is maintained in a neat, orderly and pestfree condition three inches to 12 inches off the ground.
 - (c) No more than one cord is stored at any time, except that up to four cords are permitted if, by virtue of positioning or all-season landscaping, none is visible from any road or other residence.
 - (d) No pile shall be higher than five feet nor longer than 20 feet.
 - (e) Only cut and/or split logs of maximum three-foot length shall be permitted.
- (2) Any wood storage considered to be unsafe, unsightly or unhealthy is subject to an order of discontinuance by the Board of Trustees, Police Chief or Building Inspector.

^{69,66.} Editor's Note: Section 9 of this local law provided that the following are exempted from this local law: normal repairs and maintenance that do not alter the design, materials or appearance of a structure and construction which had received all necessary final approvals from the Planning Board and/or Board of Architectural Review, or received a final filed decision from the ~~Board of Zoning Appeals~~Board of Appeals granting a variance upon a determination that such construction is on a ridge line or at the end of a precipice, prior to 8-20-2008.

^{70,67.} Editor's Note: See also Ch. 40, Clearing, Filling, Grading and Excavating.

^{71,68.} Editor's Note: See also Ch. 75, Property Maintenance, Art. II.

- (3) No stockpiles of leaves, paper, coal, charcoal, lumber or other combustible material shall be permitted (except as authorized above) unless a special written permit is issued by the Board of Trustees.
- B. Temporary enclosures. Protective covers and enclosures such as snow fencing, tarpaulins, burlap shrub-wrapping, chicken-wire garden protection, wood-pile covers, car covers, excavation and masonry covers and similar materials offering protection from the weather and animals are permitted subject to these conditions:
- (1) The term of installation and/or use does not exceed six months.
 - (2) A description letter and sketch is submitted to the Village Office by the property owner for review by the Building Inspector and Board of Architectural Review.
 - (3) The materials involved are securely fastened and are of a subdued color to match the surrounding landscape.
 - (4) No such covers or enclosures are situated closer than two feet to any public road or closer than five feet to any other property line.
 - (5) There is no consequential hazard or deterioration of property values from the proposed installation.
 - (6) A permit or letter of approval is issued by the Board of Trustees. Such approval or authority shall be valid for one term only and shall not provide extensions or repetitions unless specifically stated.

§ 100-15. Restrictions on parking of certain vehicles and equipment. [Amended 12-21-1990 by L.L. No. 1-1990]

- A. No commercial vehicle, house trailer, limousine for hire, truck, boat or boat trailer, travel trailer, camper, motor home, mobile home or similar recreational vehicle or any other equipment shall be parked in any front yard or within 50 feet of any property line.⁷² Any such vehicle or equipment shall be screened year round on three sides so as not to be visible from the street or adjoining premises. Only one registered commercial vehicle may be housed or parked on a lot and the unladen weight thereof shall not exceed three tons. The operation or usage of a commercial vehicle in such a manner so as to interfere with or be detrimental to the general welfare of the Village of Tuxedo Park or the inhabitants thereof shall be a violation of this chapter.
- B. Temporary outdoor storage of a vehicle such as a motor home, truck, boat, trailer, bus, car, house trailer or the like is permitted on the owner's property, provided that.
- (1) No more than one such vehicle is stored at any time.
 - (2) The vehicle is not stored within the minimum front yard, rear yard or side yards as defined herein.
 - (3) The vehicle with its load, if any, is no longer than 30 feet, nor higher than 10 feet.
 - (4) The vehicle, by virtue of its location or all-season landscaping, is not visible from any roadway or other residence.

^{72,69.} Editor's Note: See also Ch. 93, Vehicles, Abandoned or Junked.

- (5) The vehicle is maintained only for its original intended purpose and is not used for any other purpose, such as living quarters, office space, play house, utility shed, parts salvage or the like.
 - (6) Prior written approval is sought and received from the Board of Trustees.
 - (7) The interval of storage is less than nine months.
- C. This section shall not apply to authorized state-registered vehicles used on a daily basis and belonging to the subject property owner or occupant.

§ 100-16. Accessory buildings or structures. [Amended 5-20-1998 by L.L. No. 5-1998]

No accessory building or structure shall be built on any lot unless there is a principal building or structure on the same lot or on the immediately adjoining lot under the same ownership.

§ 100-17. Kennels.

No kennel shall be constructed or erected nor shall any building or structure be used as a kennel on or after the effective date of this chapter.

§ 100-18. Fences.

- A. No fence over two feet six inches in height shall hereafter be erected without a Building Permit and the approval of the Board of Architectural Review in accordance with Article VIII of this chapter. Any fence erected in the front yard shall not exceed four feet in height. Any fence erected in the rear or side yards may not exceed six feet in height. No fence shall be located closer than five feet to any roadway nor closer than two feet to any property line. Notwithstanding the foregoing, no fence shall be erected or maintained which will interfere or interferes with the light or air of an adjoining lot or building thereon.
- B. No wall, fence, shrubbery or other ground condition, growth or structure shall be erected, altered or maintained which may cause danger by reducing the vehicular line of sight to less than 250 feet.⁷³
- C. In the event that the Chief of Police shall report to the Board that any fence may constitute a hazard to traffic, the Board of Trustees may, on its own motion, cause such fence to be investigated by a licensed engineer or other qualified person and, in the event that such engineer or other qualified person shall determine that such fence constitutes a traffic hazard, the Board of Trustees shall notify the owner or person maintaining such fence to remove the same or so alter such fence as to remove the hazard within such reasonable time as the Board of Trustees shall determine. Failure to comply with such notice shall constitute a violation of this chapter.

§ 100-19. Stables.

- A. No stable shall be hereafter constructed unless plans for such stable are approved by the Board of Architectural Review pursuant to Article VIII of this chapter. All stables must be so constructed and all existing stables so used as to comply with the rules and regulations for the protection of the public water supply of the Village of Tuxedo Park.
- B. No more than one horse per acre nor more than five horses total shall be kept or maintained in a private stable. The giving or furnishing of riding lessons for a fee or the rental of horses is prohibited.

~~73-70.~~ Editor's Note: See also § 85-18 of Ch. 85, Subdivision of Land.

Every private stable hereafter erected shall be erected on a parcel having a minimum lot area of two acres, and such two-acre parcel shall contain no other building or structure. The parcel of land associated with any such stable shall be entirely enclosed with a fence, and notwithstanding the provisions of § 100-18 of this chapter, such fence shall be of suitable height and construction so as to prevent horses from leaving such parcel of land. [Amended 12-21-1990 by L.L. No. 1-1990]

§ 100-20. Garages.

Building Permit applications for new residences shall include, as part of the homogeneous plan, a garage, either attached or detached, for at least two passenger cars, as well as off-street parking for two to six passenger vehicles.

§ 100-21. Driveways.

Driveways shall be no wider than 14 feet and no narrower than eight feet. They shall enter the lot at such location and angle as to provide a safe slope and proper sight distances for all traffic. No driveway shall be constructed closer than 10 feet to any adjacent lot line or intersection, and spot grades shall not exceed 10%. Prior to consideration for a permit, the applicant shall present to the Board of Architectural Review an engineering design, including specifications for the base, surface, crown, drainage, retaining walls, blasting, landscaping and any other material required by the Board. Driveways shall not be permitted unless there is an existing building on the lot or unless a permit has issued for a new residence on that lot. Where possible, driveways shall be designed with a turnaround area and a radiused intersection with the public road. Off-street parking for two to six passenger vehicles shall also be incorporated in any new driveway design. Removal of trees for driveway construction shall be confined to the area within eight feet of the driveway center line.

§ 100-21.1. Exterior lighting. [Added 6-28-2016 by L.L. No. 2-2016]

A. Purpose. The purpose of this section is to establish provisions for nocturnal exterior lighting in all parts of the Village in order to:

- (1) Minimize the impact of stray lighting on human health, habitats and the environment.
- (2) Provide safe roadways for pedestrians, cyclists and motorists.
- (3) Protect against direct glare and excessive lighting.
- (4) Prevent light trespass in all areas of the Village of Tuxedo Park.
- (5) Minimize skyglow and reclaim the ability to view the wonder of the night sky.
- (6) Provide lighting guidelines.
- (7) Discourage the waste of energy caused by excessive lighting.
- (8) Allow for flexibility in the style of lighting fixtures.
- (9) Provide clear guidelines for the Boards and enforcement staff of the Village to use in administering this section

B. Background information on measurements of light: watts, lumens, luminance and illuminance.

- (1) Watts: A unit of measure for the amount of energy a source of light uses to produce a

combination of visible light and nonvisible light, such as infrared and ultraviolet. No longer a reliable measure of "brightness," as technology of various light sources uses the same amount of energy, either more efficiently or less efficiently, to produce a varied mixture of visible and nonvisible light (i.e., incandescent bulb vs LED). Regarding this section, the wattage of a light source is not a relevant measure.

- (2) Lumens: A unit of measure for visible luminous flux (visible light output, the number of photons per second produced) of a lamp or LED or other light source. The measure of lumens indicates the quantity of total light energy (visible luminous flux) the light source generates, without regard of direction, light beam quality, or beam configuration.
 - (a) A source of light can have a very high value in lumens, and yet a low value in candelas or lux if the light output is gathered poorly and directed poorly. And, vice versa, a source of light can have a very low value in lumens, and yet a high value in candelas or lux if a low light output is gathered efficiently and directed in a very focused manner.
- (3) Luminance: A unit of measure for the amount of light is being produced from distant source, and directed at a specific angle into one's eyes (a strong beam from a flashlight, spotlight, or vehicular high-beams). Luminance is measured in candelas-per-square-meter (Cd/m²) in the metric system, and in foot-lamberts (fL) in the US (imperial) system. For this section, the metric unit of measure shall be used (Cd/m²), where 0.2919 fL = 1 Cd/m². The Village is not now requiring luminance to be below any specific level of Cd/m² but may consider this in the future after further study.
- (4) Illuminance: A unit of measure for the amount of light projected from a nearby source onto a surface. For instance, a light source falling onto a white piece of paper and how well one is able to read what's written on the paper when one's head is turned away from the light source (ie, a photographer would measure illuminance when calibrating portrait photography). Illuminance is measured in Lux (Lx) in the metric system, and in foot-candles (fC) in the US (imperial) system. For this section, the metric unit of measure shall be used (Lx), where 0.09290 fC = 1 Lx.

C. Nuisance lighting. Light trespass shall be considered nuisance lighting when:

- (1) A light source (other than a light source on a pillar demarcating a main property entrance) produces illumination beyond the boundaries of the property on which it is located in excess of 5 Lx, measured anywhere at or immediately outside the property line (an average streetlight in Tuxedo Park of 100-watt incandescent bulb, measures 5 Lx when standing directly underneath); or
- (2) A light source is seen from a neighboring property or roadway at sufficient intensity, or luminance, to cause discomfort or impaired visibility, or which produces glare; or
- (3) A light source is of a flashing, dazzling, pulsating, or otherwise strobing source of illumination (other than such sources existing on the effective date of this section).

D. Luminance and illumination levels shall be measured with a photoelectric photo meter in accordance with the standards published by the Illuminating Engineering Society of North America.

E. If the Village determines nuisance lighting to exist on a property, that lighting shall be abated by removing, replacing, shielding, retrofitting, relocating or re-aiming a fixture or relamping to reduce output of luminance and illuminance, such that the lighting is in compliance with this section.

- F. Building- or pole-mounted, shielded floodlights and/or shielded spotlights are permitted provided such lights are angled downward and do not to create glare as seen from above.
- G. No lighting source shall be more than 20 feet above the ground level underneath it, as measured by taking the elevation difference between the average of a circular area measuring 10 feet in radius directly beneath the light source, and the light source.
- H. Existing exterior lighting that is determined by municipal law enforcement to contribute to a condition of disabling or distracting glare onto a public roadway may be ordered to be changed or removed at any time.
- I. The Village encourages the raising and lowering of the national flag at sunrise and sunset instead of illumination. The national flag, as well as up to one additional secondary flag, that are not illuminated with downward lighting, may be illuminated only with a single ground mounted narrow cone spotlight that confines the illumination to the flag, provided the light beam is focused, the source of the light is not visible from adjacent properties or public areas, and the total illumination of the flag cannot exceed 5 Lx as measured from any property line, regardless of the number of lamps. No other flags may be illuminated.
- J. Lighting of radio, communication and navigation towers shall not be permitted unless required by the Federal Aviation Administration (FAA) regulations, in which case required lighting shall be of the lowest permitted intensity and red, unless otherwise required by FAA regulations.
- K. Recreational lighting currently installed within the boundaries of the Village, as of the effective date of this Section, may be used, and such use is regulated by the following provisions:
 - (1) On each day of the week, with the exception of Friday and Saturday and federally recognized holidays, recreational lighting may not be used later than 10:00 p.m. or earlier than 8:00 a.m.
 - (2) On Friday or Saturday or on any federally recognized holiday, recreational lighting may not be used later than 12:00 a.m. or earlier than 10:00 a.m.
- L. No new installation or use of recreational lighting shall be permitted in the Village. For purposes of this section, "recreational lighting" means light fixtures used to illuminate courts, arenas, fields, tracks, and other outdoor recreational areas, and an "outdoor recreational area" means an area designed for active recreation, including but not limited to, baseball, soccer, football, golf, tennis, swimming pools, equestrian and similar recreational activities.
- M. Boat dock lighting. On all of the three lakes, floodlighting of boat docks and boat houses should be controlled by a motion detection device and powered for no longer than a fifteen-minute interval in any one-hour time period. Low voltage shielded boat dock lighting is permitted. Boat house lighting shall be treated as residential lighting and shall conform to all of the applicable sections of this section.
- N. Safety lighting. Any new installation of safety and convenience lighting, such as lights illuminating garbage cans or pathways, shall be activated by motion and are not powered for no longer than a five-minute interval in any three-hour time period.
- O. The installation or alteration of exterior lighting will often result in the alteration of the appearance of a property. Nothing in this section is intended to detract from the provisions of § 100-53 of the Village Code, which require approval of the Board of Architectural Review for projects or activities which alter a property's appearance.

- P. In any case where national and New York State building code requirements exceed the requirements of this section, the national and state requirements shall apply.
- Q. The provisions of this section may be enforced by the Building Inspector, any police officer or the Board of Trustees (the "Enforcement Officer"). It shall be unlawful for any person, firm, property owner, tenant, person in possession, partnership, corporation or other business entity (hereinafter "person and/or business entity") to install, alter, repair, move, equip, use or maintain or allow such installation of any outdoor lighting in violation of any of the provisions of this article or to fail in any manner to comply with a notice, directive or order of the Enforcement Officer.
- R. If, after investigation, the Enforcement Officer finds that any provision of this section is being violated or nuisance lighting exists, notice shall be given by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, and/or to the person or business entity believed not to have complied with this section, instructing that the violation or nuisance lighting must be abated within the time specified in the notice or, in absence thereof, within 30 days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within said period, the Enforcing Officer, in addition to any other rights or remedies available under the Village Code, may institute actions and proceedings, either legal or equitable, to enjoin, restrain or abate any violations of this section.
- S. Penalties. Any person and/or business entity who violates this section, or any provision thereof, shall be guilty of a violation punishable by a civil penalty not to exceed \$250 for violations after the expiration of the abatement period provided in Subsection R, and each day shall constitute a separate offense for the purpose of calculating the civil penalty; any person and/or business entity who violates this article after being convicted of a violation of this article within the preceding year shall be guilty of a violation punishable by a fine not to exceed \$500; any person and/or business entity who violates this article after being convicted of a violation of this article two or more times within the preceding three-year period shall be punishable by a fine not to exceed \$1,000.

§ 100-22. Village access. [Amended 12-21-1990 by L.L. No. 1-1990; 4-28-2015 by L.L. No. 2-2015]

Except by approval of the Board of Trustees, the existing Main Gate and South Gate shall be the only points of access and egress for the Village.⁷⁴ The Main Gate entrance to the Village, adjacent to New York State Route 17, shall be the only point of ingress to and egress from the Village for all those owners of land within and residents of the Village, and persons lawfully having business with or invited therein by any such owner or resident of the Village. Ingress to the Village through the South Gate shall be restricted to property owners and residents of the Village and those others having a current and valid Tuxedo Park identification tag affixed or displayed in accordance with Chapter 25 of the Village Code. No driveways or road extensions shall be permitted to abut or traverse any Village boundary. The Board of Trustees reserves the right to restrict ingress or egress at any point along a Village roadway. However, under emergency conditions, the Mayor may approve the temporary opening of a gate, trail or fire road when deemed essential to the safety and welfare of the Village.

§ 100-23. Blasting, demolition or mining. [Amended 12-21-1990 by L.L. No. 1-1990; 1-26-2022 by L.L. No. 1-2022]

Any project which involves blasting, demolition of a building or structure, soil mining or soil filling shall require an EAF review and Planning Board approval and a special permit from the Board of Trustees for that purpose as well as forty-eight-hour prior notification to each adjacent property owner.⁷⁵

^{74-71.} Editor's Note: See also Ch. 25, Access to Village.

§ 100-24. Structures increasing dam hazard classifications. [Added 5-26-2010 by L.L. No. 2-2010]

No building permit may be issued, and no approval may be granted by any board, for any proposed structure, or any proposed addition to an existing structure, that will, in the opinion of the Village Engineer, be located in a manner that will thereby increase the New York State Department of Environmental Conservation dam hazard classification for any Village dam. Before an application for a building permit or any board approval may be acted upon, the Village Engineer must certify in writing that the proposed location of any structure, or the location of any addition to an existing structure, will not by its approval increase the said dam hazard classification.

75-72. Editor's Note: See also Ch. 40, Clearing, Filling, Grading and Excavating, and § 100-40 of this chapter.

ARTICLE V

Nonconforming Uses, Noncomplying Buildings and Substandard Lots
[Amended 12-21-1990 by L.L. No. 1-1990; 6-10-2009 by L.L. No. 5-2009]**§ 100-24.1. Purpose.**

It is acknowledged that certain nonconforming uses, noncomplying buildings and substandard lots were created upon enactment of the first Village of Tuxedo Park Zoning Law and may yet be created again upon future amendments to the Zoning Law. The purpose of this article is to set forth the parameters of the protection afforded to each category of presently protected noncompliance with Zoning Law requirements caused by the original enactment of the Zoning Law, as well as by any amendments thereto. In all cases, for protection to be afforded under this article, there must have been, at the moment immediately before that noncompliance was created as the result of a legislative act, a legal and conforming use, a complying structure or a legally created lot then in existence. Any failure to meet Zoning Law requirements not protected hereunder shall constitute a violation of the Zoning Law.

§ 100-24.2. Nonconforming uses.

The use of a building or structure, lot or land, or part thereof, lawfully in existence on February 17, 1987 (the day immediately preceding the effective date of this chapter), or the use of a building or structure, lot or land, or part thereof, lawfully in existence on the day immediately preceding the effective date of any amendment to this chapter affecting such use, and consistently carried on thereafter, which does not conform to the use restrictions presently applicable in the zoning district in which that use is being conducted, may be continued indefinitely, regardless of change of title, possession or occupancy, subject to the following:

- A. No nonconforming use shall be enlarged, altered, extended or restored or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter (or on the effective date of any amendment thereto affecting such use), nor shall any external evidence of such use be increased by any means whatsoever.
- B. No nonconforming use shall be moved to another location on a separate lot or parcel where such use would be nonconforming.
- C. No nonconforming use shall be changed to another nonconforming use without approval by the ~~Board of Zoning Appeals~~ Board of Appeals, and then only by grant of a use variance upon satisfactory proof of eligibility for same.
- D. A nonconforming use may be changed to any conforming use and the applicable district bulk regulations and off-street parking requirements shall not apply to such change of use or to alterations made in order to accommodate such conforming use, provided that such alterations do not create any new or additional nonconformity in regard to such regulations or requirements nor increase the degree of any such noncompliance with bulk requirements as may then exist.
- E. A nonconforming use that has been changed to a conforming use or been granted a use variance to carry on a different nonconforming use shall immediately and forever lose the limited protection afforded by this section.
- F. No nonconforming use shall be reestablished if such use has been abandoned or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so. Discontinuance of a nonconforming use for a period of one year or more shall create a

rebuttable presumption of abandonment.

- G. Domestic occupancy. The prior use of accessory or principal buildings by servants or employees does not establish use by one or more families.

§ 100-24.3. Noncomplying buildings.

A building or structure lawfully existing on February 17, 1987 (the day immediately preceding the effective date of this chapter), or a building or structure lawfully existing on the day immediately preceding the effective date of any amendment to this chapter affecting such building or structure, which does not comply with the building regulations or bulk table restrictions presently applicable in the zoning district in which that building or structure is located may continue to be used indefinitely subject to the following:

- A. Repairs and maintenance. Nothing in this article shall be deemed to prevent normal maintenance and repair, structural alteration within, moving or reconstruction of, or enlargement of any noncomplying building, or any demolition necessary in the interest of public safety (unless otherwise prohibited by the provisions of the Code of the Village of Tuxedo Park), provided that such action does not increase the degree of, or create any new, noncompliance with the district regulations and bulk table provisions pertaining to such building or structure.
- B. Any alteration of a building or structure that increases the degree of, or creates any new, noncompliance shall result in a loss of protected status, e.g., any additional incursion into a required setback makes not only that particular setback more noncomplying but makes the entire building and property more noncomplying as well. Thus, whenever a property owner proposes to pierce the envelope of protected noncompliance through submission of a plan for construction making his or her building or lot more noncomplying in any fashion, full compliance with all bulk table specifications, or variances for all such nonconformities, is required.
- C. An increase in degree of noncompliance or creation of a new noncompliance with the district regulations and bulk table provisions within the meaning of this article shall include all of the following:
- (1) The lateral extension of a noncomplying portion of a building for a distance greater than presently exists, even where the distance of that building from the property line remains the same. Thus, for example, the owner of a building that does not comply with the applicable side yard requirement may not, without obtaining a variance, build an extension on the side of his or her building, running toward either the front or the rear of the existing side footprint, even if it comes no closer to the property line than the existing building.
 - (2) An upward expansion of a building, even at the same dimension as an existing setback noncompliance (because such an expansion increases the mass or volume of the noncompliance).
 - (3) The in-filling of open-air space (such as a porch) at the same dimension as an existing setback noncompliance (because such an expansion increases the mass or volume of the noncompliance).
 - (4) The extension of an existing noncomplying building closer to a property line than bulk rules require (but less than the currently existing nonconformity) where the portion of the building to be so extended is currently in compliance with bulk requirements and is a different portion of the building than where the current noncompliance exists.

D. Reconstruction of a damaged building or structure:

- (1) A noncomplying building or structure (whether housing a conforming or a nonconforming use) which has been damaged or destroyed by fire or other causes may be rebuilt provided that there will be no increase in degree of noncompliance or creation of a new noncompliance with the district regulations and bulk table provisions as a result.
- (2) Application for a permit to rebuild or restore the damaged portion of any noncomplying building damaged or destroyed as set forth above shall be filed within five years of the day of such damage, unless extended by the Board of Trustees for up to an additional five years, and shall be accompanied by plans for reconstruction which shall comply with the requirements set forth above. If such permit is issued, it shall expire two years thereafter, unless reconstruction in accordance with the approved plans has been completed.

E. Variance applications. In all cases where application is made to increase the degree of or create any new noncompliance with regard to the district regulations and bulk table provisions pertaining to such building or structure, the applicant shall be required to identify all existing noncompliance with code and to identify any and all proposed increases in the degree of noncompliance as defined in Subsection C, above and the applicant shall be required to seek a variance for not only the new or increased items of noncompliance but for all existing noncompliance as well. The ~~Board of Zoning Appeals~~Board of Appeals shall review and separately consider and grant (or deny) each variance requested. Upon granting of a variance under this subsection, the property in question shall immediately and forever lose the limited protection afforded by this article.

§ 100-24.4. Substandard lots.

A substandard lot may be used for a single-family dwelling as follows:

- A. Construction on all such lots shall comply with the bulk table and setback requirements of § 100-8 and of this section.
- B. (Reserved)

ARTICLE VI

Interpretation, Administration and Enforcement**§ 100-25. Interpretation and effect.**

In their interpretation and application, the provisions of this chapter shall be deemed to prescribe minimum requirements for promotion of health, safety, morals and general welfare of the Village. This chapter shall not be deemed to amend, repeal or impair any requirement in any ordinance or law, or in any deed restriction or covenant or in any other undertaking between private parties, but no provision in any such ordinance, law, restriction, covenant or undertaking shall be deemed to justify noncompliance with any provision of this chapter. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or private deed restrictions, the most restrictive or that imposing the higher standards shall govern.

§ 100-26. Building Inspector.

- A. This chapter shall be enforced by the Building Inspector, who shall be appointed by the Board of Trustees.⁷⁶ Whenever the Board of Trustees or the Building Inspector have reason to believe that an owner is violating any of the provisions of this chapter, the Building Inspector or the Village Police, as the Board of Trustees may direct, in discharge of his or its duties, shall have the authority to enter the building or premises of such owner at any reasonable hour.
- B. The Board of Trustees may, at its discretion, also appoint Deputy Building Inspectors as necessary. **[Amended 12-21-1990 by L.L. No. 1-1990]**
- C. Among the duties of the Building Inspector shall be his review of all applications for permits, periodic inspections of site work and construction, final review for both Certificates of Occupancy and Certificates of Completion and inspections of any activities which are deemed to violate the provisions of this chapter. Prior to the issuance of a Certificate of Occupancy or Certificate of Completion, the Building Inspector, or Deputy Building Inspector, will verify and confirm the total square footage and take appropriate photographs of the residence for property data files. **[Amended 2-16-2005 by L.L. No. 1-2005]**

§ 100-27. Filing of plans. [Amended 12-21-1990 by L.L. No. 1-1990]

- A. No building or structure shall be erected, altered, demolished or enlarged unless the owner, lessee or agent of either shall file with the Building Inspector, prior to the commencement of such proposed construction or demolition, a statement in triplicate, as set forth below, and such plans and structural detailed drawings of the proposed work as may be reasonably necessary to determine compliance with the provisions of this chapter.
- B. Plans involving structures or structural changes shall require the seal and signature of a New York State registered architect or professional engineer. The Board of Trustees may waive the requirements of this subsection for projects whose total value does not exceed \$10,000.

§ 100-28. Building Permits. [Amended 12-21-1990 by L.L. No. 1-1990; 3-18-2009 by L.L. No. 3-2009]

It shall be unlawful for any person to perform site work or commence work for the erection, alteration or demolition of any building or structure until a permit has been duly issued therefor. Except upon written

^{76,73.} Editor's Note: See also Ch. 36, Building Construction.

order of the ~~Board of Zoning Appeals~~Board of Appeals, no building permit shall be issued until the Building Inspector has certified that the proposed building or structure complies with all the provisions of this chapter. An application for a building permit shall be in writing duly verified, giving the full name and residence of the owner of the premises, and shall be accompanied by the appropriate fee. Such application shall also be accompanied by a plat in triplicate drawn to scale showing the actual dimensions of the lot to be built upon, the size of the building or structure to be erected, their locations on the lot, the setback line observed by the building with respect to each lot line, and such other information as the Building Inspector may require.

§ 100-29. Authorization of owner.

If the construction is to be made or executed by any person other than the owner of the land in fee, the person intending to make such construction shall either, as owner, lessee or in any representative capacity, furnish to the Building Inspector, accompanying the application to build, a statement in writing, sworn to as aforesaid, giving the full name and residence of the owner of the land, building or proposed structure and reciting that he is duly authorized to perform said work. Such statement may be made by the agent or architect of the person hereinbefore required to make the same.

§ 100-30. Place of filing.

All applications, notices and sworn statements required by this chapter shall be presented to the office of the Clerk of the Village of Tuxedo Park, and records of all permits issued shall be kept by the Clerk of the Village of Tuxedo Park.

§ 100-31. Approval by Board of Architectural Review. [Amended 12-21-1990 by L.L. No. 1-1990; 4-28-2015 by L.L. No. 1-2015]

Projects which would alter the external visual elements of a land parcel, lot, structure or building shall require the approval of the Board of Architectural Review prior to the issuance of a Building Permit.

§ 100-32. Approval of applications; issuance of permits. [Amended 12-21-1990 by L.L. No. 1-1990; 4-28-2015 by L.L. No. 1-2015]

- A. It shall be unlawful to construct or demolish any building or structure until the application and plans required by the Village Code shall have been approved by all appropriate Village boards and a permit issued by the Building Inspector, or such administrative official as the Board of Trustees may appoint, provided that the application and plans comply with all applicable laws, ordinances, codes, rules and regulations.
- B. An approved copy of the plans and specifications must be kept at the premises under construction until a Certificate of Occupancy therefor is issued.

§ 100-33. Approval in part. [Amended 12-21-1990 by L.L. No. 1-1990; 4-28-2015 by L.L. No. 1-2015]

Nothing in this article shall be construed to prevent the Building Inspector from issuing a permit for the construction of part of a building or structure when plans and detailed statements meeting the requirements of the Village Code have been submitted and approved by the appropriate reviewing board(s) having jurisdiction over such application, provided that the applicant posts a performance bond, letter of credit or cash security in an amount and form satisfactory to the Village and adequate to cover the cost to complete the balance of the project or the cost to remove the partial construction and restore the site, depending on which amount is most apt under the circumstances.

§ 100-34. Signature to permit. [Amended 4-28-2015 by L.L. No. 1-2015]

Every Building Permit, Certificate of Occupancy or Certificate of Completion issued by the Building Inspector under the provisions of this chapter shall have the signature of the Building Inspector, or his/ her lawful designee, affixed thereto.

§ 100-35. Application amendments.

Nothing in this chapter shall prohibit the filing of amendments to any application at any time before the completion of the work for which a permit was sought, and such amendments, if approved, shall be made a part of the application and filed as such.

§ 100-36. Expiration of permits.

- A. Any permit issued by the Building Inspector under the provisions of this article, but under which no structural work is commenced within one year from the time of issuance, shall expire by limitation.⁷⁷
- B. Except as noted in Subsection A, permits shall be valid for a period of 18 months from their issuance, after which up to two six-month renewals shall be granted by the Building Inspector, upon the filing of an application therefor, payment in full of all application and escrow fees/replenishments outstanding, and posting of all required and up-to-date bonding and/or other security. In no case shall a permit be valid for more than 30 continuous months. Any work for which a building permit has been issued which remains less than fully complete after the expiration of the aforementioned thirty- month period shall be required to submit a new application to each reviewing board having granted the prior approval upon which the initial Building Permit was based, and to pay all associated new application fees and escrow monies. Said board(s) shall review the application to ensure that there have been no significant changes to the surrounding area that may impact the project, and to ensure compliance with the prior approval. After all such new approvals have been granted; a new building permit may be issued by the Building Inspector in accordance with this chapter. **[Amended 4-28-2015 by L.L. No. 1-2015]**
- C. Any work for which a building permit has been issued which remains partially complete with no substantial progress over a continuous twelve-month period shall be considered an abandoned project, upon which event the building permit may be revoked, and which in any event shall be a violation of this chapter. **[Added 4-28-2015 by L.L. No. 1-2015]**

§ 100-37. Revocation of permit. [Amended 12-21-1990 by L.L. No. 1-1990]

The Board of Trustees may revoke, without refund of fees, any permits or approval issued under the provisions of this article in the case of any false statement, any violation of the terms of the permit or any misrepresentation as to a material fact in the application on which the permit or approval was based, or any activity deemed to jeopardize the health, safety or general welfare of the Village.

§ 100-38. Ordinary repairs. [Amended 12-21-1990 by L.L. No. 1-1990]

Ordinary repairs and maintenance to buildings and structures may be made without notice to the Building Inspector, provided that there are no structural or externally visual alterations and no change in materials, design or colors.

^{77-74.} Editor's Note: See also Ch. 73, Permits and Licenses, § 73-5.

§ 100-39. Notice to Building Inspector.

It shall be the responsibility of every permit holder to notify the Building Inspector in writing at least 24 hours prior to the commencement of any activity. In addition, the Building Inspector may require subsequent notices at critical phases of the construction process.

§ 100-40. Work conditions. [Amended 12-21-1990 by L.L. No. 1-1990]

All exterior and interior construction, renovation, repair or maintenance which involves vibration, noise, truck traffic, bright lights, dust odors or other disturbances shall only be performed between the hours and on the days specified in § 70-6 of this Code. Construction sites and adjacent roads shall be maintained in a neat and orderly fashion so as to create a minimum visual objection. Operating noise must be kept to a minimum. Blasting, jackhammering, pile driving and all similar operations involving excessive noise, vibration, shock and/or potential hazard shall require, in addition to the normal permits, a written notification to all neighboring property owners and residents within 500 feet of the proposed operation. Such notification shall be effected at least 48 hours prior to commencement of the subject activity.⁷⁸

§ 100-41. Certificates of Occupancy.

- A. It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter erected, altered, converted or enlarged, wholly or partly, in its use or structure until a Certificate of Occupancy or a Certificate of Completion therefor shall have been issued by the Building Inspector to the owner of record. Such certificate shall certify that the said building, structure or premises or part thereof and the proposed uses thereof are in conformity with the provisions of this chapter and the New York State Uniform Fire Prevention and Building Code and shall be in such form as the Board of Trustees of the Village shall authorize. It shall be the duty of the Building Inspector to inspect the premises and to verify completion according to approved plans and to issue or deny a Certificate of Occupancy within 20 days after a written request for the same shall be filed at the office of the Clerk by any owner of a building or premises. Such inspection for a Certificate of Occupancy shall be performed at least each time the property changes ownership.
- B. Upon written request from the owner, the Board of Trustees shall issue a Certificate of Occupancy for any building or premises existing at the time of passage of this chapter, certifying, after inspection, the use made of the building or premises and whether such use conforms to the provisions of all applicable state and Village laws. **[Amended 12-21-1990 by L.L. No. 1-1990]**
- C. No Certificate of Occupancy is required as to any building in existence at the date of this chapter, even though such building does not conform to this chapter either as to the lot area or yard requirements, percentage of lot occupied or minimum floor areas, except where a change of use or conversion occurs.
- D. It is unlawful to voluntarily sell, transfer or convey title to any building or structure on and after the effective date of the adoption of this chapter until a Certificate of Occupancy therefor shall have been issued by the Building Inspector. Such Certificate shall certify that such building or structure and the proposed use thereof are in conformity with the provisions of all applicable state and Village laws. Prior to the issuance of such Certificate, the Building Inspector shall inspect such building or structure. Any person to whom any such building or structure is to be sold, transferred or conveyed may request the Building Inspector to inspect the same and to issue a Certificate of Occupancy in advance of the sale, transfer or conveyance. **[Amended 12-21-1990 by L.L. No. 1-1990]**

^{78-75.} Editor's Note: See also § 100-23 of this chapter and § 70-6 of Ch. 70, Peace and Good Order.

- E. No Certificate of Occupancy shall be issued hereunder until, among other things, all debris and construction materials and equipment are removed from the premises and all driveways are completed and usable.
- F. Structures such as pools, antennas, driveways, courts, cabanas, walls, etc., which are not to be occupied, shall also require inspection by the Building Inspector to verify completion according to approved plans. If acceptable to the Building Inspector and Board of Trustees, a Certificate of Compliance shall issue, after which the structure may be placed in service.
- G. A fee shall be required from the latest owner of record to cover the costs of inspection and issuance of both Certificates of Occupancy and Certificates of Compliance.

§ 100-42. Buildings under construction.

Nothing herein contained shall require any change in the plans, construction or designated use of a building under construction at the time of adoption of this chapter or any amendments thereto, provided that the construction shall have proceeded to the completion of the foundations and the setting of the first floor beams or, in the instance of an alteration, the completion of at least 40% of the estimated cost of the alterations, and provided further that the work thereon shall be diligently prosecuted to completion within one year from the effective date of this chapter.

§ 100-43. Fees and escrow. [Amended 2-20-2008 by L.L. No. 2-2008]

- A. The Board of Trustees shall, from time to time, adopt by resolution and publish a schedule of fees for permits, inspections, appeals, subdivisions, environmental review and the like.⁷⁹ These may be flat fees, graduated fees or fees based on actual cost of construction. The Village Clerk shall maintain a current fee schedule and be responsible for collecting the appropriate sums.
- B. Such fees shall include and monies held in escrow shall be held to pay the reasonable and necessary fees and expenses of the consultants (including attorneys, engineers, planners, environmental consultants and other professionals) to the Planning Board, Board of Architectural Review, ~~Board of Zoning Appeals~~Board of Appeals, Building Inspector and Board of Trustees resulting from their review of an applicant's request for approval of any municipal approval including subdivisions, lot line changes, site plans, architectural approvals, special permits, variances, interpretations, appeals to the ~~Board of Zoning Appeals~~Board of Appeals, review during construction as deemed necessary by the Building Inspector and the like, and any modification or amendment of the foregoing.
- C. A schedule of standard initial estimates for the reasonable amount of such expected consultant fees and expenses shall be established by the Board of Trustees in the schedule of fees noted in Subsection A above, which may be amended by resolution of the Board of Trustees from time to time. Such initial estimate shall be paid to the Village Clerk by an applicant at the time of the application filing. The amount so paid shall be held in escrow by the Village for application to payment of such consultants' fees and expenses, and replenished by the applicant, in accordance with an escrow policy of the Village that may be adopted and amended from time to time by resolution of the Village Board of Trustees. Such escrow policy shall also set forth conditions of the escrow and the consequences for failure to maintain the proper escrow amount as defined therein.
- D. No plat or plans shall be signed by the respective Village boards, and no building permit or other project permit or certificate shall be issued, until all outstanding invoices for consultant fees and

^{79-76.} Editor's Note: The current fee schedule is on file in the office of the Village Clerk.

expenses have been paid in full in accordance with escrow policy except as may be otherwise specifically approved by the Board of Trustees.

§ 100-44. Performance bonds. [Amended 12-21-1990 by L.L. No. 1-1990]

- A. Any project which encompasses off-site improvements shall require a performance bond, letter of credit or cash security in a form acceptable to the Village and in an amount equal to the total estimated off-site costs plus 20% of those costs.
- B. Any new residence or any project expected to require more than 18 months to complete shall require a performance bond, letter of credit or cash security in a form acceptable to the Village and in an amount equal to 5% of the estimated cost of construction. Proceeds of such bond shall be used to restore or vegetate the site in the event of incompletion or abandonment.

ARTICLE VII

~~Board of Zoning Appeals~~Board of Appeals**§ 100-45. Establishment. [Amended 6-7-2006 by L.L. No. 3-2006]**

There is hereby established a ~~Board of Zoning Appeals~~Board of Appeals. Such Board shall consist of five members to be appointed by the Board of Trustees pursuant to § 7-712 of the Village Law to serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. The Board of Trustees shall annually, by resolution, designate from the members of such Board a Chairman and Deputy Chairman. A quorum shall consist of not less than three members. Any member may be removed by the ~~Mayor~~Board of Trustees for cause after a public hearing.

§ 100-46. Board rules and procedures. Conflicts. [Amended 12-21-1990 by L.L. No. 1-1990; 6-7-2006 by L.L. No. 3-2006]

The Board of Appeals shall adopt such general rules and regulations as it may deem necessary to interpret and carry into effect the provisions of this chapter and ~~shall~~, consistent with Section A101 of the Village Law, ~~determine its own rules and procedures. All meetings of the Board of Appeals shall be public. A quorum shall consist of three members. The Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. The Board shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement or decision of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record. All meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. Such Chairman or, in his absence, the Deputy Chairman, may administer oaths or compel the attendance of witnesses. The concurring vote of three members of the Board shall be necessary to decide in favor of the applicant any matter upon which said Board is required to pass under this chapter unless there is specific provision requiring a unanimous vote. Notwithstanding the foregoing, the rules of procedure set forth in Chapter A101 shall apply to this 100-46 in the event of a conflict between this 100-46 – 100- 48 and Chapter A101, Chapter A101 shall control.~~

§ 100-47. Appeals.

- A. Appeals to the Board of Appeals may be taken by any person aggrieved (which shall include a purchaser under contract) or by an officer, department or board of the Village.
- B. Such appeals shall be taken within such time as shall be prescribed by the Board of Appeals by filing with the officer from whose decision the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds therefor.
- C. The officer from whose decision the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken, together with a statement of position and representation at all pertinent hearings held by the ~~Board of Zoning Appeals~~Board of Appeals.

§ 100-48. Powers.

- A. Review. The Board of Appeals shall, pursuant to the Village Law, hear and decide appeals from and review any orders, requirements, decisions or determinations made by the Building Inspector or other officer charged with the enforcement of this chapter, the Safe Harbor set forth in Chapter 40, as well as any other matter requiring its determination pursuant to this chapter.

- B. Variance. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of any of the provisions of this chapter, the Board of Appeals shall have the power, in passing upon appeals, to vary or modify the application of any of the regulations or provisions of this

chapter relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

C. Special exceptions. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be injured thereby, the Board of Appeals may, in a specific case to the extent hereinafter set forth, after due notice and public hearing and subject to appropriate conditions and safeguards, determine and vary the application of this chapter in harmony with its general purpose and intent as follows:

- (1) Grant a permit wherever it is provided in this chapter that the approval of the Board of Appeals is required.
- (2) Permit the continuance of a nonconforming use or building upon the lot occupied by such use or building at the time of the adoption of this chapter.
- (3) Modify the yard requirement in cases where the proposed building adjoins, on either or both sides, buildings that do not conform to the minimum setback line or where compliance with the minimum setback line would cause unnecessary hardships to the owner without any compensating benefit to the community, provided that each encroachment shall not extend into the yard more than the building which has the greatest encroachment on such yard setback.
- (4) Vary the application of the regulations herein established and establish appropriate requirements for irregular lots or lots that do not meet the area requirements for the particular district which so existed at the effective date of this chapter.
- (5) Vary yard restrictions where conformance would cause unnecessary hardship to the owner without any compensating benefit to the community.
- (6) Vary the application of the regulations herein established and modify the requirements hereof in cases of exceptional topography under such conditions as will safeguard the neighborhood.
- (7) Permit the encroachment of buildings and structures into the front, rear and side yards, as follows:
 - (a) An existing accessory building, the use of which is converted into a main dwelling.
 - (b) Fences, swimming pools, outdoor fireplaces, trellises, decks, driveways, pergolas, tennis courts, flagpoles, walls, gates and gate posts. **[Amended 2-21-1990 by L.L. No. 1-1990]**
 - (c) A main dwelling or accessory building which, by inadvertence (unintentional mistake), is found when erected to be in violation of a yard requirement, provided that such violation or encroachment does not exceed five feet.
- (8) ⁸⁰Modify the minimum net floor by not more than 50 square feet when error in size is caused by unintentional mistake and cannot be remedied except at considerable expense.
- (9) Approve the issuance of a permit for the use of a proposed or existing building for the establishment or expansion of an educational or religious institution; provided, however, that permit with respect to both types of institutions may be granted only with respect to the

~~80-77.~~ Editor's Note: Former § 100-48C(8), regarding the conversion, alteration and use of an accessory building, was repealed 5-20-1998 by L.L. No. 4-1998. This local law also provided for the renumbering of former Subsection C(9) and (10) as Subsection C(8) and (9), respectively.

institutions in existence at the time of the enactment of this chapter on the following conditions; provided, however, that under no circumstances shall such institutions be permitted on any lot or parcel of land or in any structure or building located on such lot or parcel of land that fronts on Tuxedo Lake, Wee Wah Lake or Pond No. 3. [Amended 6-17-1998 by L.L. No. 6-1998; 4-18-2001 by L.L. No. 1-2001]

- (a) Buildings as to which a permit may be granted shall be of fireproof construction.
 - (b) Such institutions shall provide off-street parking area and reasonable off-site road improvements of such size and character as in the judgment of the Board of Appeals shall be adequate for the number of people who may be accommodated in the building and the purpose for which it may be used.
 - (c) Such other reasonable conditions relating to the location and physical characteristics of such institutions that ~~Board of Zoning Appeals~~Board of Appeals may deem appropriate under the circumstances in order to insure the peace and harmony of the surrounding neighborhood, such as, but not limited to, screening and other inhibitors with regard to demonstrated off- site impacts due to excessive light and noise.
 - (d) Such permit for tax-exempt institutions may be granted only with respect to the quantity of acreage which is required exclusively for carrying out the purposes of such variance's use and subject to such setbacks as may be prescribed by the ~~Board of Zoning Appeals~~Board of Appeals. In determining the acreage requirements and the setbacks, the following factors, among others, shall be taken into consideration:
 - [1] The size and location of the building or buildings thereon.
 - [2] The proposed number of visitors and occupants of the building or buildings thereon.
 - [3] The use for which the building or buildings thereon are intended.
- D. The Board of Appeals may, in appropriate cases, provide that any permit granted under this section shall be temporary and shall be effective only for the period fixed by the Board, and any application or renewal of such permit shall be acted upon in the same manner as an initial application.
- E. On all applications for permits under this section, the Board of Appeals, in addition to the requirements hereinbefore set forth, shall give consideration to the health, safety, morals, convenience and general welfare of the Village and of its property owners and residents and shall act in harmony with the general purpose and intent of this chapter and of the applicable provisions of the Village Law.
- F. The determination of the Board of Appeals on all applications under this section shall be made in accordance with the comprehensive plan and design set forth in this chapter, with the purpose and intent set forth in the title, subtitle and preamble thereto, and in § 7-704 of the Village Law.
- G. The Board shall not authorize the issuance of any permit under any of the provisions of this section unless it finds in each case that the proposed use of the property or the erection, alteration or maintenance of the proposed building or structure will not:
- (1) Depreciate or tend to depreciate the value of property in the Village.
 - (2) Create a hazard to health, safety, morals or general welfare.
 - (3) Be detrimental to the neighborhood or to the residents thereof.

- (4) Alter the essential character of the neighborhood.
 - (5) Otherwise be detrimental to public convenience and welfare.
- H. The Board of Appeals may exercise such other powers or original jurisdiction as are specifically provided for in other sections of this chapter or as are authorized under the Village Law of the State of New York.

ARTICLE VIII
Board of Architectural Review

§ 100-49. General provisions.

- A. The Board of Architectural Review of the Village of Tuxedo Park shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these rules.
- B. The term "~~BAR~~oard" as used in these rules shall mean the duly appointed Board of Architectural Review of the Village of Tuxedo Park.

§ 100-50. Findings and purpose.

The Board of Trustees finds that:

- A. General Policy. The Board of Trustees finds that the Village of Tuxedo Park is unique in its many examples of distinguished architectural, landscape, and site design, and that the Village's historic, scenic, and natural features are integral to its character, identity, and long-term value. It is hereby declared to be the policy of the Village of Tuxedo Park, and a guiding principle for the Board of Architectural Review in the exercise of its duties under this chapter, to recognize, respect, and honor the Village's designation as a historic district listed on the National Register of Historic Places and the Village's natural landscape, topography, vegetation, watersheds, viewsheds, and ecological systems.
- B. Policy BAR Objective. In carrying out its duties, the BAR shall seek to preserve and enhance the Village's historic resources, and established architectural character while allowing reasonable modernization, restoration, additions. The BAR shall permit high-quality contemporary design that are compatible with and respectful of the historic district context and the Village's natural landscape, topography, vegetation, watersheds, viewsheds, and ecological systems.
- C. Policy Decision Making. In carrying out these duties the BAR shall also balance 100-50 (A) and 100-50 (B) against and shall consider reasonable cost, long-term durability, maintenance, resilience, and availability of materials as supporting factors where relevant under this chapter, no determination shall be based solely on cost.
- D. Policy Administrative Standards. The BAR shall conduct itself in a transparent, clear, fair, and consistently administered manner that enhances property values and instills public confidence. BAR decisions shall not be based on personal preference or subjective taste and shall be clearly based on the applicable standards and provisions of this Chapter 100 and other applicable law.
- E. Jurisdiction; limits on authority. The Board of Architectural Review shall exercise only those powers expressly granted by this chapter and other applicable law. Its jurisdiction shall be limited to the review of exterior design, exterior appearance, exterior materials, site features, and other visual elements that are subject to review under this chapter. The Board shall not regulate interior arrangements, interior finishes, interior use, or other interior matters, except to the extent an interior change is proposed in connection with, or causes, an exterior alteration or other matter otherwise subject to Board review. The Board shall not exercise jurisdiction over engineering or environmental matters.

- ~~A. The Village of Tuxedo Park is unique in its many examples of excellence in architectural and landscaping design.~~
- ~~B. The designation of the entire Village as an historic site and its listing on the National Register of Historic Places by the United States Department of the Interior is both a recognition of the unique excellence of architecture and landscaping within the Village and a mandate to the Village to preserve the values and standards reflected in such excellence and such designation. [Amended 12-21-1990 by L.L. No. 1-1990]~~
- ~~C. Property within the Village derives much of its value from its proximity to such examples of excellence in architecture and landscaping, and that when and where structures of poor design quality or inferior building materials have been erected within the Village there has been a corresponding diminution in value to adjacent properties in particular and to properties in general throughout the Village.~~
- ~~D. The predominant terrain throughout the Village is steep, rocky and severe and presents unusual difficulties and challenges to designers of new construction and landscapers, and that such terrain does not lend itself to successful development with stock or standard structure designs but rather requires the skill and attention of trained professionals who have investigated and addressed the specific site to be developed.~~
- ~~E. Special emphasis shall be placed on the State Environmental Quality Review Act (SEQRA), when applicable. [Amended 3-18-2009 by L.L. No. 3-2009]~~
- ~~F. Poor siting, excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings and other structures erected in any neighborhood adversely affects the desirability of the immediate areas and neighboring areas for residential and other use and by so doing impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate development of such areas, produces degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety, comfort and general welfare of the inhabitants thereof and destroys a proper relationship between the taxable value of real property in such areas and the cost of municipal services provided. It is the purpose of these governing rules to prevent these and other harmful effects of such exterior appearances of buildings and other structures and thus to promote and protect the health, safety, comfort and general welfare of the community, to promote the public convenience and prosperity, to conserve the value of the buildings and to encourage the most appropriate use of land within the Village.~~

§ 100-51. Creation and composition. [Amended 6-7-2006 by L.L. No. 3-2006; 1-26-2022 by L.L. No. 1-2022]

A. There is hereby established a Board of Architectural Review. The BAR shall consist of five members appointed by the Board of Trustees. The Board of Trustees shall annually, by resolution, designate from the members of such Board Chairman and Vice Chairman. A quorum shall consist of not less than three members. Each member of the BAR shall serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. Any member may be removed by the Board of Trustees for cause after a public hearing. The Board of Trustees should, where practicable, appoint at least one licensed architect to the BAR.

B. The Chairman shall decide all points of order and procedure subject to this Chapter and applicable law unless directed otherwise by a majority of the BAR. All matters shall be decided by a roll-call vote. No motion shall be adopted unless it has been duly seconded and receives at least three affirmative votes

~~A. There is hereby established a Board of Architectural Review. Such Board shall consist of five members appointed by the Board of Trustees in accordance with all applicable laws. The Board of Trustees shall, by resolution, designate from the members of such Board a Chairman and Deputy Chairman. A quorum shall consist of not less than three members. Each member of such Board shall serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. Any member may be removed by the Mayor for cause after a public hearing.~~

~~B. The Chairman shall decide all points of order and procedure subject to these rules unless directed otherwise by a majority of the Board. All matters shall be decided by a roll-call vote. Approval of any motion shall require a second and at least three aye votes; otherwise the matter shall be deemed disapproved.~~

~~C. C.~~ Vacancies shall be filled by appointments made by the Board of Trustees.

~~D.~~ In the absence of a quorum, the Chairman may adjourn the meeting to any subsequent date.

C. Subject to the limitations set forth in § 100-50, the Board of Architectural Review shall have jurisdiction to review and determine applications involving exterior changes to buildings, structures, landscaping, and other site features where such review is expressly required by this chapter, and except as otherwise provided by law, including any Safe Harbor exception set forth in Article 64. The BAR's review shall be directed to exterior design, visual compatibility, architectural character, and related landscape treatment within the scope of this chapter.

D. The Board of Architectural Review may accept Owner-Prepared Plans where such plans meet the definition and standards set forth in § 100-2 and are sufficient to permit review of the application. If the Board determines that submitted plans do not meet those requirements, the Owner may revise and resubmit the plans in an effort to bring them into compliance, or the BAR may require submission of plans prepared by a licensed design professional where required by law or reasonably necessary for adequate review.

A.

E. **Findings; record of decision.** All decisions of the Board of Architectural Review shall be based on express standards, criteria, or requirements set forth in this Code or other applicable law. The BAR shall in writing, state the basis for each approval, approval with modifications, or denial on the record, and such basis shall be reflected in the official record, whether in the meeting minutes, or other written determination issued by the BAR or Building Inspector on behalf of the BAR.

~~D.~~

~~E. The Board of Architectural Review shall have jurisdiction to approve, modify or disapprove the landscaping and exterior aesthetics of all buildings and structures to preserve the aesthetic and architectural integrity of the Village of Tuxedo Park. It shall also have site plan jurisdiction to approve, modify or disapprove the existence, location and architecture for any building and garage renovations and additions, cabana shed, gazebo, greenhouse, folly, animal shelter and playhouse. The Board of Architectural Review may, at any time during its review of an application before it, refer any matter, in whole or in part, to the Planning Board for a report and recommendation back to the Board of Architectural Review.~~

§ 100-52. Meetings.

~~A.H. The Board shall hold two public meeting each month at a chosen regular time and day at the Village Office. If there is no immediate business, the Chairman may cancel the meeting by notification to all members not less than 24 hours prior to the time set for such meeting.~~

~~B.I. **Attendance.** BAR members are expected to attend at least 75% of the regular and special meetings of the Board in any rolling 12-month period. If a member fails to attend 25% or more of such meetings during that period, the Secretary shall notify the Chair, and the Chair shall report the matter to the Mayor and Board of Trustees for such action, if any, as may be authorized by law and this Code.~~

~~C.J. **Site visits.** The BAR, or individual members thereof, may conduct site visits to properties or locations that are the subject of an application. Site visits shall be for observation and fact-gathering only, and no deliberations or decisions shall occur except at a duly noticed meeting. Any such site visit shall be disclosed on the record at the next BAR meeting at which the application is considered.~~

~~D.K. **Recusal.** A member shall recuse themselves from any matter in which the member has a conflict of interest under applicable law, or where the member's impartiality might reasonably be questioned, including due to a financial interest, a family or close personal relationship, pending litigation involving the member and an applicant, or other comparable circumstances. The basis for recusal shall be stated on the record, and the recused member shall not participate in discussion or vote on the matter.~~

~~E.L. **Disclosure of off-record communications.** Any substantive off-record communication with a Board member regarding a pending application, including a communication from an applicant, neighbor, or other interested person, shall be disclosed on the record before the BAR deliberates or takes action.~~

~~F.M. **Public comment; relevance.** The BAR may receive public comment at regular meetings and public hearings. In considering public comment, the BAR shall consider factual information relevant to the applicable standards of this Code. Preference or opposition alone shall not constitute evidence and shall not be the sole basis for a decision.~~

~~G.~~

~~H.N. The Board shall hold an informal work session meeting at least once per month for the purpose of discussing preliminary plans and tentative projects. Work sessions may be combined with the regular monthly meeting, but no official action may be taken at these work sessions. The Board shall have the option to set the time and day of these work sessions, and the Chairman shall have the same prerogative to cancel as for the regular meeting.~~

~~O. **Consultants.** Only to the extent necessary and subject to appropriations and applicable Village procurement requirements, the BAR may retain or seek the assistance of outside professional advisors.~~

including architects, engineers, landscape designers, and architectural historians, to assist the BAR in carrying out its duties.

- ~~I. The Board may also employ outside professional advisors such as architects, engineers, landscape designers and architectural historians to aid in the execution of this article.~~
- ~~J. When deemed necessary by the Board, a public hearing may be held for any matter before the Board. At least five days' public notice is required before a hearing may convene.~~
- ~~K. Each Board member shall be expected to attend at least 75% of all meetings (regular and special) of the Board. If a member misses 25% or more of the meetings of the Board held over the last twelve-month period, that member shall forfeit his/her position on the Board and be deemed to have resigned from the Board. The Secretary is responsible for monitoring attendance and notifying the Chair of such an attendance situation. In such an event, the Chair shall report the situation to the Mayor and request the appointment of a replacement member. All Board members shall be expected to attend~~

~~site visits of those properties and locations that are the subject of the application or appeal the Board. The Chair will schedule at least one PB/BAR site visit for each application or appeal. If a member cannot attend a site visit, he/she shall perform a site visit on his/her own. In deference to property owners, the Secretary will make every attempt to notify applicants of PB/BAR site visits in advance. [Added 12-21-2005 by L.L. No. 2-2005⁸⁴]~~

§ 100-53. Procedures.

- A. **Projects Requiring Review.** Except as provided in the Safe Harbor exception in Chapter 64 or in Subsection B below, exterior projects involving new construction, exterior alteration, demolition, excavation, site work, accessory structures, or any other activity that alters the property's appearance shall require a Building Permit, if otherwise required by law, and shall be subject to review and approval by the Board of Architectural Review. For purposes of this article, an exterior project or alteration of a property's appearance means a change to exterior features, site elements, or other visible conditions subject to review under this Chapter.

~~B.~~

- B. **Exemptions.** BAR approval shall not be required for strictly in-kind exterior maintenance or repair, meaning work involving the same material, dimensions, configuration, finish, and color, where no change in exterior appearance results and where the work does not involve structural work, changes to openings, or new site disturbance. Normal repairs and maintenance that do not change design, materials, configuration, or exterior appearance shall likewise be exempt.

~~C.~~

- A. **Administrative approvals by Building Inspector.** Notwithstanding the requirement for Board of Architectural Review otherwise applicable to exterior work under this article, an applicant may apply to the Building Inspector for administrative approval of **minor** work affecting the exterior appearance of property. The Building Inspector may approve such application only where the Building Inspector determines the proposed work: (1) is using consistent materials previously approved by the BAR in a similar context, (2) is consistent with the applicable standards of this chapter and with written BAR determinations, criteria, or other adopted guidance, (3) does not present a material question of policy, precedent, or visual compatibility warranting BAR review, (4) does not involve structural work, changes to openings, or new site disturbance; and (5) is appropriate to the architectural context of the project.

If the Building Inspector determines that an application does not qualify for administrative approval, the Building Inspector shall refer the application to the BAR for review in the ordinary course. Every administrative approval granted under this section shall be made in writing and shall state the basis for the approval. The refusal of the Building Inspector to grant an administrative approval **shall not** be appealable to the Board of Appeals.

A-B.

- B. **Non-binding Reference File.** The Building Inspector or other village employee —shall maintain a nonbinding reference file of materials previously approved in applications (including in Administrative Approvals) from the Effective Date of this Section. The file shall be for guidance only and shall not limit the discretion of the reviewing authority or entitle any applicant to approval based on prior approvals. The non-binding reference file may contain exterior materials, brands, finishes, colors, details, or product types together with the type of project approved and other necessary context. Such reference file is intended solely as an administrative aid and shall not constitute a vested right, binding precedent, or automatic approval for any future application. Each application shall be reviewed on its own facts and under the standards otherwise applicable under this chapter, including

consideration of the specific property, context, visibility, architectural character, historic setting, and any changes in law, policy, or conditions.

- C. **Informal Review/Pre Application Consultation (optional).** An applicant may request placement on the agenda of a BAR work session for an informal consultation to discuss a project in conceptual terms or to seek preliminary guidance before filing a formal application.

(1) A request for Informal Review shall be submitted at least ten (10) days before the scheduled work session, or by such other deadline as the BAR may establish.

(2) No official action shall be taken and no approval shall be granted at an Informal Review. Any comments by the BAR shall be advisory only, nonbinding, and without prejudice to the BAR's consideration of any later formal application.

(3) No formal application materials shall be required for an Informal Review, but the applicant shall provide sufficient conceptual materials to identify the property, describe the proposal, and facilitate discussion.

(4) An applicant may request one or more additional Informal Review sessions, but the scheduling of any such session shall be within the discretion of the BAR.

- D. **Formal Review.** An applicant may submit an application for Formal Review, or the Building Inspector may refer a matter to the Board of Architectural Review for Formal Review.

(1) **Application.** An applicant seeking Formal Review shall submit a complete Building Permit application, the required fee, and such plans and supporting materials as may be reasonably required by the Building Inspector or the BAR in light of the scope of the project, including, as applicable, site plans, elevations, renderings, material or color information, landscape plans, photographs, and an EAF, and including Owner-Prepared Plans where permitted under § 100-2. Submission shall be made at least ten (10) days before the next scheduled BAR meeting.

(2) **Building Inspector review.** Within ten (10) business days after filing of a substantially complete application, the Building Inspector shall review the application for compliance with this chapter, the Uniform Fire Prevention and Building Code, water and sewer requirements, and other applicable laws. If the application is deficient, it shall be rejected in writing with the reasons stated. If the application is sufficient for BAR review, it shall be placed on the agenda for the next available formal meeting, provided it has been on file at the Village Office at least ten (10) days before such meeting.

(3) **BAR review and action.** The applicant or the applicant's authorized agent shall appear at each meeting at which the application is considered, and the BAR may require the attendance of the project architect, engineer, or other consultants as reasonably necessary. If the BAR is lead agency under SEQRA, it shall conduct such review as required by law; otherwise, it may rely on the findings of the lead agency to the extent permitted by law. Upon review, the BAR may approve the application, request additional information or modifications, or deny the application in whole or in part. Any request for additional information or any denial shall be stated on the record with the reasons therefor.

(4) **Time for decision; lapse.** The BAR shall endeavor to render a decision within three (3) regular meetings after the application is first placed on a formal agenda as complete, unless extended by: (1) mutual consent of the applicant and the BAR, or (2) by the BAR because a related matter of the applicant is still pending with the Lakes Committee, Planning Board or Board of Appeals, and such related matter could impact the BAR decision, or (3) by incompleteness of the application, or (4) by lack of quorum. An application not ready for review within six (6) months after its first agenda listing may be deemed void by the BAR. A voided application shall require resubmission and payment of applicable fees, unless waived by the Board for good cause shown.

(5) Vote; permit issuance. All approvals shall require a second and at least three (3) affirmative votes. No Building Permit shall be issued until BAR approval has been obtained where required, and all other applicable provisions of the Village Code and other applicable laws have been satisfied.

~~D.~~

~~E. The applicant shall first request inclusion on an informal work session agenda. The Board shall require of the applicant:~~

~~(1) A site plan or survey of the property preferably with topography.~~

~~(2) Sketches, renderings, tear sheets, pictures or other preliminary depictive information about the project together with several alternative designs.~~

~~(3) Representation by a registered New York State architect and/or licensed professional engineer responsible for the design who must be familiar with the site, SEQRA requirements, neighboring properties, the Zoning Law and the Village's National Register of Historic Places designation. The Board may waive the requirement for an architect or engineer, but only if the proposed project is valued at less than \$10,000. [Amended 12-21-1990 by L.L. No. 1-1990; 3-18-2009 by L.L. No. 3-2009]~~

~~(4) A preliminary landscape plan and any other materials considered essential by the Board.~~

~~(5) An agenda fee or preliminary review fee as established by resolution of the Board of Trustees. [Added 12-21-1990 by L.L. No. 1-1990]~~

~~F. During the first work session discussion, the Board shall review the overall concept and architectural acceptability of the project rather than particular details. The Board shall also seek where appropriate the preliminary opinion of the Building Inspector regarding compliance with the Zoning Law, Uniform Fire Prevention and Building Code, water and sewer regulations, etc. The applicant may attend as many work sessions as he wishes without need of an additional application fee. During the review period, the applicant shall grant access to the subject parcel so Village officials may make any site inspections deemed necessary.~~

~~G. When the applicant is ready to proceed formally, he or his designated agent shall file an application in the Village Office as follows:~~

~~(1) Complete and submit two copies of the application for Building Permit form together with evidence of property ownership or project authority.~~

~~(2) Submit three sets of the architect's sealed drawings, including all four elevations, topography, site plan specifications and key map. The front, rear and both side elevations of the proposed building must show existing grade lines at the foundation walls and proposed finished grades.~~

~~81.78.~~ Editor's Note: This local law also provided that the twelve-month period should begin the first Monday of the first month after Local Law No. 2 of 2005 is registered with the State of New York. Said local law was registered 1-6-2006.

~~All exterior materials and colors must be indicated on the elevations.~~

~~(3) Submit two copies of the complete landscaping plan, including new trees, full perimeter plantings and location of existing trees over five inches in diameter at 48 inches in height, and designation of any trees to be removed.~~

~~(4) Submit to the Village Clerk at least 14 days prior to the meeting, sufficient postage to permit notification by mail of the project to all neighboring property owners within 500 feet of the subject property boundaries.~~

~~(5) Pay to the Village Clerk the required formal application fee as established by the Board of Trustees.~~

~~(6) Complete one copy of the EAF, if applicable. [Amended 3-18-2009 by L.L. No. 3-2009]~~

~~(7) Include any renderings, photos, models or other supporting materials that may better convey the proposal to the Board.~~

~~H. When the formal application is fully complete, the Building Inspector shall, within 45 days of its filing, review that application for conformance with this chapter, the Uniform Fire Prevention and Building Code, the water and sewer regulations and any other applicable regulations or local laws. Any application that is disapproved by the Building Inspector shall be deemed rejected and shall not proceed to any other phase of normal review. If approved, the application shall be placed on the Board of Architectural Review agenda for its next available formal meeting. However, no application shall be placed on this agenda unless it is on file at the Village Office at least 10 days prior to said Board meeting. [Amended 12-21-1990 by L.L. No. 1-1990]~~

~~I. Once approved by the Building Inspector, the application, if complete, shall move to the Board of Architectural Review. Before deciding upon any application approved by the Building Inspector, the Board shall perform any and all necessary SEQRA review, unless otherwise previously performed by the Planning Board. [Amended 12-21-1990 by L.L. No. 1-1990; 6-7-2006 by L.L. No. 2-2006; 3-18-2009 by L.L. No. 3-2009]~~

~~J. To be considered complete, an application must conform to Subsection D above, and the applicant and/or his authorized agent must be present at each relevant meeting with the project's architect and engineer. The Board shall then render its decision within the ensuing three formal meetings following the first formal agenda listing for that application. Extensions may occur if requested by the applicant and approved by the Board; if SEQRA requirements have not been met, if the application is deemed incomplete; or if a quorum of the Board is lacking. Approval shall require a second and three favorable votes; otherwise, the matter shall be deemed disapproved. Any application that is not ready for review within six months from its first agenda listing may be deemed void by the Board. [Amended 12-21-1990 by L.L. No. 1-1990]~~

~~K.C.~~ Once approved by the Board of Architectural Review, the Building Inspector is empowered to issue Building Permits, provided all other requirements of the Village Code and State Building and other codes, laws, rules and regulations have been satisfied. [Amended 4-28-2015 by L.L. No. 1-2015]

§ 100-54. Criteria. [Amended 8-17-2005 by L.L. No. 4-2005; 3-15-2006 by L.L. No. 1-2006; 6-7-2006 by L.L. No. 2-2006; 1-26-2022 by L.L. No. 1-2022]

A. **Compatibility with surrounding character.** In reviewing an application, the BAR shall determine whether the proposed project is compatible with the established visual and architectural character

of the surrounding area and avoids substantial visual disharmony. For purposes of this subsection, the "surrounding area" shall mean structures within five hundred (500) feet of the subject property. In making such determination, the BAR shall consider, as applicable, the extent to which the proposal is consistent with or respectfully relates to the following factors: exterior materials, including texture, profile, and reflectivity; massing, scale, and façade composition; roof form, pitch, and roofline; fenestration pattern and rhythm, including the proportion and alignment of windows and doors in particular on primary elevations; color palette; siting and orientation in relation to the street and prominent views; landscape treatment, including the preservation or restoration of natural features and screening vegetation; and whether particular design elements are visually consistent with the overall composition of the proposed structure. The BAR may require revisions where one or more of these factors would create substantial disharmony. Any approval, approval with conditions, or denial shall include written findings identifying the specific factor or factors relied upon and the evidence in the record. The use of elements that historically served a structural purpose (such as half timber) for decorative purpose may be allowed only where their size, spacing, placement, detailing and construction are visually coherent and consistent with the overall design of the structure.

B. Historic District context; compatibility; findings. In reviewing applications within its jurisdiction, the BAR shall recognize and give substantial weight to the Village's designation on the National Register of Historic Places and shall evaluate whether a proposal is compatible with the Village's historic architectural integrity and established character, and whether it will alter the tradition of quality design and construction. In conducting that review, the BAR shall consider, as applicable, the proposal's massing, scale, size, proportions, roof form, fenestration pattern and rhythm, exterior materials, façade composition, architectural style and authenticity, landscaping, colors, potential for visual anachronisms, and the integration of architectural detailing on elevations. The Board shall also consider location and dimensions of buildings, adjacent land use, neighboring structures and buildings, and natural physical features. While the chosen architectural style is important, the Board shall also emphasize authenticity, scale, accuracy and details of design. Such elements as roof pitch and geometry, gables, dormers, window design and recess, doorways, rails, porches, gutters, eaves, louvers, garage doors, pillars, sills, etc. shall be scrutinized for design detail, accurate reproduction (if appropriate), appropriate scale, harmony and visual integrity. The BAR shall take a strict approach toward designs that incorporate elements such as blank walls, exposed foundations, shallow rooflines, plastic mullions, non-masonry chimneys, flush windows, aluminum stacks, and erratic placement of windows and doors; provided, however, that such elements (except plastic mullions) shall not be deemed inherently impermissible, and may be permitted where they are appropriately integrated into the overall architectural design, are consistent with the character of the Park, and are justified by context, including but not limited to, architectural style, historic preservation considerations, or site-specific conditions.

C. Visibility; degree of scrutiny. In applying the criteria of this section, the Board shall give primary weight to exterior elements that are readily visible from public ways or neighboring properties.

D. Cost, durability, and practical feasibility. In applying the criteria of this section, the Board may consider the reasonable cost of proposed work, the durability and expected maintenance of proposed materials, the availability of comparable materials, and the technical practicality of the

proposed treatment or design approach. The BAR shall not require the most expensive alternative solely for the sake of exact replication or maximum detail where a less costly alternative would remain generally compatible with the architecture of the structure and the character of the Village. Cost alone, however, shall not be the sole basis for approval or denial, and any departure from otherwise preferred materials or details shall remain consistent with the purposes and standards of this article.

E. **Special rules regarding replacement materials.** The BAR shall recognize that advances in construction methods and building technology may provide substitute materials that are more durable, sustainable, readily available, or cost-effective than traditional materials. Modern materials, including composite or engineered materials, may be permitted where they are otherwise compatible with the character and design intent applicable to the structure and surrounding area under § 100-54. The BAR need not require exact duplication of historic materials where the applicant demonstrates that a proposed substitute material is visually compatible with the historic character of the structure and its setting. In evaluating whether a substitute material is acceptable, the BAR shall consider objective factors including profile, dimensions, texture, finish, color, reflectivity, reveal, pattern, detailing, and the material's relationship to surrounding historic features, and whether the proposed material would create a materially adverse effect on the architectural character of the structure or the Village.

Reasonable cost, long-term maintenance, durability, resilience, technical practicality, and the availability of comparable traditional materials may also be considered as supporting factors. Such factors may weigh in favor of a compatible substitute material, but shall not alone justify approval of a materially incompatible material.

The BAR may require submission of manufacturer specifications, product samples, photographs, or a mock-up where reasonably necessary to evaluate the characteristics described in this subsection. When evaluating the viability of Modern Materials under this (E) the BAR shall not per se reject a material because it is replacing a material that was previously not favored under this Section 100-54.

~~**Compatibility with surrounding character.** In reviewing an application, the BAR shall determine whether the proposed project is compatible with the established visual and architectural character of the surrounding area and avoids substantial visual disharmony. For purposes of this subsection, the "surrounding area" shall mean structures within five hundred (500) feet of the subject property. In making such determination, the BAR shall consider, as applicable, the extent to which the proposal is consistent with or respectfully relates to the following objective factors: exterior materials, including texture, profile, and reflectivity; massing, perceived scale, and façade composition; roof form, pitch, and roofline; fenestration pattern and rhythm, including the proportion and alignment of windows and doors on primary elevations; color palette; siting and orientation in relation to the street and prominent views; landscape treatment, including the preservation or restoration of natural features and screening vegetation; and whether particular design elements are visually consistent with the overall composition of the proposed structure. The BAR may require revisions where one or more of these factors would~~

~~create substantial disharmony. Any approval, approval with conditions, or denial shall include written findings identifying the specific factor or factors relied upon and the evidence in the record. Historically derived or traditionally decorative elements, including elements that historically served a structural purpose, may be used only where their size, spacing, placement, detailing and construction are visually coherent and consistent with the overall design of the structure.~~

~~— **Historic District context; compatibility; findings.** In reviewing applications within its jurisdiction, the BAR shall recognize and give substantial weight to the Village's designation on the National Register of Historic Places and shall evaluate whether a proposal is compatible with the Village's historic architectural integrity and established character, and whether it will alter the tradition of quality design and construction. In conducting that review, the BAR shall consider, as applicable, the proposal's massing, scale, size, proportions, roof form, fenestration pattern and rhythm, exterior materials, façade composition, architectural style and authenticity, landscaping, colors, potential for visual anachronisms, and the integration of architectural and detailing on elevations. The Board shall also consider location and dimensions of buildings, adjacent land use, neighboring structures and buildings, and natural physical features. While the chosen architectural style is important, the Board shall also emphasize authenticity, scale, accuracy and details of design. Such elements as roof pitch and geometry, gables, dormers, window design and recess, doorways, rails, porches, gutters, eaves, louvers, garage doors, pillars, sills, etc. shall be scrutinized for design detail, accurate reproduction, appropriate scale, harmony and visual integrity. A proposal that would cause a substantial adverse impact under the criteria of this section, as supported by the record, shall be denied unless adequately mitigated by conditions within the BAR's jurisdiction. Any approval with conditions or denial shall be supported by written findings identifying the specific criteria relied upon and the evidence in the record.~~

~~A. **Visibility; degree of scrutiny.** In applying the criteria of this section, the Board shall give primary weight to exterior elements that are readily visible from public ways or neighboring properties.~~

~~B. **Cost, durability, and practical feasibility.** In applying the criteria of this section, the Board may consider the reasonable cost of proposed work, the durability and expected maintenance of proposed materials, the availability of comparable materials, and the technical practicality of the proposed treatment or design approach. The BAR shall not require the most expensive alternative solely for the sake of exact replication or maximum detail where a less costly alternative would remain generally compatible with the architecture of the structure and the character of the Village. Cost alone, however, shall not be the sole basis for approval or denial, and any departure from otherwise preferred materials or details shall remain consistent with the purposes and standards of this article.~~

~~B. —~~

~~C. **Special rules regarding replacement materials.** The BAR shall recognize that advances in construction methods and building technology may provide substitute materials that are more durable, sustainable, readily available, or cost-effective than traditional materials. Modern materials, including composite or engineered materials, may be permitted where they are otherwise compatible with the character and design intent applicable to the structure and surrounding area under § 100-54. The BAR need not require exact duplication of historic materials where the applicant demonstrates that a proposed substitute material is visually compatible with~~

~~the historic character of the structure and its setting. In evaluating whether a substitute material is acceptable, the BAR shall consider objective factors including profile, dimensions, texture, finish, color, reflectivity, reveal, pattern, detailing, and the material's relationship to surrounding historic features, and whether the proposed material would create a materially adverse effect on the architectural character of the structure or the Village.~~

~~Reasonable cost, long-term maintenance, durability, resilience, technical practicality, and the availability of comparable traditional materials may also be considered as supporting factors. Such factors may weigh in favor of a compatible substitute material, but shall not alone justify approval of a materially incompatible material.~~

~~The BAR may require submission of manufacturer specifications, product samples, photographs, or a mock-up where reasonably necessary to evaluate the characteristics described in this subsection.~~

§ 100-55. Review by other officials. [Amended 12-21-1990 by L.L. No. 1-1990]

The Board may request that a project be reviewed by the Village Police Department, Village Attorney, Village Public Works Department the Lakes Committee, the Planning Committee or other officials, and agencies to help meet the intent of this chapter.

§ 100-56. Variances. Appeals.

Should any aggrieved party seek a reversal or variance from the decision of this Board or any official (other than the failure of the Building Inspector to issue an Administrative Approval under Section _____), then that party, as well as the ~~Board~~ BAR or official, shall formally notify the ~~Board of Zoning Appeals~~ Board of Appeals, and both shall be represented at any hearings held by the ~~Board of Zoning Appeals~~ Board of Appeals on that matter. However, approval by the ~~Board of Zoning Appeals~~ Board of Appeals of any portion of a project shall in no way be deemed implicit

approval of the entire project.

§ 100-57. Appeals Cost.

~~Appeals from decisions of the Board of Architectural Review may be made to the Board of Zoning Appeals in the same manner as provided for zoning appeals, and the Board of Zoning Appeals may revise or affirm action of the Board of Architectural Review and the Building Inspector.~~

Any appeal requested in accordance with 100-56 shall incur a fee of \$250.00 which shall be refunded or waived in the event the aggrieved party prevails.

ARTICLE IX
Amendments

§ 100-58. Power to amend.

The Board of Trustees may, from time to time, either on its own motion or on petition after public notice and hearing, amend, supplement, change, modify or repeal this chapter, including the Zoning Map, as provided by the Village Law of the State of New York.

§ 100-59. Petition request.

Whenever the owners of 25% or more of the area of the Village shall present to the Board of Trustees a petition duly signed and acknowledged requesting an amendment, change, modification or repeal of the regulations prescribed in the Zoning Law, it shall be the duty of the Board of Trustees to hold a public hearing thereon and cause notice thereof to be given in the manner prescribed by law.

§ 100-60. Requirement of consent.

- A. If the Board of Appeals recommends against the enactment of any proposed amendment, it shall become effective only by a unanimous vote of the Board of Trustees.
- B. In case of a protest against such proposed change by the owners of 20% or more of the area of land included in such proposed change, or by owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by a favorable vote of 3/4 of the members of the Board of Trustees.

ARTICLE X
Penalties for Offenses

§ 100-61. Complaints of violations.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record such complaint and immediately investigate and report thereon.

§ 100-62. Criminal penalty.

Any owner, lessee, contractor, agent or other person who knowingly uses or maintains or causes to be used or maintained any building, structure or premises, or any part thereof, in the Village for any purpose other than the uses permitted therefor in this chapter, or who erects, enlarges, demolishes, alters or maintains, or knowingly causes to be erected, enlarged, altered, demolished or maintained, any building or any part thereof in the Village except in conformity with the provisions of this chapter, or who knowingly uses or maintains or causes to be used or maintained any building altered other than in conformity with the provisions of this chapter, or who in any manner knowingly violates or causes to be violated any provision of this chapter, shall, upon conviction, be subject to a fine of not more than \$250 for each such violation. Each and every day such violation continues may be deemed a separate and distinct violation.

§ 100-63. Civil penalty.

If any said person fails to abate any such violation of this chapter within a reasonable time after written notice has been served personally upon said person, or has been sent to said person by registered mail at said person's home or business address, said person shall be subject to a civil penalty of \$250 for each and every day said violation continues, recoverable by suit brought by the Village.

§ 100-64. Enjoining of violation.

- A. Whenever the Board of Trustees is satisfied that any building or structure or any portion thereof permitted or forbidden is being used, constructed, altered, repaired or demolished in violation of or not in compliance with any of the provisions or requirements of this chapter, it may, in its discretion, through the Attorney of the Village, institute any appropriate action or proceeding at law or in equity to restrain, correct or remove such violation or the execution of any work thereon, or to restrain or correct the use, erection or alteration of or to require the removal of or to prevent the occupancy or use of the building or structure erected, constructed or altered in violation of or not in compliance with any of the provisions of this chapter.
- B. The Attorney for the Village is authorized, subject to the approval of the Board of Trustees, to institute all actions and proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this chapter.
- C. The remedies provided herein shall be cumulative and shall be in addition to any other remedies provided by law.

Appendix

Chapter A101**BOARD OF ~~ZONING~~ APPEALS RULES OF PROCEDURE**

[HISTORY: Adopted by the Board of Trustees of the Village of Tuxedo Park 11-29-2001. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 100.

§ A101-1. General Rules.**§ A101-1.a. Legislative provisions governing Board.**

F. ~~There is hereby established a Board of Appeals. The Board of Zoning Appeals~~Board of Appeals of the Village of Tuxedo Park shall be governed by the provisions of all state statutes, local laws, ordinances and these rules. These Rules and Regulations are adopted pursuant to the power granted the Board by virtue of § 100-46 of the Village of Tuxedo Park Zoning Law and other applicable law. The Board of Appeals shall consist of five members appointed by the Board of Trustees. The Board of Trustees shall annually, by resolution, designate from the members of such Board a Chairman, Vice Chairman, Secretary and Attorney. A quorum shall consist of not less than three members. Each member of the Board of Appeals shall serve for a term of office as set forth in § 15-13 of the Code of the Village of Tuxedo Park. Any member may be removed by the Board of Trustees for cause after a public hearing.

§ A101-1.b. Definitions.

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

APPELLANT — A party appealing a decision of the Building Inspector (including but not limited to the Safe Harbor set forth in Chapter 40) and seeking an Area or Use Variance from the provisions of the Village Zoning Law or, alternatively, seeking an interpretation of the Village Zoning Law in his or her favor or a party seeking to appeal any decision of the Board of Architectural Review.

APPLICANT — A party seeking a special use permit under the provisions of the Village Zoning Law or any other relief he or she may be entitled to from the Board by reason of law.

BOARD — The duly appointed ~~Board of Zoning Appeals~~Board of Appeals of the Village of Tuxedo Park consisting of up to five members.

CHAIR — The duly appointed Chairman of the Board.

DEPUTY CHAIR — The designated Deputy Chair, appointed by the Chairman of the Board.

§ A101-2. Officers.**§ A101-2.a. List of officers.**

The officers of the Board of Appeals shall consist of a Chairman, Deputy Chairman, Secretary and Attorney.

§ A101-2.b. Chair.

~~The Chairman shall be designated by the Village Board of Trustees.~~ The Chair shall perform all the duties

required by law, ordinance and these rules of procedure and shall preside at all the meetings of the Board of Appeals and shall exercise such discretion as these rules of procedure provide. The Chair may appoint any committees necessary to carry out the business of the Board of Appeals and hire such professionals as deemed

necessary, subject to approval by the ~~Mayor~~Board of Trustees, to advise and carry out the work of the Board. The Chair may also fix and designate site visits for the Board of Appeals to physically examine the properties that are the subject of any matter pending before the Board of Appeals. The Chair may administer oaths and compel the attendance of any witness necessary to carry out the business of the Board of Appeals. The Chair's signature shall be the official signature of the Board of Appeals.

§ A101-2.c. Deputy Chair.

The ~~Chairman shall designate a~~ Deputy Chair ~~who~~ will act in ~~his capacity in the event that as the Chairman~~ if the Chairman is incapacitated or unable to meet or to perform his standard duties. The Deputy Chair must be a member of the Board of Appeals.

§ A101-2.d. Secretary.

The Secretary of the Board of Appeals shall be the Village Clerk. If unavailable, the Deputy Village Clerk may be assigned to function as Secretary. The Secretary shall not be a member of the Board of Appeals. The Secretary shall keep concise minutes of all Board of Appeals meetings and proceedings, fully tape these meetings, keep a record of those members of the Board of Appeals present and record the vote of each member. The Chair shall have the discretion of hiring the services of a stenographer to take the verbatim minutes of any meeting or public hearing where deemed appropriate.

§ A101-2.e. Attorney.

The Attorney for the Board of Appeals shall be the Attorney employed by the Village Board of Trustees in accordance with the Village Law. The Attorney shall be present at all meetings and shall render such professional services and advice as the Board of Appeals may require. In the event that the Attorney shall disqualify himself in any proceeding before the Board of Appeals, because of a conflict of interest or otherwise, the Chair may, in the discretion of the Board of Appeals, so report to the Village Board of Trustees and hire another attorney to render services and advice in such proceedings.

§ A101-3. Meetings.

§ A101-3.a. Time and place of regular meetings. [Amended 11-30-2006]

The regular meeting of the Board of Appeals shall be held on the fourth Thursday of the month at 7:00 p.m. at the Village offices. The meetings of the coming year are set annually by the Chair and may deviate from the regular meeting date if there is a schedule conflict for Board of Appeals members or the Chair. The Village Clerk maintains a record of the scheduled meeting dates for the coming year. There are generally 11 scheduled meetings per year (none in December due to holidays).

§ A101-3.b. Special meetings.

Special meetings (such as work sessions), as may be needed to conduct the business of the Board of Appeals, may be called by the Chair or upon written request from any three members of the Board of Appeals.

§ A101-3.c. Cancellation of regular meetings.

Whenever there is no business to be transacted at the regular meeting of the Board of Appeals, the Chair may dispense with such meeting. The Chair shall also have the discretion to cancel or reschedule regular or special meetings of the Board of Appeals in the case of inclement weather, emergency or lack of quorum. Upon such cancellation, the Secretary shall forthwith advise any appellant or applicant and any known interested party

of such cancellation and the date of the rescheduled meeting. The Secretary shall re-advertise, publish and post new notice of such rescheduled meeting in the manner required by these Rules and Regulations and by law.

§ A101-4. Quorum, Attendance and Voting.

§ A101-4.a. Quorum.

A quorum shall consist of a majority of the full membership of the Board of Appeals. No hearing or meeting shall be held, nor any action taken, in the absence of a quorum. In the event of a lack of quorum, the Chair may reschedule a meeting on a subsequent date. Notice of all subsequent hearings shall be published and posted in the manner required by these Rules and Regulations and by law.

§ A101-4.b. Required attendance. [Amended 6-28-2007]

Attendance. Board of Appeals members are expected to attend at least 75% of the regular and special meetings of the Board in any rolling 12-month period. If a member fails to attend 25% or more of such meetings during that period, the Secretary shall notify the Chair, and the Chair shall report the matter to the Mayor and Board of Trustees for such action, if any, as may be authorized by law and this Code.

~~Attendance by each Board member at meetings of the Board is essential to the proper functioning of the Board. Should any member of the Board miss more than three regularly scheduled meetings of the Board in any Village year, that member shall forfeit his position on the Board and be deemed to have resigned from the Board. A missed special meeting or rescheduled meeting shall not be included within the three missed meeting allowance. A Village year for the purpose of this section shall be the twelve month interval between July 1 of each year and June 30 of the year immediately following. The Secretary is responsible for monitoring attendance and notifying the Chair with a periodic attendance report. In the event of a forfeiture of office under this section, the Chair shall report the situation to the Mayor and request the appointment of a replacement member.~~

All Board members shall be expected to attend site visits of those properties and locations that are the subject of the application or appeal the Board. The Chair will schedule at least one ~~BZA~~Board of Appeals site visit for each application or appeal. If a member cannot attend a site visit, he shall perform a site visit on his own. In deference to property owners, the Secretary will make every attempt to notify applicants of ~~BZA~~Board of Appeals site visits in advance.

§ A101-4.c. Conflicts & Conduct of Business.

A. Recusal. A Board of Appeals member shall recuse themselves from any matter in which the member has a conflict of interest under applicable law, or where the member's impartiality might reasonably be questioned, including due to a financial interest, a family or close personal relationship, pending litigation involving the member and an applicant, or other comparable circumstances. The basis for recusal shall be stated on the record, and the recused member shall not participate in discussion or vote on the matter.

B. Disclosure of off-record communications. If a Board of Appeals member receives or takes part in an off-record substantive communication concerning a pending application from an applicant, neighbor, or other interested person, the existence of that communication, but not its substance, shall be disclosed on the record before the Board of Appeals deliberates or takes action on the application.

C. Public comment; relevance. The Board of Appeals may receive public comment at regular meetings and public hearings. In considering public comment, the Board of Appeals shall consider factual information relevant to the applicable standards of this Code. Preference or opposition alone shall not constitute evidence and shall not be the sole basis for a decision.

D. **Site visits.** The Board of Appeals, or individual members thereof, may conduct site visits to properties or locations that are the subject of an application. Site visits shall be for observation and fact-gathering only, and no deliberations or decisions shall occur except at a duly noticed meeting. Any such site visit shall be disclosed on the record at the next Board of Appeals meeting at which the application is considered.

§ A101-4.d. Conduct of business.

All business involving matters pending before the Board of Appeals shall be conducted only at public hearings and regular or specially called sessions of the Board of Appeals. No executive or private sessions shall be held by the Board of Appeals or Board members involving three or more members, except as allowed by law.

§ A101-4.e. Members voting who have not attended hearing.

A member shall be entitled to vote on the determination of any matter requiring a public hearing, notwithstanding that he or she has not attended the public hearing, provided that such member shall have read the transcripts and minutes of such hearing, shall have performed the required site visit and shall have reviewed all materials and exhibits referred to or admitted at such hearing.

§ A101-4.f. Method of voting and deciding matters.

All matters shall be decided by a roll call vote. Decisions, actions and resolutions on any matter before the Board shall require the affirmative vote of a majority of the entire Board. A tie vote shall mean the rejection or denial of the appeal or application under consideration.

§ A101-5. Appeals and Procedures.**§ A101-5.a. Authority of Board; who may bring appeals.**

In addition to the parties listed in Section 100-47, The Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision, determination or opinion made by, the Building Inspector of the Village of Tuxedo Park. In addition, the Board shall hear and decide appeals from a decision made by the Board of Architectural Review. It shall also hear and decide all matters referred to it or upon which it is required to pass under the Zoning Law of the Village or any other law. Such an appeal may be taken by any person aggrieved or his agent, or any officer, department, board or bureau of the Village.

§ A101-5.b. Filing of appeals.

An appeal shall be taken if filed within 60 days of the action of the administrative official or board appealed from. Any appeal not so filed shall not be entertained by the Board. An appeal shall be taken by filing with the Secretary and the Building Inspector a notice of appeal. Said notice of appeal shall identify the action of the administrative official or Board appealed from and the date of that action, and briefly state the grounds upon which the appeal is based. The Building Inspector shall forthwith transmit to the Secretary all the papers constituting the record upon which the action appealed from was taken.

Annexed hereto as Attachment A⁸² is the required ten-step process in any appeal to or application before the Board.

§ A101-5.c. Materials required for appeal. [Amended 2-23-2005]

There shall be furnished to the Secretary 10 copies of the required information and data, at least 30 business days prior to the scheduled hearing upon such appeal. No appeal shall be heard unless a record on appeal is so furnished to the Secretary. If no record on appeal is so furnished within the time prescribed herein, the appeal shall be denied, subject to renewal upon supplying a sufficient record on appeal to the Chair, or adjourned at the discretion of the Board. Upon receipt thereof the Secretary shall distribute the record on appeal to the Board members and the Attorney.

§ A101-5.d. Contents of application or appeal. [Amended 5-24-2007]

The record on appeal shall consist of the following material in regard to the following matter:

^{82,79.} Editor's Note: Attachment A is included at the end of this chapter.

A. Appeals regarding any bulk or area requirement of the Zoning Law of the Village of Tuxedo Park:

- (1) A copy of the letter, opinion, decision or requirement or ruling appealed from.
- (2) A written, executed petition stating in detail all the pertinent facts relating to the appeal, including the date of construction of any building located on the subject property, and stating the grounds for the appeal.
- (3) A sketch plan or survey of the subject premises, accurately showing the dimensions of all actual or proposed structures on the subject premises, the distances or all actual or proposed side yards, rear yards, front yards, courts, driveways, abutting streets and, except for appeals involving court areas or locations, the distance from the side and rear lot lines to existing structures, if any, on adjoining properties closer than 300 feet to said lot lines. If such an appeal is based upon conditions arising out of topographical conditions, such as differences in elevation, streams or outcropping of rocks or the like, the plot plan or survey should sufficiently indicate the nature and extent of said conditions.
- (4) A copy of the deed of conveyance into the present owner of the property in question. together with copies of any easement, restriction or covenant of record encumbering or affecting the title of said owner.

B. Appeals regarding any use requirements of the Zoning Law of the Village of Tuxedo Park:

- (1) A copy of the letter, opinion, decision or requirement appealed from.
- (2) A written executed petition stating in detail all the pertinent facts relating to the appeal, including:
 - (a) All necessary dollars-and-cents proof;
 - (b) The date of acquisition of the subject property by the appellant or his principal; and
 - (c) The grounds for the appeal.
- (3) A diagram identifying the property upon which the use will be located and the types and number of uses, if any, within a one-thousand-foot radius of the proposed use.

C. Appeals from the requirements of § 7-736 of the New York State Village Law (building on private roads):

- (1) A copy of the letter, opinion, decision or requirement or ruling appealed from.
- (2) A written executed petition stating in detail all the pertinent facts relating to the appeal and stating the grounds therefor.
- (3) A sketch plan or survey showing accurately the size of the subject property, the location of the proposed structure thereon, the amount of frontage on abutting roads, the distance of the proposed structure from any abutting road. If the property does not abut a Village-maintained street, the distance from the subject property to the nearest such street and the dimensions, location and type of access to any proposed structure on the property from the nearest Village-maintained street.
- (4) A long-form environmental assessment form (EAF) as required by SEQRA (ECL Article 8 and 6 NYCRR Part 617).

D. Appeals from the Board of Architectural Review and Chapter 40 Safe Harbor:

- (1) A copy of the ruling appealed from.
- (2) A written, executed petition stating in detail all the pertinent facts relating to the appeal and stating the grounds therefor.
- ~~(3)~~ (3) If relevant, a sketch plan or survey showing accurately the size of the subject property, the location of the proposed structure thereon together with all architectural renderings and drawings that were before the Board of Architectural Review that formed the basis of its ruling appealed from.
- ~~(3)(4)~~ (4) Any other information reasonably related to the issue on appeal-

E. Applications for Special Use Permits under the Village of Tuxedo Park Zoning Law:

- (1) A written, executed application for such relief stating in detail all pertinent facts relating to the application and the grounds or reasons for the appeal, including such engineering and survey data as, in the opinion of the Building Inspector or the Village Engineer or any professional hired by the Chair to assist the Board, is necessary to assist the Board in making its decision.
- (2) Any other information or data that the Board may reasonably require after the public hearing.
- (3) A long-form environmental assessment form (EAF) under SEQRA (ECL Article 8 and 6 NYCRR Part 617).
- (4) A copy of the deed of conveyance into the present owner of the property in question, together with copies of any easement restriction or covenant of record encumbering or affecting the title of said owner.

F. Supplemented appeals:

- (1) Any record on appeal may be supplemented by a memorandum of law or any other information or data the applicant feels may support or explain the appeal.

§ A101-5.e. Additional information may be required.

The Board may require any additional, reasonably related information that it deems necessary to act upon any appeal or application after a public hearing thereon.

§ A101-5.f. Fees.

The filing fee for any application or appeal to the Zoning Board of Appeals in an amount determined by the Village Board of Trustees shall be deposited with the Secretary at the time of filing the notice of appeal or application.

§ A101-6. Hearings.

§ A101-6.a. Time of hearing.

After filing of the notice of appeal or an application with the Chair, the Board shall schedule a hearing thereon within 60 days of such filing. Hearings will be held at the regular meeting of the Board.

§ A101-6.b. Notice of hearing.

The Board, through the Secretary, shall give notice of hearing in accordance with the provisions of the

applicable law. **The Village of Tuxedo Park publishes all legal notices in the Middletown Times-Herald Record.** The notice of hearing shall state the location of the building or lot or property involved, the name of the appellant or applicant, the general nature of the question involved, the date, time and place of the hearing and the nature of the relief sought. The notice of hearing shall also be posted on the official bulletin board maintained by the Village Clerk in the manner required by law.

In addition to publication and posting by the Board, the appellant or applicant will give notice of the public hearing to property owners within 300 feet of their property line which is the subject of the appeal or application. Such notice shall be mailed by certified mail, return receipt requested, to the name and address shown on the latest completed Village assessment roll, and such mailing shall be made at least 10 days in advance of any such public hearing. It shall be the responsibility of the appellant or applicant to obtain a list of the names and addresses of the surrounding property owners from the Village Assessor.

§ A101-6.c. Conduct of hearings.

The appellant or applicant or his duly authorized representative shall present the reasons for relief requested and may refer to or submit any evidence or exhibits and present such expert testimony as he or she shall deem necessary to support his or her position. In the matter of area and use variances, the appellant shall be guided by the criteria set out in § 7-712-b of the New York State Village Law.

Any objectors to the relief sought by the appellant or applicant shall have the right to write a letter in advance of the public hearing to the ~~BZA~~Board of Appeals expressing their concerns and/or attend the public hearing and direct questions to the appellant or applicant, and such experts as may have testified, and shall be entitled to the same opportunities to present evidence or expert testimony as the appellant or applicant.

The Chair shall decide the order of presentation of all materials and testimony. The Chair shall set the agenda for each meeting and will, in general, hear appeals and applications based on the date they were received in complete order by the Secretary.

The Board, in its discretion, may continue any public hearing for a reasonable time in order to allow all relevant information to be presented to it either in support of an appeal or application or in objection thereto or in reply to any objections.

§ A101-7. Decisions.

§ A101-7.a. Time and form of decisions and SEQRA.

Decisions by the Board ~~of Appeals~~ shall be made not later than 62 days from the date that the public hearing is finally closed, unless the appellant or applicant grants the Board additional time. The final decision on any matter before the Board shall be made in the form of a resolution entered into the minutes of the Board or, in the discretion of the Chair, in a written order signed by the Chair. Such decision shall state the findings of fact, which were the bases for the Board's determination. The decision shall also state any conditions and safeguards necessary to protect the public interest.

Most actions before the ~~BZA~~Board of Appeals are Type II actions and thus are not subject to the New York State Environmental Quality Review Act (NY SEQRA). If, however, the provisions of NY SEQRA are applicable to any matter before the Board, it shall make no decision unless and until it shall have first complied with NY SEQRA requirements.

In deciding any matter involving area or use variances, the Board shall be guided by the criteria set forth in § 7-712-b of the New York State Village Law.

§ A101-7.b. Filing of decisions.

Decisions of the Board, either by resolution or written order, shall be immediately entered into the minutes of the Board and filed in the Village Office and shall thereupon become a public record.

§ A101-7.c. Rehearings.

Rehearings of any decision on an appeal for a variance shall be heard in the manner prescribed by law. There shall be no rehearings of any other matters. ~~An~~ appellant or applicant, however, may reapply to the Building Inspector for a building permit involving the same structure or property, or to the Board for a special use permit, based on new facts and circumstances.

§ A101-8. Filing, Amendments and Repealer.

§ A101-8.a. Rules and amendments to be filed.

Upon adoption of these rules or any amendments by the Board, the Chair shall file a copy of these rules with the Village Clerk. These rules shall be a public record.

§ A101-8.b. Method of amending.

These rules may be amended by an affirmative vote of a majority of the members of the ~~Board of Zoning Appeals~~Board of Appeals.

§ A101-8.c. Waivers and modifications authorized.

The Board, upon good cause shown, may waive or modify the requirements of this chapter.

Disposition List

Chapter DL**DISPOSITION LIST**

The following is a chronological listing of legislation of the Village of Tuxedo Park adopted since January 1, 2002, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

Local Law No.	Adoption Date	Subject	Disposition
1-2002	1-16-2002	Storage tanks	Ch. 87
2-2002	7-17-2002	Publicity fund	Ch. 19
1-2004	4-24-2004	Vehicles and traffic amendment	Ch. 94
2-2004	4-24-2004	Peace and good order amendment	Ch. 70
1-2005	2-16-2005	Zoning amendment	Ch. 100
2-2005	12-21-2005	Zoning amendment	Ch. 100
Res.	2-23-2005	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
3-2005	8-17-2005	Planning Board amendment	Ch. 17
4-2005	8-17-2005	Zoning amendment	Ch. 100
1-2006	3-15-2006	Planning Board amendment; Zoning amendment	Ch. 17; Ch. 100
2-2006	6-7-2006	Planning Board amendment; zoning amendment	Ch. 17; Ch. 100
3-2006	6-7-2006	Officers and employees: terms of office of appointed Board members; Planning Board amendment; zoning amendment	Ch. 15, Art. IV; Ch. 17; Ch. 100
Res.	11-30-2006	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
4-2006	12-20-2006	Fences amendment	Superseded by L.L. No. 2-2024
Res.	5-24-2007	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
Res.	6-28-2007	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
1-2007	12-12-2007	Fences amendment	Superseded by L.L. No. 2-2024

Local Law No.	Adoption Date	Subject	Disposition
1-2008	1-16-2008	Planning Board amendment; zoning amendment	Chs. 17; 100
2-2008	2-20-2008	Zoning amendment	Ch. 100
Res.	2-20-2008	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
3-2008	6-23-2008	Lakes and ponds	Ch. 65
4-2008	6-23-2008	Zoning amendment	Ch. 100
5-2008	10-15-2008	Moratorium	Repealed by L.L. No. 7-2009
6-2008	11-12-2008	Peace and good order amendment	Ch. 70
1-2009	3-18-2009	Cold War veterans tax exemption	Ch. 89, Art. I
2-2009	3-18-2009	Peace and good order amendment	Ch. 70
3-2009	3-18-2009	Clearing, filling, grading and excavating amendment; environmental quality review repealer; subdivision of land amendment; zoning amendment	Chs. 40; 47, reference only; 85; 100
4-2009	4-22-2009	Permits and licenses amendment	Ch. 73
5-2009	6-10-2009	Zoning amendment	Ch. 100
6-2009	6-10-2009	Flood damage prevention	Ch. 55
7-2009	6-10-2009	Subdivision of land amendment; zoning amendment	Chs. 85; 100
Res.	6-10-2009	Board of Zoning Appeals <u>Board of Appeals</u> rules of procedure amendment	Ch. A101
1-2010	1-13-2010	Officers and employees: defense and indemnification	Ch. 15, Art. II
2-2010	5-26-2010	Zoning amendment	Ch. 100

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
1-2011	4-20-2011	Films and Movie Making Amendment; Zoning Amendment	Ch. 51; Ch. 100	9
2-2011	6-15-2011	Officers and Employees: Defense and Indemnification Amendment	Ch. 15, Art. II	9
3-2011	9-7-2011	Lakes and Ponds Amendment	Ch. 65	9
1-2015	4-28-2015	Zoning Amendment	Ch. 100	9

Ord. No.	Adoption Date	Subject	Disposition	Supp. No.
2-2015	4-28-2015	Access to Village Amendment; Zoning Amendment	Ch. 25; Ch. 100	9
3-2015	8-25-2015	Animals Amendment; Peace and Good Order Amendment	Ch. 32; Ch. 70	9
4-2015	12-8-2015	Tree Advisory Board	Ch. 90	9
1-2016	1-26-2016	Zoning Amendment	Ch. 100	9
2-2016	6-28-2016	Zoning Amendment	Ch. 100	9
1-2018	6-20-2018	Zoning Amendment	Ch. 100	9
2-2018	6-20-2018	Regulation of Devices in Public Right-of-Ways and Easements	Ch. 76	9
1-2021	8-18-2021	Lakes and Ponds Amendment	Ch. 65	9
2-2021	10-25-2021	Cannabis: Opt-Out of Retail Dispensaries and On-Site Consumption	Ch. 38, Art. I	9
3-2021	12-15-2021	Access to Village Amendment	Ch. 25	9
1-2022	1-26-2022	Planning Board Amendment; Zoning Amendment	Ch. 17; Ch. 100	9
2-2022	2-16-2022	Sewers and Sewage Disposal Amendment	Ch. 78	9
3-2022	2-16-2022	Access to Village Amendment	Ch. 25	9
4-2022	5-26-2022	Lakes and Ponds Amendment	Ch. 65	9
5-2022	6-15-2022	Meeting Procedures: Videoconferencing	Ch. 14, Art. I	9
6-2022	7-20-2022	Community Choice Aggregation Program	Ch. 43	9
7-2022	10-19-2022	Streets and Sidewalks Amendment	Ch. 83	9
1-2024	3-20-2024	Landscapers	Ch. 67	2
2-2024	12-18-2024	Fences	Ch. 49	3
1-2025	1-15-2025	Vehicles and Traffic Amendment	Ch. 94	4