

## Village of Penn Yan Code Adoption Local Law

### Schedule A Specific Revisions at Time of Adoption of Code

#### Chapter 7, Defense and Indemnification.

- A. In § 7-1, the definition of “employee” is amended as indicated: “...whether or not compensated for the services, or a volunteer expressly authorized to participate in a publicly sponsored volunteer program, but not including ~~a volunteer~~ or an independent contractor...”
- B. Section 7-4A(1) is amended to change “five days” to “10 days.”
- C. Section 7-9 is amended to change “§ 55, Subdivision (e) of the General Municipal Law” to “§ 50-e of the General Municipal Law.”

#### Chapter 9, Ethics.

- A. Section 9-7B(3) is amended as indicated: “~~By any trustee on matters related~~ Related to the Penn Yan Fire Department and/or the Penn Yan Fire Company, Inc., shall not be required by a Trustee solely as a result...”
- B. Section 9-17C is amended to change “\$50” to “\$75.”

#### Chapter 13, Grievance Procedure.

In § 13-1, the definition of “employee” is amended as indicated: “...in the legislative or judicial branches thereof or covered under collective bargaining agreement.”

#### Chapter 19, Officers and Employees.

##### Article II, Residency Requirements.

Section 19-8 is amended as indicated: “...within which the Village is situated or in a county adjoining Yates County within New York State.”

#### Chapter 20, Payment Policies.

##### Article I, Credit Card Payments for Utility Services, Fines, Civil Penalties, and Taxes.

This article is adopted to read as follows:

***§ 20-1. Authorization of agreements to accept collection and/or payment via municipal website.***

*The Board of Trustees of the Village of Penn Yan hereby authorizes agreements with one or more financing agencies or card issuers to provide for acceptance, by the Village*

*Clerk/Treasurer and the Village Clerk/ Treasurer's designees, of collection and/or payment of utility services, penalties, special assessments, fines, civil penalties, and taxes, or interest owed thereon, via a municipal internet website for payment of such bills.*

**§ 20-2. Conditions of payment.**

*The agreements referred to herein shall govern the terms and conditions upon which a credit or charge card proffered as a means of payment of utility services, penalties, special assessments, fines, civil penalties, and taxes, or interest owed thereon, shall be accepted or declined and the manner in and conditions upon which the financing agency or card issuer shall pay to the Village of Penn Yan the amounts of the utility services, penalties, special assessments, fines, civil penalties, and taxes, or interest owed thereon, paid by means of a credit card or charge card via the internet pursuant to such agreement.*

**§ 20-3. Service fee.**

*The agreements referred to herein shall provide that, as a condition for accepting payment by credit card or charge card, such person offering payment by credit card or charge card shall pay a service fee not to exceed the actual costs generated in connection with implementation and operation of the credit or charge card payment via the internet transaction program.*

**§ 20-4. Obligation satisfied upon receipt of payment from financing agency or card issuer.**

*The underlying utility services, penalties, special assessments, fines, civil penalties, and taxes, or interest owed thereon to the Village of Penn Yan for which payment by credit or charge card is accepted by the Village of Penn Yan shall not be expunged, canceled, released, or discharged and any receipt or any other evidence of payment shall be deemed conditional until the Village of Penn Yan has received a final and unconditional payment of the full amount due from the financing agency or card issuer for such credit card transaction on behalf of the payor of such amount due.*

**§ 20-5. Payment of charges and other fees via internet.**

- A. *When payment is made via the internet, the Village of Penn Yan shall provide a confirmation page to the payor following the completion of the internet transaction. Such confirmation page shall include at least the following:*
- (1) *The date that the internet transaction was completed and sent by the payor; and*
  - (2) *A notice advising the payor to print out and retain the confirmation page as his or her receipt.*

- B. *Payment received via the internet shall be considered received by the appropriate officer and paid at the time the internet transaction is completed and sent by the payor.*
- C. *The underlying fines, civil penalties, taxes, fees, charges, utility bills and other amounts, including penalties, special assessments or interest owed thereon to the Village of Penn Yan, for which payment over the internet is accepted by the Village of Penn Yan shall not be expunged, canceled, released, discharged or satisfied and any receipt or other evidence of payment shall be deemed conditional until the Village of Penn Yan has received total and unconditional payment for the full amount due.*

### **Chapter 31, Utilities Advisory Board, Municipal.**

This chapter is adopted to read as follows:

#### **§ 31-1. Membership; term; designation of officers.**

- A. *The members of the Municipal Utilities Advisory Board (MUB) shall be appointed by the Mayor subject to the approval of the Board of Trustees. The Mayor shall also designate the Chairperson thereof. The Mayor may also designate a Deputy Chairperson in the event that the Mayor deems such an appointment appropriate.*
- B. *Upon the soonest expiration of the terms of the necessary number of Commissioners of the Municipal Utilities Advisory Board (MUB), the Municipal Utility Advisory Board shall transition from five members to six members. Two members shall be current members of the Village Board of Trustees, who shall also be appointed by the Mayor subject to the approval of the Board of Trustees. In the event that a Trustee Member of the Municipal Utilities Advisory Board (MUB) for any reason leaves the position of Trustee, such individual's membership on the Municipal Utilities Advisory Board shall, by virtue of that person no longer holding the Office of Trustee, have been vacated.*
- C. *The term of appointment for all members of the Municipal Utilities Advisory Board shall be one year upon the expiration of the current terms of the present commissioners.*
- D. *Municipal Utilities Advisory Board members shall be required to be residents of the Village of Penn Yan.*
- E. *Trustees serving on the Municipal Utilities Advisory Board shall not receive additional compensation for their service on the Municipal Utilities Advisory Board.*
- F. *Current members of the Municipal Utilities Advisory Board shall complete their terms of office, at which time the member appointed to fill that position shall serve a one-year term.*
- G. *Any vacancy on the Municipal Utilities Advisory Board due to death, resignation or otherwise shall be filled by appointment as hereinbefore provided for the remainder of the official year in which such vacancy occurred.*
- H. *The Municipal Utilities Advisory Board shall serve as an advisory entity to the Board of Trustees with respect to the Village's municipal water, wastewater*

*sewer and electric systems, as well as such other related endeavors as prescribed by the Board of Trustees.*

## **Chapter 42, Alcoholic Beverages.**

- A. Section 42-1 is amended as indicated: “...lot in the Village of Penn Yan, New York. ~~The possession of an open bottle or open container upon any public sidewalk, street, highway or parking lot shall be presumptive evidence that such open bottle or open container is intended to be consumed.~~”
- B. Section 42-2 is amended as indicated: “...Chapter 174, Streets and Sidewalks, and Chapter 132, Parks and Playgrounds, of the Code of the Village of Penn Yan.”
- C. A new § 42-5 is added to read as follows:

### **§ 42-5. Definitions.**

*In this chapter, the following terms shall have the meanings assigned to them:*

*INTENT TO CONSUME — Includes any of the following: drinking from the container; possession with movement of the container to the mouth; and any circumstances evidencing an intent to ultimately consume in any public place.*

*OPEN BOTTLE, CAN OR OTHER CONTAINER — Any bottle, can, glass or other receptacle suitable for or used to hold any liquid, which has been uncapped, uncorked, the tab removed or the top sliced, cut or broken, or its original condition altered in such a way that the liquid can flow out of it.*

## **Chapter 48, Banners.**

- A. Section 48-2 is amended to read as follows:
- Commercial advertisement banners are prohibited. Only those banners announcing a Village Board approved special community event or commemorating special accomplishments and/or occasions are permitted. A permitted banner shall be displayed for not longer than two consecutive weeks or not longer than a length of time determined by the Village.*
- B. Section 48-3 is amended as indicated: “...except that portion of ~~Main Street from Maiden Lane on the south to Jacob Street on the north~~ determined by the Village.”
- C. Section 48-7 is amended as indicated: “...specifying the type of banner, ~~entire content of the inscription on the banner~~ rendered color drawing, the length of time that the banner is to be in place and the proposed...”
- D. Former § 48-8, Written consent required, is repealed.
- E. In § 48-11, a new Subsection C is added to read as follows:

*As an alternative to or in addition to a fine and/or incarceration as provided in Subsection A hereof, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan and be pursuant to an order of conditional discharge issued by the court.*

## Chapter 52, Bingo.

This chapter is amended in its entirety to read as follows:

### § 52-1. Conduct authorized.

*It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Village of Penn Yan, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.*

### § 52-2. Sunday games.

*Any game of bingo conducted within the Village pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."*

## Chapter 56, Brush, Grass and Weeds.

- A. Section 56-2 is amended as indicated: "...between the property line and the curb or ~~the middle of the alley or for 10 feet outside of such property line if there is no curb edge of street or alley~~ any growth of trees, weeds, grass or other rank vegetation to a height greater than 10 inches on the average or any accumulation of dead grass, trees, weeds or brush. It shall..."
- B. Section 56-3 is amended as indicated: "...cut and removed all such trees, weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of § 56-2, provided that cutting and removing such trees, weeds, grass or vegetation..."
- C. Section 56-4 is amended as indicated: "...any waste, leaves, brush, hay, trees, weeds, straw, litter..."
- D. Section 56-5B is amended as indicated: "...the Code Enforcement Officer may, ~~with written approval of the Village DPW Director,~~ cause such violation(s) to be remedied..."
- E. Section 56-6 is amended as indicated: "...shall constitute a separate additional violation. As an alternative to or in addition to a fine and/or incarceration as provided above, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan and be pursuant to an order of conditional discharge issued by the court."

## Chapter 64, Cemeteries.

Section 64-13 is amended as indicated: "...shall constitute a separate additional violation. As an alternative to or in addition to a fine and/or incarceration as provided above, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan and be pursuant to an order of conditional discharge issued by the court."

## **Chapter 68, Checks, Fraudulent.**

This chapter is amended in its entirety to read as follows:

### **§ 68-1. Service charge; collection.**

*In accordance with § 85 of the General Municipal Law, effective June 24, 1989, a service charge in an amount as set from time to time by resolution of the Board of Trustees is hereby imposed to each and every account owing to the Village of Penn Yan for the payment of real property taxes where tendered payment of such account is made by a check or other written order which is returned for insufficient funds, and the charge hereby authorized shall be included on whatever list of delinquent accounts is prepared for the enforcement of the lien. Such service charge shall be collected in the same manner prescribed by law for the collection of the account for which the check was tendered.*

## **Chapter 84, Electrical Standards.**

A. Section 84-3 is amended to read as follows:

*All electrical installations shall be made in conformity with the requirements of the NFPA 70 National Electric Code and the Uniform Fire Prevention and Building Code except where the requirements contained in the Penn Yan Municipal Utilities booklet entitled "Specifications for the Installation of Electric Services and Meters," adopted by the Village of Penn Yan, shall differently prescribe, in which event compliance with such local law or the Uniform Fire Prevention and Building Code or the booklet entitled "Specifications for the Installation of Electric Services and Meters" shall be recognized as proper compliance with this chapter.*

B. The following sections are repealed:

- (1) Section 84-4, Electrical Inspector, as amended 4-23-2002 by L.L. No. 1-2002.
- (2) Section 84-5, Powers and duties.
- (3) Section 84-6, Prohibited acts, as amended 4-23-2002 by L.L. No. 1-2002.
- (4) Section 84-8, Applicability.
- (5) Section 84-9, Liability, as amended 4-23-2002 by L.L. No. 1-2002.

## **Chapter 88, Fair Housing.**

### **Part 2, Fair Housing Officer.**

A. Section 88-16 is amended to read as follows:

*The Code Enforcement Officer shall be the Fair Housing Officer responsible for implementing this plan. The Fair Housing Plan is adopted annually at the Organizational Meeting.*

B. Section 88-17J is amended to change "3 Maiden Lane" to "111 Elm Street."

C. Section 88-18, Advertisement, is repealed.

## **Chapter 92, Fire Prevention and Building Construction.**

### **Article II, Administration and Enforcement of New York State Uniform Fire Prevention and Building Code and State Energy Conservation Construction Code.**

- A. In § 92-22, the definitions of “FCNYS,” “PMCNYS,” and RCNYS are amended to delete “2020.”
- B. Section 92-24B(1), which regarded one-story detached structures used for sheds, playhouses or similar uses, is repealed.
- C. Section 92-30A(2)(m) is amended to read as follows:

*Section 319, Mobile Food Preparation Vehicles, operating a mobile food preparation vehicle in accordance with the permitting requirements established by Section 319, Mobile Food Preparation Vehicles, as now in effect or as hereafter amended from time to time.*

- D. Section 92-37C(2) is amended to read as follows:

*Any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to pay a civil penalty of not more than \$250 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Village of Penn Yan.*

## **Chapter 102, Games of Chance.**

Section 102-3 is amended to change “State Racing and Wagering Board” to “State Gaming Commission.”

## **Chapter 110, Historic Areas, Preservation of.**

- A. In § 110-2:

- (1) The definition of “alternate member of the historic preservation commission” is amended to change the term being defined to “alternate member.”
- (2) The definition of “exterior architectural feature” is amended to read as follows:

*The architectural style and general arrangement of the exterior of a structure, including the type, color and texture of building materials and the type of all windows, doors, lights, sign and other fixtures appurtenant to such.*

- (3) The definition of “serious state of disrepair” is amended to read as follows:

*STATE OF DISREPAIR — The condition of a structure whereby deterioration or lack of maintenance causes any element or feature of the structure to jeopardize the structural integrity, architectural features or exterior surfaces thereof, including but not limited to vertical supports, walls, roofs, horizontal members, chimneys, foundations, windows or doors.*

- B. In § 110-3:

- (1) A new Subsection A(3) is added to read as follows:

*In considering appointments to the Commission, a background and/or interest in historic preservation and architecture shall be prioritized.*

- (2) Subsection B is amended as indicated: “The Chairperson of the ~~Historic Preservation~~ Commission shall be appointed by the Mayor...”

- (3) Subsection C(2) is amended to read as follows:

(2) *The Board of Trustees shall have the power to remove for cause by majority vote of the entire Board, after public hearing, any member or alternate member of the Commission. The member or alternate member sought to be removed shall:*

- (a) *Receive at least 10 days' written notice of the hearing;*
- (b) *Have a right to be heard at such hearing in person and/or by an attorney, as well as to present relevant evidence;*
- (c) *Receive in writing the causes alleged to support removal from the Commission;*
- (d) *Receive a written decision within 10 days of completion of the public hearing and, in the event of removal, containing specificity as to the causes for removal;*

- (4) Subsection F is amended to read as follows:

*F. In addition to the aforementioned powers, the Commission shall, subject to funding approved by the Board of Trustees, have power to:*

- (1) *Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Commission in carrying out its duties.*
- (2) *Acquire resource material related to architectural, historic preservation and related subjects.*
- (3) *Conduct surveys of buildings for the purpose of determining those of historic and/or architectural significance and pertinent facts about them.*
- (4) *Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected history and/or architectural sites and buildings.*
- (5) *Cooperate with and advise the governing body, the Planning Board and other municipal agencies in matters involving historic and/or architectural sites and buildings.*
- (6) *Advise owners of historic buildings of problems of preservation and restoration.*
- (7) *Create a three-member subcommittee empowered to issue a certificate of appropriateness for color or paint changes approved by majority vote of such, provided that no external color of a structure, or any part thereof, as proposed by an*

*applicant, shall be disapproved by the commission without an articulated rationale set forth on the record as to why such color is not suitable for the Penn Yan Historic District. All decisions made by this committee may be reviewed and reversed by the Commission at its next regular meeting if acting on a written appeal by the applicant.*

*(8) Designate landmarks and historic districts.*

*(a) The commission, subject to the approval of the Village Board, may designate an individual property as a landmark if it:*

*[1] Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;*

*[2] Is identified with historic personages;*

*[3] Embodies the distinguishing characteristic of an architectural style;*

*[4] Is the work of a designer whose work has significantly influenced an age; or*

*[5] Because of a unique location or singular physical characteristic represents an established and familiar visual feature of the neighborhood.*

*(b) Historic districts.*

*[1] The Commission, subject to the approval of the Village Board, may designate a group of properties as an historic district if such group of properties contains properties which meet one or more of the criteria for designating of a landmark and, by reason of possessing such qualities, constitutes a district section of the Village.*

*[2] The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed in writing in the Village Clerk's Office for public inspection.*

*(c) Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Notice of such shall also be published at least once in a newspaper of general circulation at least 10 days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be*

*issued by the Code Enforcement Officer until the Commission has made its decision.*

- (d) The Commission shall hold a public hearing prior to the designation of any landmarks or historic district. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing. Minutes of the hearing shall be taken and kept on file at the Village Clerk's office.*
- (e) The Commission shall forward notice of each property designed as a landmark and of the boundaries of each designated historic district to the office of the Yates County Clerk for recordation.*

C. Section 110-3.1 is amended to read as follows:

- A. The Board of Trustees shall appoint two alternate members to the Commission. Alternate members may be substituted for one or more members of the Commission in the event of a conflict of interest on the part of such members or in the event of the lack of a quorum of members of the Commission. The substitution of an alternate member shall be made by the Chairperson of the Commission, on the record, at the commencement of each meeting at which such alternate member is substituted.*
- B. In the event of the substitution of an alternate member for the purposes of providing a quorum for the Commission, or in the case of a conflict of interest, such alternate member shall not participate in any vote taken by the Commission unless that alternate member has first fully reviewed all of the records, documentation and minutes of previous proceedings pertaining to the matter being voted upon and asserts on the record of the meeting that such review has occurred.*
- C. When designated to substitute for a regular Commission member, alternate Commission members shall possess all the powers of a regular member of the Commission. Such designation shall be entered into the minutes of the initial Commission meeting at which the substitution is made. An alternate Commission member may consider and vote on an application made on a date or dates prior to substitution of the alternate Commission member provided that Subsection B of this section has been complied with.*
- D. Any decision or determination of the Commission which includes the vote of one or more alternate Commission members shall have equal force and effect as decisions and determinations made solely by a vote of the regular members of the Commission, provided that Subsection B of this section has been complied with.*
- E. All provisions of law, regulations and policy relating to the training, continuing education, meeting attendance, compensation, eligibility, vacancy in office,*

*removal and service which apply to a regular Commission member shall apply to alternate members.*

- F. *In providing for alternate members to sit in substitution for regular members where a quorum is lacking for the Commission, it is the intent of this section to supersede any applicable provision of law to the contrary.*
- D. A new § 110-3.2, Mandatory training, is added to read as follows:
- A. *Each member and alternate member of the Commission shall complete a minimum of four hours of training each year in subject matter which will directly improve that person's ability to more effectively carry out the powers and duties with respect to their membership on the Commission.*
- B. *Such mandatory training shall be a prerequisite to reappointment to the Commission.*
- C. *No decision of the Commission shall be voided or declared invalid as a result of the failure of any member or alternate member to have completed the requisite mandatory minimum training.*
- E. Section 110-5 is amended to read as follows:
- A. *Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no change in any exterior architectural feature in the district shall be commenced without a certificate of appropriateness from the Commission, nor shall any building permits for such change be issued without such a certificate of appropriateness having first been issued. The certificate of appropriateness required by this section shall be in addition to and not in lieu of any building permit that may be required by any ordinance, local law, code, rule or regulation of the Village of Penn Yan, New York.*
- B. *Application for a certificate of appropriateness shall be made, in writing, in duplicate upon forms prescribed by the Commission, to the Commission and, depending on the scope of the project, shall contain the following:*
- (1) *The name, address, email address and telephone number of the applicant.*
  - (2) *The location of the building, structure or land the exterior architectural features of which are proposed to be changed.*
  - (3) *Plans and elevation of the proposed change.*
  - (4) *Perspective drawings.*
  - (5) *Samples of color or materials to be used for the proposed change.*
  - (6) *Where a proposed change includes signs or lettering, a scale drawing showing the type of lettering, all dimensions and colors; a description of materials to be used and method of illumination, if any; and a plan showing location on building or property.*
- F. In § 110-6:
- (1) Subsection A is amended as indicated: "...the applicant may in writing allow, the ~~Historic Preservation~~ Commission shall determine whether..."

(2) Subsection B is amended to read as follows:

- B. In passing upon an application for a certificate of appropriateness, the Commission shall not consider changes to interior spaces. The Commission's decision shall be based upon the following principles:*
- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.*
  - (2) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district.*
  - (3) New construction shall be compatible with the district in which it is located.*

(3) Subsection E is amended as indicated: “The ~~Historic Preservation~~ Commission shall provide written notice...”

G. In § 110-7:

- (1) Subsection A is amended as indicated: “Any decision of the ~~Historic Preservation~~ Commission may be appealed to the...”
- (2) Subsection C(1) is amended as indicated: “...a copy also filed with the Clerk/Secretary to the ~~Historic Preservation~~ Commission.”
- (3) Subsection C(3)(a) is amended as indicated: “...is being made from a decision of the ~~Historic Preservation~~ Commission.”
- (4) Subsections C(3)(c) and (d) and C(4), (5), (7) and (8) are amended to change “HPC” to “Commission.”

H. Section 110-10 is amended to read as follows:

- A. No owner or person in possession or control of a property located in the Historic Preservation District, or otherwise designated as a historic structure by a state or federal agency, shall demolish, alter, construct or permit such property to fall into a state of disrepair in the absence of a certificate of appropriateness, a finding of economic hardship or other approval by the Commission prior thereto.*
- B. The Commission may advise the Code Enforcement Officer of any condition which appears to be a violation of this chapter. Upon such notification, the Code Enforcement Officer shall duly investigate and submit a written report to the Secretary of the Commission within a reasonable time.*
- C. Maintenance of structures within the Historic Preservation District, or otherwise designated historic structures, is required in conformance with the Property Maintenance Code of the State of New York as well as the provisions hereof and any other applicable regulations.*
- D. Penalties. A violation of this chapter is an offense punishable as follows:*
  - (1) First conviction: A first conviction for violation of this chapter shall be punished by a fine not exceeding \$250.*
  - (2) Second conviction: A second conviction for violation of this chapter within five years shall be punishable by a fine not less than \$150 nor*

*more than \$500 or incarceration for a period not to exceed 10 days, or both such fine and incarceration;*

- (3) *Third conviction: A third or subsequent conviction for violation of this chapter within five years shall be punishable by a fine of not less than \$250 nor more than \$1,000 or incarceration for a period not to exceed 15 days, or both such fine and incarceration.*
- (4) *Each month that an alleged violation continues shall be a separate prosecutable offense.*
- (5) *In addition to the penalties prescribed above, such other relief may be pursued as is available by law.*
- (6) *As an alternative to or in addition to a fine and/or incarceration as provided in this subsection, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan and be pursuant to an order of conditional discharge issued by the court.*

## **Chapter 126, Notification of Defects.**

This chapter is amended in its entirety to read as follows:

### **§ 126-1. Prior notice required; reasonable time to repair.**

*No civil action may be maintained against the Village for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk as well as other Village facilities or devices being defective, out of repair, unsafe, dangerous or obstructed unless, before the occurrence resulting in such damages or injury, a) notice of the defective, unsafe, dangerous or obstructed condition was delivered to the Village Clerk at 111 Elm Street, Penn Yan, NY 14527 in the form of a written physical hard copy and b) the Village failed or neglected to repair or remove the defect, danger or obstruction within a reasonable time after being given such notice. No action may be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street unless a) notice thereof relating to the particular place was delivered to the Village Clerk at 111 Elm Street, Penn Yan, NY 14527, in the form of a written physical hard copy and b) the Village failed or neglected to cause such snow or ice to be removed or to otherwise reasonably make safe the place within a reasonable time after receiving the notice. Notice of defect submitted via email, the Village's website, any service, website, or application which the Village utilizes to allow the public to submit reports or service requests to the Village, comments on a social media page maintained by the Village or any other electronic means does not satisfy the process and procedure for submitting written notice of defect required by this section.*

### **§ 126-2. Index record to be kept.**

*The Clerk of the Village of Penn Yan shall keep a record of all notices which said Clerk shall receive pursuant to this chapter of the existence of a defective, unsafe, dangerous or*

*obstructed condition, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of seven years after the date it is received.*

## **Chapter 132, Parks and Playgrounds.**

This chapter is amended in its entirety to read as follows:

### **§ 132-1. Designation of parks and docking facilities; park hours.**

*Under the authority of General Municipal Law § 241, the following are designated for use as parks:*

- A. *Parks. Red Jacket Park, Indian Pines Park, Keuka Street Boat Launch Park, Lake Street Park, Mini Park on Main Street, Larham's, Hutton Street, Firemen's Field, Angler Boat Park, Elm Street Sports Complex and Keuka Outlet Trail.*
- B. *Docking facilities. Lake Street Park, Angler Boat Park, Keuka Street Boat Launch.*
- C. *Hours.*
  - (1) *Parks are closed to the public from 1/2 hour after sunset to 1/2 hour before sunrise each day with the following exceptions:*
    - (a) *Participating in a sport or exercise activity in the immediate area of an active lighting source specifically provided by the Village for sport or exercise activity, provided that the participants and spectators have left the park within 30 minutes of the termination of the sport or exercise activity;*
    - (b) *A continuous walking, jogging or running activity in or through a park;*
    - (c) *Participants in events sanctioned by the Village of Penn Yan, provided that the participants have left the park within 30 minutes after the termination of the activity;*
    - (d) *Individuals or groups in the boat launch area who are in the process of launching boats, parking vehicles related to use of boats in the launch areas and/or landing and trailering boats and/or exiting the boat launch area subsequent to landing.*
  - (2) *Any person loitering in or on a park when the park is closed will presumptively not be participating in the exceptions specified in Subsection C(1)(a) and (b) hereof. For purposes hereof, the term "loitering" shall mean standing, sitting or waiting around idly without apparent legitimate purpose related to permitted activities at the time of the individual's presence.*
  - (3) *A violation of any provision of this section is enforceable and punishable pursuant to § 132-14 of this chapter.*

### **§ 132-2. Alcoholic beverages.**

*Alcoholic beverages are not permitted in any park, except upon prior issuance of a permit by the Village Clerk or his/her designee at least one day prior to the event.*

**§ 132-3. Smoking or vaping in parks prohibited.**

*No person shall smoke or vape any product in or on any Village-owned property or parks. For the purposes hereof, "smoking" and "vaping" shall be defined pursuant to the provisions of §§ 1399-n(8), 1399-n(9) and 1399-aa(13) of the Public Health Law of the State of New York.*

**§ 132-4. Camping; fires.**

- A. *Camping or campsites within parks, without prior approval by resolution of the Village Board of Trustees, is prohibited.*
- B. *No fires are permitted in or on park or property except in designated areas and fireplaces.*

**§ 132-5. Injury or disturbance to wildlife prohibited.**

*No person shall take, attempt to take or kill, injure or unnecessarily disturb any fish, waterfowl, birds or animals within the confines of any park, except that fishing may be allowed at the boat launching site and channel in areas designated for such activity by the Village Board of Trustees within the Village limits.*

**§ 132-6. Swimming, wading and bathing areas.**

- A. *No person shall bathe, wade or swim within a park except at such areas as may be designated for that purpose by the Village Board of Trustees.*
- B. *Beach hours shall be determined by the Recreation and Facilities Director and posted accordingly.*
- C. *No person shall appear nude in public or dress or undress, other than in facilities provided therefor; enter or remain in an area or facility in such attire as may be prohibited by any sign; or bathe in other than a bathing suit safe and suitable for such purpose.*
- D. *The use of life rafts, surfboards, inner tubes and other objects intended to support persons is prohibited in park waters with the exception of United States Coast Guard approved life vests for swimming and children's swim aides used for instructional purposes under the direct supervision of a responsible adult in the water with the child.*
- E. *Diving into park waters is prohibited except under supervised swimming programs authorized by the Village Board of Trustees.*
- F. *Snorkels are prohibited with the exception of those used in accordance with programs of the Department of Public Works.*

- G. *Animals, except for service animals, are prohibited in all swimming areas and beaches.*
- H. *Bathing with soap is prohibited in park waters.*
- I. *Smoking and the consumption of beverages or foodstuffs within park waters is prohibited.*
- J. *Persons with open wounds, sores and skin infections are not permitted in park waters.*

**§ 132-7. Marine vessels.**

*It shall be unlawful to operate, dock or anchor a marine vessel within park boundaries or designated swim areas except at sites designated by the Village Board of Trustees. Marine vessels shall not be launched from Village property, except at the Village boat launch site. Exempted from this provision are the following which must be launched and used within an area designated by the Village Board of Trustees, which area shall not include designated swim areas:*

- A. *Vessels used in accordance with authorized recreation programs.*
- B. *Nonmotorized portable vessels that are transported on car tops, including only:*
  - (1) *Canoes.*
  - (2) *Kayaks.*
  - (3) *Sailboards.*
  - (4) *Inflatable rowboats.*
  - (5) *Paddleboards.*
  - (6) *Small one- or two- person rowboats.*
  - (7) *Small one- or two- person sailboats.*

**§ 132-8. Docking facilities.**

*It shall be unlawful to dock a marine vessel at a docking facility for more than a twenty-four-hour period.*

**§ 132-9. Personal conduct.**

- A. *No person shall disturb the peace and good order in any park by fighting, quarreling or wrangling with loud voices or shouts, threatening by violence to the person or property of others or engaging in riotous clamor or tumult.*
- B. *No person shall congregate with other persons in a park and refuse to comply with a lawful order of the police or the parks and recreation personnel to disperse or leave the park.*

- C. *No person shall have or carry any firearm, switchblade, hunting knife, slingshot, dagger, metal knuckles or other dangerous weapon concealed on or about his person while in any park.*
- D. *No person shall use obscene, profane or abusive language while in a park.*
- E. *No person shall loiter in or near park buildings.*

**§ 132-10. Games.**

*All games of any description must be conducted in an orderly and safe manner, with no rough and boisterous practices allowed.*

**§ 132-11. Preservation of property.**

*No person shall deface, disturb, destroy or remove any part of any park, whether it is buildings, signs, equipment, shrubs, fences, trees or other material found within the park.*

**§ 132-12. Vehicles in parks; speed limits.**

- A. *No person shall drive any automobile, motorcycle or other motorized vehicle upon any part of the parks or parkway, except for the proper drives and parking areas, or permit the same to stand upon any driveway, except vehicles of the Village of Penn Yan being used on official business. In no event shall any person operate a snowmobile or all-terrain vehicle within any park, except that snowmobiles may be operated on the Outlet Trail and on the designated trail through the Elm Street Sports Complex. All such snowmobile operation must comply with regulations set forth in Subsection F of this section.*
- B. *No person shall operate a vehicle along or over any road or drive within a park in a reckless manner or without due regard for the safety and the rights of pedestrians and drivers and occupants of all other vehicles so as to endanger the life, limb or property of any other person.*
- C. *At Indian Pines Park and the boat launch site, the maximum speed limit on driveway and parking areas shall be 10 miles per hour.*
- D. *At Red Jacket Park, the maximum speed limit in parking areas shall be 10 miles per hour, and no vehicle shall be parked with a trailer attached.*
- E. *Overnight parking in parks is prohibited.*
- F. *No horseback riding is allowed in parks except in parking lots.*
- G. *Regulations for operation of snowmobiles upon the Outlet Trail and the Elm Street Sports Complex within the Village of Penn Yan:*
  - (1) *The maximum speed limit for snowmobiles shall be 15 miles per hour, unless otherwise posted at a lower speed limit or at times when a lower speed is necessary based upon conditions.*

- (2) *Snowmobiles shall not be operated when there is inadequate snow cover or in the event snowmobile operation is prohibited by posting by the Village of Penn Yan.*
- (3) *All persons operating snowmobiles shall comply with the rules, regulations and restrictions pertaining to snowmobile operation set out in §§ 25.03, 25.17, 25.19; 25.21; 25.24; 25.25; and 25.27 of the Parks, Recreation and Historical Preservation Law of the State of New York, or any amendments or successor laws thereto, and such operation shall be subject to those rules, regulations and restrictions contained therein as if set out herein in detail.*
- (4) *All snowmobiles shall be registered with the State of New York pursuant to Article 47 of the Vehicle and Traffic Law of the State of New York.*
- (5) *No snowmobile may be operated between the hours of 11:00 p.m. and 6:00 a.m.*
- (6) *All snowmobiles shall yield the right-of-way to any pedestrian walking or skiing on any bridge, crossing, or area where the width of the trail creates unreasonable risk to such pedestrian.*
- (7) *Any snowmobile so operated shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of insurance, issued by an insurance carrier authorized to do business in this state. Such policy shall provide coverage for any one person sustaining bodily injuries or the death of one person in any one accident in the amount of at least \$10,000, and, subject to said limit of one person in the amount of at least \$20,000 because of bodily injury to or death of two or more persons in any one accident, and in an amount of at least \$5,000 because of injury to or destruction of property of others in any one accident for damage arising out of negligent operation of said snowmobile.*
- (8) *Any snowmobile so operated shall be equipped with a muffler that shall limit the noise produced by such snowmobile to not more than 73 decibels as measured on the "A" scale at 50 feet.*
- (9) *Operation of snowmobiles shall be limited to persons:*
  - (a) *Who are at least 10 years of age but less than 14 years of age and have received safety training as prescribed by the Commissioner of Parks, Recreation and Historic Preservation of the State of New York and have received the appropriate snowmobile safety certificate issued by said Commissioner, and are accompanied by a person over 18 years of age; or*
  - (b) *Who are 14 years of age but less than 18 years of age who have safety training as prescribed by said Commissioner of Parks, Recreation and Historical Preservation of the State of New York and have received the appropriate snowmobile safety certificate issued by said Commissioner, and are accompanied by a person 18 years of age or older; or*

- (c) *Who are 18 years of age or older.*

**§ 132-13. Boat trailer parking at Keuka Street Boat Launch.**

- A. *Definitions. The following words and phrases shall have the meanings indicated with respect to the provisions of this section:*

*BOARD OF TRUSTEES — The Board of Trustees of the Village of Penn Yan.*

*BOAT TRAILER — Any wheeled device not propelled by its own power for the transport of a boat or boats when attached to and drawn by a motor vehicle.*

*PARKED or PARKING — The standing of a boat trailer, whether occupied or not, otherwise than temporarily for the purpose of loading or unloading a boat at the boat launch.*

*VILLAGE CLERK — The Clerk of the Village of Penn Yan.*

- B. *Parking regulations. No boat trailer shall be parked in or at the Keuka Street Boat Launch unless a permit has been obtained therefor from the Village of Penn Yan. Such permits are available as follows:*

- (1) *Residents of and owners of real property in the Village of Penn Yan may obtain an annual parking permit from the Village Clerk during the regular office hours, free of charge, for any boat trailer registered in the resident's name at an address located within the geographic limits of the Village of Penn Yan. The parking permit shall be affixed to the boat trailer in a conspicuous location at all times that the boat trailer is parked at the Keuka Street Boat Launch.*

- (2) *Nonresidents of the Village of Penn Yan may acquire parking permits as follows:*

- (a) *An annual parking permit may be obtained from the Village Clerk by completion of the application therefor and the payment of the requisite fee for such annual permit. The parking permit shall be affixed to the boat trailer in a conspicuous location at all times that the boat trailer is parked at the Keuka Street Boat Launch.*

- (b) *A daily parking permit may be obtained from the vending device located at the Keuka Street Boat Launch. Upon payment of the requisite fee, the parking permit shall be conspicuously displayed on the dashboard of the vehicle which towed the boat trailer to the Keuka Street Boat Launch.*

- C. *Parking fees shall be established by resolution duly adopted by the Board of Trustees. Parking fees may be modified from time to time as determined by the Board of Trustees.*

**§ 132-14. Penalties for offenses.**

- A. *Any person who violates any provision of this chapter shall, upon conviction, be punished by a fine of not more than \$250 or by incarceration for not more than 15 days or both a fine and incarceration.*
- B. *As an alternative to or in addition to a fine and/or incarceration, as provided in Subsection A hereof, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the Court.*

## **Chapter 136, Peddling and Soliciting.**

Section 136-3 is amended to read as follows:

*Generally, nothing in this chapter shall be held to apply to the following:*

- A. *Any sales or offer of service conducted pursuant to statute or by order of any court of competent jurisdiction;*
- B. *Any sales or offer of service by any person selling personal property at wholesale to businesses or dealers in such articles;*
- C. *Any sales or offer of service relating to the peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities and by authorized persons selling such items at farm markets and persons selling antiques, art and crafts at shows the location and hours of which have been approved by the Board of Trustees;*
- D. *Any sales or offer of service by authorized persons selling personal property at sidewalk sales the location and hours of which have been approved by the Board of Trustees;*
- E. *Any sales or offer of service by persons selling their own used household goods and clothing, not purchased for resale, at yard and lawn sales on real property where they reside, provided that no such sales shall occur at the same real property for more than two consecutive weeks and not within more than six weeks per calendar year;*
- F. *Any sales or offer of service conducted or authorized by nonprofit organizations having offices in Yates County, the proceeds of which shall be used for charitable or not-for-profit endeavors;*
- G. *Any person or individual that is merely proselytizing for either religious or political purposes, distributing religious or political handbills at no cost, or exercising the right to anonymous religious or political speech without soliciting any funds and without selling any goods or soliciting for contributions.*

Section 136-7 is amended to read as follows:

*The Board of Trustees may issue or deny. Upon the filing of the application and bond as provided in the preceding sections and payment of the required fee, the Village Clerk shall, upon his or her approval of such application, issue to the applicant a license as provided in § 136-4. A license may be refused if the applicant shall have been convicted of any violation of this chapter.*

Section 136-15A is amended as indicated: "...any day except upon the invitation of the householder or occupant ~~and in any event no later than 1/2 hour after sunset.~~"

## **Chapter 148, Records.**

### **Article I, Retention and Disposition.**

This article is amended in its entirety to read as follows:

#### ***§ 148-1. Adoption of schedule by reference.***

*Records Retention and Disposition Schedule LGS-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.*

#### ***§ 148-2. Minimum retention period; criteria for disposal.***

*In accordance with Article 57-A:*

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule LGS-1 after they have met the minimum retention period prescribed therein.*
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.*

#### ***§ 148-3. (Reserved)***

### **Article II, Public Access.**

- A. Section 148-5 is amended to change each instance of the title "Records Management Officer" to "Records Access Officer."
- B. Section 148-6 is amended to change "3 Maiden Lane" to "111 Elm Street."
- C. Section 148-8B is amended as indicated: "...regarding any request ~~reasonably describing the record or records sought within five business days of receipt of the request~~ in accordance with the Freedom of Information Law."
- D. Section 148-8D is amended to read as follows:
 

*If the Records Access Officer does not provide or deny access to the records sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied in accordance with the Freedom of Information Law.*
- E. Section 148-9A is amended to change "Records Management Officer" to "Records Access Officer."
- F. Section 148-9C is amended to read as follows:
 

*The subject matter list shall be updated annually, and the date of the most recent update shall be conspicuously indicated on the list.*
- G. A new § 148-9D is added to read as follows:

*The subject matter list shall be posted on the Village of Penn Yan website, and such posting shall be linked to the website of the Committee on Open Government.*

H. Section 148-10 is amended to read as follows:

- A. *Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.*
- B. *If requested records are not provided promptly, as required in § 148-8D of this article, such failure shall also be deemed a denial of access.*
- C. *The Board of Trustees of the Village of Penn Yan shall hear appeals for denial of access to records under the Freedom of Information Law.*
- D. *Any person denied access to records may appeal within 30 days of a denial.*
- E. *The time for deciding an appeal by the body designated to hear appeals shall commence upon receipt of a written appeal identifying:*
  - (1) *The date and location of the request for records.*
  - (2) *The records to which the requester was denied access.*
  - (3) *The name and return address of the requester.*
- F. *The body designated to hear appeals shall inform the requester of its decision, in writing, within 10 business days of receipt of an appeal.*
- G. *The body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, New York 12231.*
- H. *The 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 Public Access to Records in the same manner as set forth in Subsection G of this section.*

I. Section 148-11 is amended to read as follows:

- A. *There shall be no fee charged for inspection of or search for records or any certification pursuant to this article except as permitted under the Freedom of Information Law.*
- B. *The fee for photocopies not exceeding eight and one half by fourteen (8 1/2 x 14) inches is \$0.25 per page.*
- C. *The fee for postage, shipping or delivery will be the actual cost.*
- D. *The fee for photocopies, except as specified in section 148-11B, as well as storage devices will be the actual cost.*
- E. *The fee for search time of over two hours shall be charged at an amount equal to the hourly salary attributed to the lowest-paid employee*

J. Section 148-12 is amended to change “Records Management Officer” to “Records Access Officer” and to change “appeals body” to “appeals person.”

## Chapter 154, Sewer Rents.

- A. Section 154-1B is amended as indicated: “...and for retiring such debt, ~~but shall not be used for the extension of the sewer system to serve any unsewered area or for any purpose other than one or more of the purposes herein specified.~~”
- B. Section 154-6B is amended to change each instance of the phrase “Village Clerk/Treasurer” to “Village Clerk/Treasurer or designee.”
- C. Section 154-6D is amended to change “Village Clerk” to “Village Clerk/Treasurer.”
- D. Section 154-7 is amended as indicated: “...and budget resources appropriations, ~~as well as each user's wastewater contribution percentage annually,~~ and will revise the system as necessary...”
- E. Section 154-8 is amended to read as follows:

*Each user will be notified of sewer rental rate, at least annually, in conjunction with a regular bill.*

## Chapter 158, Sewers.

- A. In § 158-5:
- (1) The definition of “county” is amended to read as follows:
 

*Yates County, the county in which the Village of Penn Yan is located.*
  - (2) The definition of “Director of Public Works” is amended as indicated: “...of the ~~Penn Yan Municipal Utilities Board~~ of the Village of Penn Yan or his/her authorized deputy...”
  - (3) The definition of “Municipal Utilities Board” is amended to change the term being defined to “Municipal Utilities Advisory Board” and is further amended to as indicated: “...appointed Municipal Utilities Advisory Board ~~of the Village of Penn Yan or its authorized deputy or representative.~~”
  - (4) The definition of “national categorical pretreatment standard or categorical standard” is amended to change “22 U.S.C. § 1347” to “33 U.S.C. § 1317(b) and (c)”
  - (5) The definition of “other wastes” is amended as indicated: “...sewage or industrial wastes. ~~Also, the discarded matter not normally present in sewage or industrial waste.~~”
- B. Section 158-16C is amended as indicated: “...conditions of such an acceptance. This includes submitting a BSP-5 form to the NYSDEC.”
- C. Section 158-36A(1) is amended to read as follows:
- A. *New building laterals.*
    - (1) *A separate and independent building lateral shall be provided for every building on a parcel requiring sanitary facilities. When, however, there is a building behind a front building, the building to the rear may use the front building's building lateral if there is no other way to provide sanitary service and the existing lateral is a sufficient size at the rear of the building. In such event, the property owners shall be required to enter into an agreement between the parties specifying the requisite responsibilities of the parties as to care, maintenance and replacement of*

*the sewer lateral, should such replacement become a necessity; care, maintenance and replacement of the sewer lateral may be required by the Village's Department of Public Works, in its sole reasonable discretion. The form and content of the agreement shall be subject to the approval of the Village Attorney, Village Engineer and the Director of the Department of Public Works. The agreement shall provide that it is binding upon both property owners, their heirs, successors and assigns, as well as being recorded in the Yates County Clerk's Office at the expense of the sanitary sewer customers who share the sewer lateral.*

- (2) *New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Director of Public Works has approved plans showing the relocation. If relocation is not physically possible then the lateral shall be handled in such a manner as acceptable to the Director of Public Works.*
- (3) *All existing manholes in or under the basement shall be sealed air-tight in a manner acceptable to the Director of Public Works. No new manholes shall be constructed on the portion of the lateral under the building.*

D. In § 158-42:

- (1) Subsection A(1) is amended as indicated: “The applicant for the ~~building lateral~~ right-of-way or street opening permit shall notify the Director of Public Works when the building...”
- (2) Subsection A(2) is amended as indicated: “The applicant for the ~~street lateral~~ right-of-way or street opening permit shall notify the Director of Public Works when the...”

E. Section 158-79E is amended as indicated: “...response plan shall be reviewed ~~at least every five years~~ as needed.”

F. In § 158-93:

- (1) Subsection A is amended as indicated: “...deemed a separate and distinct prosecutable offense.”
- (2) Subsection B is amended as indicated: “...deemed a separate and distinct prosecutable offense.”
- (3) A new Subsection C is added to read as follows: “The Village Attorney or other attorney designated by the Mayor may prosecute violations prescribed herein.”

G. Former § 158-99, Public notification, is repealed.

## **Chapter 170, Solid Waste.**

### **Article I, Garbage and Refuse Disposal.**

- A. Section 170-3B is amended as indicated: “...or vegetable matter within the Village limits ~~without the written permission of the Health Officer.~~”
- B. Section 170-5 is amended as indicated: “...shall be kept securely closed at all times ~~and placed and kept in such a position as the Health Officer may direct.~~”

- C. Section 170-10 is amended as indicated: “...a separate violation punishable as such. As an alternative to or in addition to a fine and/or incarceration, as provided hereinabove, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.”

## **Article II, Dumping, Storing and Scattering.**

- A. Section 170-14.2 is amended as indicated: “...administrative fee in connection therewith, shall be billed to the property owner. ~~In the event such sum is not paid by the following April 1, that sum shall be added to and become a part of the taxes next to be assessed and levied upon the subject lot or land, upon certification by the Department of Public Works Director and confirmation by the Board of Trustees. Such sum shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes, pursuant to Village Law § 4-414.~~”
- B. In § 170-15, a new Subsection C is added to read as follows:
- A. *Any violation of the provisions of this chapter or any order issued pursuant to the provisions of this chapter shall constitute a violation punishable by a fine not to exceed \$250, by incarceration for not more than 15 days, or by both such fine and incarceration. In the event that any violation is ongoing or continuous, each period of 24 hours thereof shall constitute a separate and distinct offense and may be prosecuted as such.*
  - B. *In addition to the foregoing remedies, an action or proceeding in the name of the Village of Penn Yan may be commenced in any court of competent jurisdiction to compel compliance with or restrain violations of this chapter or orders issued in compliance with this chapter.*
  - C. *As an alternative to or in addition to a fine and/or incarceration, as provided in Subsection A hereof, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.*

## **Chapter 174, Streets and Sidewalks.**

### **Article I, Maintenance of Sidewalks.**

- A. In § 174-6:
- (1) Subsection A(1) is amended as indicated: “...personnel, equipment and funds are available ~~in any particular calendar year~~, the availability of which shall be...”
  - (2) Subsection A(2) is amended to read as follows:
 

*Applications for sidewalk replacement shall be filed with the Department of Public Works. Publication of notice of the program availability shall be made no less than 30 days prior to the deadline of submission of applications.*
  - (3) Subsection B is amended as indicated: “The deadline set for payment ~~to the Village Clerk~~ for sidewalk repair or replacement shall be...”

- (4) Subsection D is amended as indicated: “...duly adopted by the Board of Trustees of the Village of Penn Yan, ~~subsequent to public hearing on the issue upon five days' notice thereof, published in a newspaper of general distribution in the Village of Penn Yan and posted upon the bulletin board at the Village Office Building. Any change in rate shall be made on or about November 15 each year.~~”

## **Article II, Right-of-Way Work Permit.**

- A. Section 174-7 is amended as indicated: “...to the direction of the Director of Public Works or ~~an agent of said Director~~ his/her designee. The applicant for such permit...”

- B. Section 174-7.1 is amended to read as follows:

*The State of New York has adopted legislation requiring information to be provided about the one-call notification system (UDig NY) requirements to applicants for excavation and demolition permits, as well as requiring certification of all excavators. Accordingly:*

- A. *The Village shall display in an appropriate location a notice to applicants for excavation and demolition permits informing such applicants regarding their responsibilities under the law and regulations to protect underground facilities and the existence, operation and programs of the one-call notification system (a.k.a. "UDig NY");*
- B. *Each applicant for an excavation or demolition permit shall be provided with a notice informing such applicant of their responsibilities under the law and regulations to protect underground facilities and the existence, operation and program for the one-call notification system (a.k.a. "UDig NY");*
- C. *No right-of-way work permit shall be issued unless the applicant therefore has submitted documentation that the operator(s) of the equipment performing the work have been certified by the State of New York to have successfully completed the training and education program provided by or sanctioned by the one-call notification system (a.k.a. "UDig NY");*
- D. *No excavation or demolition work shall be performed by any machinery operator who is not certified as having successfully completed the training and education program provided by or sanctioned by the one-call notification system (a.k.a. "UDig NY").*
- C. Section 174-9 is amended as indicated: “...with the approval of the Director of Public Works or ~~his agent~~ his/her designee, the deposit is returned to the applicant. The deposit may be withheld for up to one year at the discretion of the Director of Public Works or his/her designee. This deposit for right-of-way work...”
- D. Section 174-11 is amended to read as follows:

*Each person, firm, corporation or other entity making an excavation through a fixed type of pavement shall replace such pavement by putting back the adjoining pavement a distance of at least two feet on each side of said opening and replacing the same in kind, excepting that brick pavements may be replaced by adding concrete throughout its entire depth. All materials used in replacing such pavements must be of such a source that bears the approval of the New York State Department of Public Works. All concrete must contain at least 15% portland cement. Between November 1 and May 1, a temporary fix or winter mix may be used to temporarily fill said opening, said temporary fix or winter*

*mix to be replaced before the first of July following use of said fix or mix by the applicant and at his expense or by the Village of Penn Yan at the expense of the applicant. All of the above work is to be done under the direction of the Director of Public Works or his/her designee. In the event that settlement occurs within one year from the time the opening is closed, requiring additional work, the applicant agrees to make the necessary repairs under the supervision of the Director of Public Works or his/her designee or said repairs are to be made by the Village at the expense of the applicant who is to be billed therefor. Warning-danger lights, signs, barricades, railings and all other necessary means of protection against accident shall be provided by the applicant.*

- E. Section 174-12 is amended to change “his agent” to “his/her designee.”
- F. Section 174-13 is amended as indicated: “...or by both such fine and imprisonment. As an alternative to or in addition to a fine and/or incarceration as provided hereinabove, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.”
- G. Section 174-14 is amended as indicated: “...the Director of Public Works or his/her designee may authorize the street excavation...”
- H. Section 174-16 is amended to change “his agent” to “his/her designee.”

### **Article III, Sidewalk Displays.**

- A. Section 174-17 is amended to read as follows:

*Any merchant desiring to use sidewalk space for merchandise displays or other purposes must apply to the Village Clerk for a permit. Such permission may be granted to display during business hours for a space up to 36 inches from the building of such applicant, provided that a space of at least six feet from the outside of the walk is kept clear and unobstructed for the use of the public and evidence of public liability insurance if filed, upon the payment of a fee in an amount as set from time to time by resolution of the Board of Trustees. The Board shall reserve the right to revoke such permits in the event of the abuse of any merchant of the permit privileges.*

- B. Section 174-18 is amended as indicated: “...for not more than 15 days, or both. As an alternative to or in addition to a fine and/or incarceration as provided hereinabove, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.”

### **Article IV, Preservation of Street Conditions.**

- A. In § 174-20:

- (1) The definition of “designated haul routes” is amended to delete the reference to “Appendix B.”
- (2) The definition of “road preservation local law worksheet is amended to read as follows:

*ROAD PRESERVATION worksheet — Worksheet is to be completed by project sponsor, summarizing the project, project location, start and completion dates, expected max gross weight used for the project, designated haul routes, and any other items that the Highway Superintendent deems necessary.*

- B. Section 174-21A is amended as indicated: “...hereof and § 174-22 below. ~~A list and map of the designated haul routes are identified in Appendix A.~~ The haul routes shall be designated...”
- C. Section 174-22A is amended as indicated: “...is submitted and the haul routes are designated. ~~All designated haul routes will be posted and paid for as detailed in Appendix B.~~”
- D. Section 174-22F(1) is amended as indicated: “...the municipality shall be informed and ~~Appendix A~~ the Road Preservation Worksheet shall be amended. All articles of this agreement...”
- E. Section 174-22F(2) is amended as indicated: “...for the project to use a municipal road not identified ~~on Appendix B as a designated haul road~~ as a designated haul route, then the developer shall notify the appropriate municipal designee, describing in detail such use and the reasons therefor. If the use is to be one time, the municipal designee shall make the determination to allow the road use without the road being added ~~to Appendix B~~ as a designated haul route. If the developer determines that the road may be used multiple times, it shall be added to ~~Appendix B~~ the designated haul route on the Road Preservation Worksheet as described in ...”
- F. Section 174-28 is amended to read as follows:

*A nonrefundable processing fee in an amount as set from time to time by resolution of the Board of Trustees must accompany each executed Road Preservation Worksheet as described in § 174-20, Definitions.*

#### **Article VI, Permits For Sidewalk Service at Restaurants and Taverns.**

- A. Section 174-41C is amended to read as follows:

*The sidewalk service requires a barrier separating the service and or consumption area from the remainder of the public or quasi-public sidewalk area. A clear and accessible pedestrian path of no less than five feet in width shall be maintained on the remaining sidewalk area. The barrier shall not extend more than five feet from the building. Access to the building shall remain unobstructed at all times.*

- B. Former § 174-41E, which regarded applications for locations within the Village Historic District, is repealed.

#### **Chapter 176, Subdivision of Land.**

- A. Section 176-11B(3)(c) is amended as indicated: “...are completed. This period may be extended by the Planning Board for ~~up to two ninety day periods beyond the 180 days~~ periods of 90 days each.”
- B. Section 176-11B(3)(d) is amended to change “60 days” to “62 days.”
- C. Section 176-13C(2)(e)[2] is amended as indicated: “...may be extended by the Planning Board for ~~up to two ninety day periods beyond the 180 days~~ periods of 90 days.”

- D. Section 176-13C(2)(e)[3] is amended as indicated: ~~“Notification. Notification of action shall be mailed to the subdivider and filed in the Village Clerk's office within seven working days of the date of Planning Board action. Certification and filing of preliminary plat. Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the clerk of the Planning Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner. In the case of disapproval of a proposed plat...”~~
- E. Section 176-14C(9) is amended as indicated: “...This period may be extended by the Planning Board for ~~up to two ninety-day periods~~ of 90 days each beyond the 180-day initial period. Further extensions of time...”

**Chapter 180, Taxation.**

**Article I, Utility Tax.**

- A. Section 180-2 is amended to read as follows:
 

*Words and phrases used in this chapter, unless otherwise noted, shall have the same meanings as ascribed to them in § 186-a of the Tax Law.*
- B. Section 180-4 is amended as indicated: “Every utility subject to tax hereunder shall file annually on or before ~~the 25th day of February~~ April 15 a return for the 12 calendar months ending the 31st day of December ~~or on or before the 25th day of March a return for the 12 calendar months preceding such return date or any portion thereof~~ including any period for which the tax imposed hereby is effective...”
- C. Section 180-10 is amended as indicated: “...be paid by the utility and ~~shall not~~ may be added as a separate item to bills rendered by the utility to customers...”

**Article II, Senior Citizens Exemption.**

- A. Section 180-15 is amended as indicated: “...who are 65 years of age or over and who meet the requirements set forth in § 467 of the Real Property Tax Law.”
- B. Section 180-16 is amended to change “husband and wife” to “a married couple.”
- C. Section 180-17 is amended to read as follows:

*The income of the owner or the combined income of the owners for the income tax year immediately preceding the date of making application for exemption must fall within the following scale:*

| <i>Annual Income</i>              | <i>Percentage of Assessed Valuation Exemption From Taxation</i> |
|-----------------------------------|---|
| <i>\$0 to \$20,000</i>            | <i>50%</i>  |
| <i>\$20,000.01 to \$20,999.99</i> | <i>45%</i>  |
| <i>\$21,000.00 to \$21,999.99</i> | <i>40%</i>  |
| <i>\$22,000.00 to \$22,999.99</i> | <i>35%</i>  |
| <i>\$23,000.00 to \$23,899.99</i> | <i>30%</i>  |

|                            |     |
|----------------------------|-----|
| \$23,900.00 to \$24,799.99 | 25% |
| \$24,800.00 to \$25,699.99 | 20% |
| \$25,700.00 to \$26,599.99 | 15% |
| \$26,600.00 to \$27,499.99 | 10% |
| \$27,500.00 to \$28,399.99 | 5%  |
| \$28,400.00 or more        | 0%  |

**Article VI, Historic Property Tax Exemption.**

This article is adopted to read as follows:

**§ 180-31. Purpose.**

*The purpose of this chapter is to allow the Village of Penn Yan to offer a property tax incentive to encourage investment in historic properties within the Village, particularly since historic district rehabilitation work tends to be more expensive than in other areas due to the nature of the work and because more costly materials may be involved.*

**§ 180-32. Amount of tax exemption; conditions.**

A. *Real property altered or rehabilitated subsequent to the effective date of this chapter shall be exempt to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:*

| <b>Year of Exemption</b> | <b>Percent of Exemption</b> |
|--------------------------|-----------------------------|
| 1                        | 100%                        |
| 2                        | 100%                        |
| 3                        | 100%                        |
| 4                        | 100%                        |
| 5                        | 100%                        |
| 6                        | 80%                         |
| 7                        | 60%                         |
| 8                        | 40%                         |
| 9                        | 20%                         |
| 10                       | 0%                          |

B. *No such exemption shall be granted for such alteration or rehabilitation unless:*

(1) *Such property has been designated as a landmark or is a property that contributes to the character of the historic district of the Village.*

- (2) *Alterations or rehabilitation must be made for means of historic preservation.*
- (3) *Such alterations or rehabilitation of historic property meets guidelines and review standards applicable in Chapter 110, Preservation of Historic Areas, of this Code.*
- (4) *Such alterations or rehabilitation of historic property is approved by the Preservation Commission of the Village prior to commencement of work.*
- (5) *Alterations or rehabilitation are commenced subsequent to the effective date of this chapter.*

**§ 180-33. Application for exemption; filing date.**

*Application for exemption shall be made only by application of the owner or owners of such historic property on a form prescribed by the State Commissioner of Taxation and Finance. The application shall be filed with the Assessor of the Village having power to assess property for taxation on or before the taxable status date of the Village.*

**§ 180-34. Granting of exemption.**

*Such exemption shall be granted where the Assessor is satisfied that the applicant is entitled to an exemption pursuant to § 444-a of the Real Property Tax Law of the State of New York, and such property shall thereafter be exempt from taxation and special ad valorem levies as provided by this chapter commencing with the assessment roll prepared on the basis of the taxable status date referred to in § 111-3 above. The assessed value of any exemption granted pursuant to § 444-a of the Real Property Tax Law of the State of New York shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.*

**§ 180-35. Copies on file.**

*Upon this chapter becoming effective, a copy shall be filed with the State Commissioner of Taxation and Finance and the Assessor for the Village of Penn Yan.*

## **Chapter 190, Vehicles and Traffic.**

- A. In § 190-1B, the definition of “holidays” is amended as indicated: “...Washington's Birthday, Memorial Day, Juneteenth, Independence Day...”
- B. Section 190-6 is amended as indicated: “...in the area described in said schedule, during school days and the hours listed ~~between the hours of 7:00 a.m. and 6:00 p.m.; except that on Liberty Street the speed limit shall be during the periods of time that the automatic flashing yellow lights indicate that it is a school zone with a speed limit of 15 miles per hour.~~
- C. The following sections are repealed:
  - (1) Former § 190-16, Parallel parking, as amended 5-21-1996 by L.L. No. 1-1996.
  - (2) Former § 190-18B, Parking on sidewalks.
  - (3) Former § 190-29.3, Double-parking, as added 6-13-1994 by L.L. No. 3-1994.
  - (4) Former § 190-29.4, Blocking access to driveway or crosswalk, as added 6-13-1994 by L.L. No. 3-1994 and amended 9-21-1999 by L.L. No. 5-1999.
  - (5) Former § 190-29.5, Parking near fire hydrant, as added 6-13-1994 by L.L. No. 3-1994.

D. In § 190-40, the table entry for “Plaza Drive” is repealed.

E. In § 190-44, the second table entry for “Kimball Avenue” is amended as indicated:

|                |           |  |
|----------------|-----------|--|
| Kimball Avenue | Northwest | South Avenue ( <del>Slaughter House Road</del> ) |
|----------------|-----------|--|

F. In § 190-48, the second table entry for “Cornwall Street” is amended as indicated:

|                 |      |   |
|-----------------|------|---|
| Cornwall Street | West | From the intersection of the center line of Clinton Avenue Street for a distance of 75 feet south |
|-----------------|------|---|

G. In § 190-48, the table entry reading “Maiden Lane/North/From the intersection of the center line of Route 14A east to the west line of Main Street” is repealed.

H. In § 190-48, the table entry for “Maiden Lane” is amended as indicated:

|             |                       |               |
|-------------|-----------------------|---------------|
| Maiden Lane | <del>South</del> Both | Entire length |
|-------------|-----------------------|---------------|

I. Section 190-57.3D is amended to change “§ 2806(1)(b) of the Vehicle and Traffic Law” to “§ 2406, Subdivision 1(b), of the Vehicle and Traffic Law.”

**Chapter 198, Water.**

A. The following sections are amended to change “Municipal Utilities Board” to “Department of Public Works”: §§ 198-3, 198-4, 198-6, 198-7, 198-8, 198-11, 198-13B, 198-14, and 198-16.

B. Section 198-1 is amended to read as follows:

*The regulations contained in this chapter are established by the Village of Penn Yan to control and manage the provision of water service to water customers within the Village's geographic boundaries and any customer outside the Village's geographic boundaries. Every water customer shall be subject to the regulations contained in this chapter as a result of requesting and accepting Village water service.*

C. A new § 198-1.1 is added to read as follows:

*For the purposes of this chapter, the following terms shall have the associated meanings:*

*CUSTOMER — The owner or tenant of a property requesting and receiving water service.*

*DEPARTMENT OF PUBLIC WORKS — The Department of Public Works of the Village of Penn Yan.*

*MUNICIPAL CUSTOMERS — A town or village which contracts with the Village to obtain water service for a water district outside the geographic boundaries of the Village of Penn Yan.*

*VILLAGE — The Village of Penn Yan.*

*WATER LATERAL — The pipe or conduit through which water is supplied from the Village water main to the property receiving water service.*

*WATER MAIN — The pipe or conduit by which the Village distributes water to the various water laterals and municipal customers.*

*WATER RENT* — Cost charged by the Village for water service to non-municipal water customers.

- D. Section 198-5 is amended as indicated: "...iron pipe shall be Tyton-type fittings. Reference the Infrastructure Design Criteria and Construction Specifications."
- E. Section 198-8 is further amended to change "service pipe" to "water lateral."
- F. Section 198-10A is amended as indicated: "...shall be borne by the property owner. All new water services shall have a double check valve installed on the customer side of each water meter. The double check valve shall conform to standards and/or specifications promulgated by the American Water Works Association (AWWA). The property owner shall be responsible for the cost of installation, maintenance and replacement of the double check valves."

- G. Section 198-12B is amended to read as follows:

*Water meters monitoring water service lines greater than ¾ inch inside diameter shall be furnished by the Village of Penn Yan at a cost to the owner of the property where the meter is to be installed. The cost of the approved meter shall be invoiced to the property owner. Water service will be activated after payment is received. In the event that authorized Village personnel do not install the water meter, the installation shall be inspected by such personnel before the water service is activated.*

- H. Section 198-15 is amended to read as follows:

*"Meter tampering" refers to any unauthorized attempt or action to alter, bypass, damage, manipulate, or interfere with the meter. No person shall tamper with, alter, or interfere with any meter.*

- I. Section 198-16.1C(1)(c) is amended to change "Village Clerk" to "Village Clerk/Treasurer."

- J. Section 198-18 is amended to read as follows:

*Where on-premises fire prevention services are permitted, the entire cost of materials, installation and maintenance of the service from the main to the premises and within the limits of the premises shall be borne by the consumer. The consumer will pay a connection charge as listed. Failure to make proper repairs of the system, after due notice, will result in the water being turned off. When the consumer or a representative of the consumer desires to make flow tests or to make repairs to the fire service system, except in emergencies, the consumer or the representative must provide the Department of Public Works with a minimum of 48 hours' advance notice before commencing such testing or repairs. Fees for connection shall be established by resolution by the Village Board of Trustees.*

- K. Section 198-20 is amended as indicated: "...the date service was last ~~installed~~ accurately recorded, at the consumption rate during corresponding period ~~of the previous year, if available.~~ The same practice shall be..."

- L. Section 198-20.1 is amended to read as follows:

*Water rent is due within 15 days of the date of the invoice for such water rent. Water rent not paid within such fifteen-day period becomes past due without further notice and subject to a late payment penalty of 1.5% per month, computed from the past-due date. Such late charge shall apply to all water rent billings.*

M. Section 198-22B is amended to change “Village Clerk/Treasurer” to “Village Clerk/Treasurer or his/her designee.”

N. Section 198-22C is amended as indicated: “...adopted by the Board of Trustees,~~upon recommendation of the Municipal Utilities Board.~~”

O. Section 198-22D is amended to read as follows:

*An applicant for water service may be denied such service in the event that said applicant has any past due or previously written off water or sewer rents or electric charges for any other premises having previously received or currently receiving utility service from Penn Yan Municipal.*

P. Section 198-22F is amended to change “January 10” to “January 31” and to change “Village Treasurer” to “Village Clerk/Treasurer.”

Q. Former § 198-24, Penalties for offenses, is repealed.

R. Section 198-26 is amended to read as follows:

*No person or contractor will attempt to dig up or repair any waterline prior to the service meter valve at any time other than during the normal working hours of the employees of the Village. If and when an employee of the Village is required to respond to turn off the water due to attempted repairs, either internal or external, the owner or the tenant requesting the Village employee to respond will be billed for the actual call out cost to the Village. If the owner does not pay the call out cost, the amount billed will be placed on the tax rolls. If the tenant does not pay the call out, the water will be turned off until such time as payment has been made, either by the owner or the tenant. Costs that remain unpaid shall become a lien upon the real property. Any such lien shall be prior to and superior to any other lien upon the property with the exception of real property taxes.*

S. Section 198-27 is amended to read as follows:

A. *Any new customer that resides outside the limits of the Village of Penn Yan or prior customer with history of delinquent utility payments who requests water service from an existing line will be required to make a deposit prior to receiving service. Any existing customer may be required to make a deposit on their existing account upon consecutive delinquent payment history at the discretion of the Village Clerk/Treasurer or his/her designee.*

B. *This deposit shall be the projected estimate of the highest bill in the 12 months of future use as estimated by the Village Clerk/Treasurer or his/her designee. A deposit shall not be required if the customer has established a continuous record of on-time payment for water service with the Village over the immediately preceding twelve-month period.*

C. *The Village shall deposit such funds for a twelve-month period or for such time that a continuous two-year record of on-time payment has been established by the customer making the deposit, whichever is longer.*

D. *The deposits are returnable only to the person whose signature is of record as having made the deposit or the duly authorized representative of same. Such deposit, less any amount owing to the Village for water, sewer or electric service,*

*shall be returned to the customer by crediting the first billing following the above-described deposit period, or on the last bill rendered, whichever is sooner.*

- E. *Said deposit shall not destroy or affect any right of the Village to terminate the service agreement or discontinue service as herein provided. Said deposit shall deem as security for the payment of unpaid bills or other claims of the Village against the customer upon termination of service.*
- T. Section 198-28 is amended to read as follows:
- Any person, firm or corporation who has paid his or its utility bill by check and the check has been returned for insufficient funds may be required to pay a fee as set by the Village. The customer's service will be turned off for nonpayment. The customer will be required to pay the reconnection charge, the returned check fee and the utility bill in cash, money order or bank certified check before the service is reconnected. If the customer in question has a record of checks being returned for insufficient funds, he will be required to pay all future bills in cash, money order or certified check at the direction of the Village Clerk/Treasurer or his/her designee.*
- U. A new § 198-29 is added to read as follows:
- The provisions hereof are enforceable by the Code Enforcement Officer of the Village of Penn Yan, any deputy thereof, other Acting Code Enforcement Officer, or any police officer having jurisdiction in the Village of Penn Yan, or any other officer or employee of the Village of Penn Yan so designated by the Director of Public Works of the Village of Penn Yan.*
- V. A new § 198-30 is added to read as follows:
- A. *Any person convicted of a violation of this chapter shall be punished by a fine of not less than \$25 nor more than \$250 and/or incarceration for not more than 15 days, or both such fine and incarceration, for each such conviction.*
- B. *Each day that a violation of this chapter exists shall be a separate prosecutable offense.*
- C. *As an alternative to or in addition to a fine and/or incarceration as provided in Subsection A hereof, the person convicted of violating any provision of this chapter may be sentenced to community service. Such a community service sentence would be imposed as a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.*

## **Chapter 199, Waterfront Pathway.**

- A. Former § 199-6, Personal conduct, is repealed.
- B. Section 199-9 is amended to read as follows:

*Any person who shall violate any of the provisions of this chapter shall be guilty of a violation and shall, upon conviction, be punished by a fine of up to \$250 and/or imprisonment for a period not to exceed 15 days, or both, in addition, to any other applicable provision of law. As an alternative to or in addition to a fine and/or incarceration, as provided hereinabove, the person violating such provision may be sentenced to community service. Such a community service sentence would be imposed as*

*a definite term of hours of work to be served under the direction of the Department of Public Works of the Village of Penn Yan, and be pursuant to an order of conditional discharge issued by the court.*

## **Chapter 202, Zoning.**

### **A. In § 202-6:**

- (1) The definition of “accessory structure” is amended to read as follows:

*A structure that is incidental to a principal structure on the same lot. Accessory structures include but are not limited to portable, demountable or permanent enclosures, shade structures, carports, swimming pools, signs, fences, decks, barns, garages and storage sheds.*

- (2) The definition of “addition” is amended as indicated: “...increase in floor area, number of stories or height of a building...”

- (3) The definition of “adult bookstore or adult video store” is amended to read as follows:

*A commercial establishment which, as one of its business purposes, offers one or more of the following:*

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, DVDs or video reproductions, slides or other visual representations, or other technology which depicts or describes specified sexual activities or specified anatomical areas; as defined herein; or*
- B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.*

- (4) The definition of “adult cabaret” is amended to read as follows:

*A public or private establishment that serves food and/or alcoholic or nonalcoholic beverages, which features:*

- A. Persons who appear in a state of nudity, as defined herein;*
- B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, as defined herein; or*
- C. Films, motion pictures, videocassettes, DVDs, slides or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas, as defined herein.*

- (5) The definition of “adult motel” is amended to read as follows:

*A hotel, motel or similar commercial establishment that:*

- A. Offers accommodations to the public and provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, DVDs, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, as defined herein, or has signs visible from the public right-of-way that advertise the availability of such photographic reproductions; or*

- B. *Offers sleeping rooms for rent for a period of time that is less than 10 hours; or*
- C. *Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.*
- (6) The definition of “alley” is amended as indicated: “...for the public use of vehicles or pedestrians affording access to...”
- (7) The definition of “alteration” is amended to read as follows:  
*Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a building permit.*
- (8) The former definition of “area, lot” is repealed.
- (9) The definition of “attic” is amended to read as follows:  
*The space between the ceiling framing of the top story and the underside of the roof.*
- (10) The definition of “banner” is amended as indicated: “...constructed of ~~canvas or other~~ fabric, designed to be suspended...”
- (11) The definition of “change of use” is amended to read as follows:  
*See “land use activity.”*
- (12) The definition of “drive-in use” is amended as indicated: “...designed primarily for drive-through ~~or carryout~~ service.”
- (13) The former definition of “escort” is repealed.
- (14) The definition of “family” is amended to change “One” to “Two.”
- (15) The former definition of “junk motor vehicle” is repealed.
- (16) A new definition for the term “lot area” is added to read as follows:  
*The square footage or acreage contained within the boundaries of a lot.*
- (17) The definition of “lot coverage” is amended to read as follows:  
*That percentage of the lot area which is devoted to building area.*
- (18) The former definition of “manufactured home (a.k.a. “trailer” or “mobile home”)” is repealed.
- (19) A new definition for the term “manufactured home, factory” is added to read as follows:  
*See “modular home.”*
- (20) The definition of “manufactured housing” is amended to change the term being defined to “manufactured home.”
- (21) The definition of “parking space” is amended to read as follows:  
*An off-street space available for the parking of one motor vehicle, having dimensions of not less than nine feet in width and 18 feet in length, exclusive of passageways and driveways thereto and giving access thereto, and having direct usable access to a street or alley.*

- (22) The definition of “public utility facility” is amended to read as follows:  
*A facility for the provision of public utility service, including facilities constructed, altered or maintained by utility corporations, either publicly or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communications, water, sewage collection and/or treatment or other such service to the general public. Such facilities shall include poles, mains, drains, sewers, pipes, conduits, cable, alarms and call boxes and other similar equipment but shall not include office or administration buildings.*
- (23) The definition of “residence, residential” is amended as indicated: “...for permanent occupancy; and ~~“Residence,” therefore,~~ includes all one-family...”
- (24) The definition of “restaurant, standard” is amended as indicated: “...building or on the premises. ~~However, a snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, playfield or park that is operated by an approved sponsoring group, agency or vendor for the convenience of the patrons of the facility shall not be deemed to be a restaurant.”~~
- (25) The definition of “retail use” is amended as indicated: “...the sale of merchandise ~~or stock-in-trade~~ to the public.”
- (26) The former definition of “structure, accessory” is repealed.
- (27) The definition of “swimming pool” is amended as indicated: “...designed or capable for the purpose of recreational bathing, swimming, diving, or wading. This includes in-ground, aboveground and on-ground pools; indoor pools; hot tubs; spas; and wading pools. ~~and/or other uses by humans and including all associated equipment and/or accoutrements, patios, decks and sidewalks adjacent or related thereto.”~~
- (28) The former definitions of “swimming pool, private” and “swimming pool, public” are repealed.
- (29) The definition of “veterinary hospital” is amended as indicated: “...for boarding animals receiving medical treatment.”
- B. Section 202-7 is amended as indicated: “...unless in conformity with the NYS Uniform Code and regulations herein specified for the district in which it is located, ~~except as hereinafter provided.”~~
- C. Section 202-8 is amended to read as follows:
- A. *No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards or side yards than are specified herein for the district in which such building or structure is located.*
  - B. *No part of a required yard or other open space associated with a principal structure required by this chapter shall be included as part of a required yard or other open space similarly required for another building on the same lot.*
  - C. *No lot shall be so reduced in size so as to make in nonconforming per Attachment 2 of this chapter, the Density Control Schedule.*

- D. *Regardless of any other provisions of this chapter, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health safety, is prohibited.*
- D. Section 202-9 is amended to read as follows:
- In order to fulfill the purpose of this chapter, the Village of Penn Yan establishes the following districts:*
- A. *Single-Family Residential (R-1).*
  - B. *General Residential (R-2).*
  - C. *General Residential-Limited (R-2L)*
  - D. *Residential Transition (RT).*
  - E. *Village Center (VC).*
  - F. *General Commercial (GC).*
  - G. *Waterfront Development and Conservation (WDC).*
  - H. *Industrial (I).*
  - I. *Planned Residential (PR).*
  - J. *Planned Business (PB).*
- E. Section 202-10 is amended to read as follows:
- The location and boundaries of said zoning districts are hereby established on a scaled map designated "Zoning Map of the Village of Penn Yan," which is kept on file and on the Village's website and is available for public viewing. Such map is hereby declared to be part of this chapter.*
- F. Section 202-12A is amended to read as follows:
- Intent. The intent of this district shall be to delineate those areas where predominantly one-family and two-family residential development has occurred or is likely to occur and to protect the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with this intensity of use.*
- G. Section 202-13A is amended to read as follows:
- Intent. The intent of this district shall be to delineate those areas where predominantly one-family and two-family, moderate-density residential development has occurred or is likely to occur, to allow in special instances, in accordance with site plan review, multiple-family dwellings and dwelling groups and to protect the integrity of these residential areas by controlling the type and intensity of uses so that the overall character and density is preserved.*
- H. Section 202-15 is amended to read as follows:
- A. *Intent. The intent of this district shall be to delineate the Village center area, which is primarily utilized and is appropriate for retail, business and personal service, financial, institutional, office, cultural, residential and governmental uses, and to provide and promote a full range of central business uses that cater to the needs of the population and to ensure that any use is compatible with the character of the district and its permitted types and intensities of use.*

- B. *Permitted uses. Permitted uses shall be as specified in § 202-19 of this article, Use Regulation Table.*
  - C. *Professional offices shall be restricted to upper floors only, in multiple-story buildings.*
  - D. *Dimensional requirements. Dimensional requirements as set forth in § 202-22, Density Control Schedule (area and bulk schedule), shall be observed for all uses permitted in this district.*
- I. In § 202-17:
- (1) Subsection E(1) is amended as indicated: “...site plan review pursuant to ~~§ 162-5~~ Article VIII, an easement shall be...”
  - (2) Subsection E(7)(a)[3] is amended to change “demolition” to “construction.”
- J. Section 202.17.1 is amended to read as follows:
- The following shall be special uses within the WDC subject to the criteria hereinafter provided:*
- A. *Amusement game center: accessory use only.*
  - B. *Artist's loft: Each must be less than 800 square feet. Each shall have separate and independent entrance for the living quarters and artist studio. When a proposed site plan results in one building containing three or more artist lofts, a common fire-rated entrance for living spaces may be used. Living space shall not contain any production or manufacturing activities. Living spaces in artist lofts shall only be occupied by artists and their direct family. Units cannot be independently rented as apartments.*
  - C. *Cultural facility: must have a relation to waterfront. A library is not permitted.*
  - D. *Day-care center: accessory use only.*
  - E. *Parking lot, private: The aggregate number shall not exceed two parking spaces per dwelling unit. Driveways, roads and parking areas are prohibited between structures and the shoreline. Boats, motor homes, trailers recreational vehicles are prohibited.*
  - F. *Parking structure: accessory use only.*
  - G. *Research laboratories: business function must be associated with waterfront.*
  - H. *Retail businesses and commercial uses otherwise provided for in this section: all commercial uses, other than listed above, shall be subject to a case-by-case review by the Planning Board, including a public hearing, to weigh the public benefit and need against the impact and effects as follows:*
    - (1) *General conformance with the Comprehensive Master Plan of the Village of Penn Yan;*
    - (2) *Harmony with other uses in the zoning district in which it would be located to ensure that the proposed use is to be conducted in a manner compatible with the surrounding neighborhood and will not constitute a threat to the public health, safety, welfare or convenience;*

- (3) *Does not tend to depreciate the fair market value of the adjacent properties and takes into account any possible need for screening or other protective measures;*
- (4) *Will not create a hazard to health, safety or the general welfare;*
- (5) *Will not be detrimental to the flow of traffic in the vicinity;*
- (6) *Will be served adequately by essential public facilities and services, such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such additional services as the Planning Board deems appropriate.*

- I. *Solar collector or reflector: shall be attached to structure; shall not exceed square footage of roof, nor overhang the roof in any direction.*
- J. *Vehicle sales: only watercraft sales and repair shall be permitted in the WDC district. Storage of watercrafts is prohibited between May 1 and November 1 of each year.*

K. New §§ 202-17.1.1 and 202-17.1.2 are added to read as follows:

**§ 202-17.1.1. Terminology specific to Keuka Lake Outlet.**

*All references to §§ 202-17.1.1, 202-17.1.2 and 202-17.2 or "outlet," "water," "docks," "wharfs" or any other terminology utilized in those sections is solely with respect to the Keuka Lake Outlet.*

**§ 202-17.1.2. Definitions pertaining solely to §§ 202-17.1.1, 202-17.1.2 and 202-17.2.**

*WHARF — Any structure permitting access to the shoreline, which extends out, into, over or along the shoreline, whose purpose is to provide riparian access as well as securing watercraft, and which is built parallel with the shoreline and supported in the water by some mechanism.*

*DOCK — Any structure or platform extending from the shoreline, generally extending into the water perpendicular to such shoreline, whose purpose is providing riparian access and/or securing of watercraft, shall be defined as a dock.*

L. Section 202-17.2 is amended to read as follows:

*The following shall apply to any structures placed, built, constructed or otherwise located in, on or over the Keuka Lake Outlet:*

- A. *Construction shall not be permitted to impact water quality, cause harm to fish spawning grounds, destroy the natural beauty of the shoreline, reduce the stability of steep slope areas, cause erosion or sedimentation problems along the shoreline, create hazards for navigation, interfere with the public use and enjoyment of the water surface or shoreline, infringe upon the riparian rights of other littoral parcels or threaten the public health and safety.*
- B. *Grading, dredging, earthmoving and disturbance of land above water during any construction shall be minimized as much as possible and shall be consistent with*

*the permit requirements of the New York State DEC and/or Army corps of Engineers regulating such activities.*

- C. No structure shall interfere with circulation of water in such a way as to reduce the effects of fluctuating water levels or create adverse modifications of the shoreline.*
- D. All docked/moored watercraft shall have a minimum of 18 inches of water depth beneath the vessel's bow, and 36 inches of water depth beneath the vessel's stern.*
- E. The minimum width for a docking structure join to land shall be 36 inches throughout its length.*
- F. The length of all dock, piers, wharfs, or any other permanent, temporary mooring, are limited by the depth of the water (see Subsection D) and are not permitted in the navigable channel.*
- G. In the event that the water depth at the end of a proposed pier, dock, wharf is less than five feet when the Outlet is at mean high water level, the Code Enforcement Officer may issue a building permit to extend the proposed structure no longer than an additional 10 feet. Such permit shall be issued for the minimum additional length necessary, in the judgment of the Code Enforcement Officer, to reach the depth of five feet but in no case shall exceed a total dock length of 30 feet from mean high water level at the dock/shoreline intersection.*
- H. Construction shall have a minimum setback of 20 feet from the adjacent property lines, as extended from the shoreline, to allow adequate vessel access to neighboring waterfront parcels. In the event parcels are too narrow for such waterfront structures to meet this setback requirement, such structures shall be centered between the adjacent property lines.*
- I. The minimum distance between adjacent docking structures shall be 12 feet.*
- J. Dual boat slips are prohibited.*
- K. Any lighting which produces an offensive glare when viewed from any direction is prohibited.*
- L. Docks shall not be rented independently from the primary use unless approved by the Planning Board at site plan review and, accommodations have been made for parking, access, trash and any other requirements deemed necessary by the Planning Board.*
- M. Where site plan approval is required for a development or activity, these proposed structures shall be reviewed for adequacy, location, arrangement, size, design and general site compatibility.*
- N. Permanent dock, pier, or similar protuberance shall be permitted from Liberty Street to the lake and prohibited from Liberty Street downstream.*
- O. Nonpermanent dock, pier or similar protuberance must be removed in its entirety between December 1 and March 31.*
- P. No property owner may claim any ownership rights in the Outlet waterway bed or any portion of the waterway or the Outlet.*

- Q. No dock, pier or similar protuberance shall be permitted in any area of the outlet where the channel is routinely dredged.*
- R. Wharves only are permitted from a line 100 feet westerly from the Keuka Lake Dam system at Main Street to the pedestrian bridge which sits immediately to the west of Liberty Street.*
- S. Docks are permitted on the south side of the outlet from the Liberty Street pedestrian bridge west to a point 450 feet upstream.*
- T. Docks or other moorings are prohibited on the south side of the outlet from a point 450 feet west of the Liberty Street pedestrian bridge to a straight-line extension of the center line of Monell Street across the Outlet to the northerly shore thereof.*
- U. Wharves are the only structures permitted on the south side of the outlet from a straight-line extension of the center line of Monell Street, across the Keuka Lake Outlet, west to a point 950 feet upstream.*
- V. No docks are permitted from a point situate 950 feet upstream from a straight-line extension of the center line Monell Street across Keuka Lake outlet to a point 100 feet south of Kimball's Gully.*
- W. Wharves are the only structure permitted from the point 100 feet South of Kimball's Gully to the centerline of Mace Street, as extended in a straight line across Keuka Lake Outlet.*
- X. Moorings of any kind are prohibited on the south side of the Keuka Lake Outlet from a straight-line extension of Mace Street to the Keuka Lake.*
- Y. All structures in, on or over the Outlet are prohibited between the Main Street Dam system to a line parallel to such dam and a distance of 100 feet westerly therefrom extending from the northerly shoreline of the Outlet to the southerly shoreline of the Outlet.*
- M. In § 202-20.1:
- (1) Subsection C(4) is amended as indicated: "...may waive, in writing, any such of these specifications..."
  - (2) Subsection D(2)(a) is amended to read as follows:
 

*Notice sign(s) shall be posted on the property, in plain view from the public ways, for a minimum of five days prior to the public hearing. The signs shall be furnished by the Village and placed and removed by Village personnel and will remain the property of the Village.*
  - (3) Subsection E(1) is amended as indicated: "...from the date of issuance unless a building permit is issued for construction and occupancy, ~~and substantial construction has actually begun. At the discretion of the Planning Board, a permit may be renewed, once, for a period not to exceed six months.~~"
  - (4) Subsection E(2) is amended as indicated: "A special use permit shall be deemed to authorize..."

N. Former §§ 202-20.5, Drive-in uses, 202-20.6, General business office, 202-20.7, Grocery store, 202-20.9, Personal service, 202-20.10, Professional office building; medical clinic, and 202-20.11, Professional offices, are repealed.

O. In § 202-20.13, a new Subsection A(3) is added to read as follows:

A. *General regulations.*

- (1) *No component of the system shall be located in a front yard.*
- (2) *Setback shall be a distance of 125% of the height of any component of the system from the nearest lot line.*
- (3) *See § 202-55, Wind energy conversion systems (windmills).*

P. In § 202-20.16:

- (1) Subsection E and is amended to change “Village Code Office” to “Code Enforcement Office.”
  - (a) Subsection E(7) is further amended as indicated: “...suitable site plan, ~~measuring at least 11 inches by 17 inches,~~ drawn to scale...”
- (2) Subsection I(1) and (4) are amended to change “Village Code Office” to “Code Enforcement Office.”
- (3) Subsection K(2)(b) is amended as indicated: “comply with ~~annual Village~~ building inspection...”

Q. Section 202-39.1 is amended to read as follows:

*The Planning Board of the Village of Penn Yan is hereby authorized to review and approve or disapprove site plans for land uses within the Village as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.*

R. Section 202-39.5 is amended to read as follows:

- A. *Approval required; recommended procedures. Prior to undertaking any new land use activity, except uses specifically exempted of this chapter, a site plan approval by the Planning Board is required. Applicants for site plan approval shall follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of the chapter.*
- B. *Applicability of Village Law § 7-725-a, Site plan review. All site plan reviews shall comply with the provisions of Village Law § 7-725-a, Site plan review, or any law which is a successor thereto.*
- C. *Site plan conference. A site plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, to advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:*

- (1) *A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.*
  - (2) *An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features.*
  - (3) *A topographic or contour map of adequate scale and detail to show site topography.*
- D. *Application requirements. At a time determined by the Planning Board staff in advance of the Planning Board meeting at which a site plan is to be considered, the application for site plan review and the requisite number of copies of the site plan, determined by the Planning Board staff, at a scale of not less than one inch equals 20 feet for multifamily residential development and one inch equals 40 feet for all other development shall be submitted to the Village Planning Office. The site plan shall be prepared, sealed and signed by a legally qualified engineer, architect or surveyor and shall contain the following information:*
- (1) *The title of the drawing, including the name and address of the applicant and of the person responsible for preparation of such drawing.*
  - (2) *The North arrow, scale and date.*
  - (3) *The boundaries of the property.*
  - (4) *Locations, dimensions and descriptions of all existing structures.*
  - (5) *A grading and drainage plan, showing existing and proposed elevation contours, rock outcrops, soil characteristics and watercourses.*
  - (6) *The location, design, type of construction, proposed use and exterior dimensions of all buildings.*
  - (7) *The location, design and type of construction of all parking and truck loading areas, showing ingress and egress.*
  - (8) *Provisions for pedestrian access.*
  - (9) *The location of outdoor storage, if any.*
  - (10) *The location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.*
  - (11) *A description of the method of sewage disposal and the location, design and construction materials of such facilities.*
  - (12) *A description of the method of securing public water and the location, design and construction materials of such facilities.*
  - (13) *The location of fire and other emergency zones, including the location of fire hydrants.*

- (14) *The location, design and construction materials of all energy distribution facilities, including electrical, gas, wind and solar energy.*
  - (15) *The location, size and design and type of construction of all proposed signs.*
  - (16) *The location and proposed development of all buffer areas, including existing vegetative cover.*
  - (17) *The location and design of outdoor lighting facilities.*
  - (18) *The identification of the location and amount of building area proposed for retail sales or similar commercial activity.*
  - (19) *The general landscaping plan and planting schedule.*
  - (20) *An estimated project construction schedule.*
  - (21) *A record of application for and status of all necessary permits from other governmental bodies.*
  - (22) *Identification of any permits from other governmental bodies required for the project's execution.*
  - (23) *Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.*
- E. *Site plan filing fee. An application for site plan review shall be accompanied by a fee in an amount set by resolution duly adopted by the Board of Trustees.*
- F. *Applications shall be referred to the County Planning Board for review, if required, pursuant to General Municipal Law § 239m.*
- G. *Expenses incurred by Planning Board. Any expenses incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged and paid for by the applicant.*
- H. *Determination that application is complete.*
- (1) *For every site plan review application the Planning Board shall make a determination on the record, based upon an affirmative vote of the majority of the Planning Board membership, whether the application is complete.*
  - (2) *The Planning Board shall not determine that an application is complete until it has received all of the requisite documentation and information required for the site plan review.*
  - (3) *In the event that the application is not complete the Planning Board shall expeditiously notify the applicant, in writing, of the documentation and/or information required in order for the application to be complete.*
  - (4) *For purposes of computation of time limits, a site plan application shall not have been deemed received until the Planning Board determines that such application is complete.*
  - (5) *In the event of disagreement between the Planning Board and the applicant as to whether the application is complete the Planning Board may proceed with the review process and make such decision with*

*respect to the application as the Planning Board deems appropriate under the circumstances.*

S. Section 202-39.9 is amended to change “60 days” to “62 days” and to change each instance of the word “immediately” to “within five business days.”

T. Section 202-46 is amended to read as follows:

*Accessory structures not attached to a principal building shall comply with the following:*

- A. *All accessory structures shall require a building permit.*
- B. *They shall only be located on the same lot as a principal use.*
- C. *They shall only be located in a rear or side yard in compliance with the Use Regulation Table and the following scheduling:*
  - (1) *R-1, R-2, R-2L, RT, VC, GC, I and WDC Districts:*
    - (a) *For accessory structures greater than 80 square feet:*
      - [1] *Side yard: minimum six feet.*
      - [2] *Rear yard: minimum six feet.*
    - (b) *For accessory structures less than 81 square feet:*
      - [1] *Side yard: minimum three feet.*
      - [2] *Rear yard: minimum three feet.*
  - (2) *R-2L District exception: shall not exceed one accessory structure.*
  - (3) *I District:*
    - (a) *Side yard: no minimum.*
    - (b) *Rear yard: no minimum.*
  - (4) *Where any district abuts an existing residential use and/or a residential district, any accessory building shall be located a minimum of 1/2 the distance specified in the Density Control Schedule for principal structures.*
- D. *They shall be located no closer to the principal building than 12 feet or a distance equal to the height of each accessory building, whichever is greater.*
  - (1) *Exception: Swimming pools shall be three feet from primary structure.*
- E. *In a residential district, accessory structures, including swimming pools and tennis courts, shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.*

U. Section 202-47 is amended to read as follows:

- A. *Driveways shall be constructed in conformance with the specifications set forth in the Design and Construction Standards for Land Development of the Village of Penn Yan.*
- B. *All work and materials shall be furnished as required to meet the conditions set by the Department of Public Works and County and State Highway Departments.*

- C. *No alteration or addition shall be made to any driveway without first securing permission from the Director of Public Works and obtaining a right-of-way permit.*
- D. *No more than two driveways to a single commercial establishment entering on one street shall be permitted.*

V. In § 202-48:

- (1) Subsection A(1) is amended as indicated: "...meets a street, fence, hedge, wall or planting..."
- (2) Subsection B(4) is amended to read as follows:

*Materials such as barb wire, sheet metal, razor wire, page wire, poultry fence, electrification or other materials or devices intended to cause injury are prohibited.*

W. Section 202-53A(1) is amended to read as follows:

*No smoke shall be emitted in such quantity as to become a nuisance.*

X. In § 202-56:

- (1) Subsection A is amended to read as follows:

*No more than 15% of the total floor area of a primary structure.*

- (2) Subsection H(3) is amended as indicated: "Veterinary hospital;  ~~Kennel.~~"

Y. Former § 202-57, Satellite television antennas, as amended, is repealed.

Z. Section 202-58A is amended to read as follows:

- A. *Townhouse and multifamily developments shall meet the following standards:*

- (1) *Yard requirements.*

- (a) *Front yard: minimum 25 feet.*

- (b) *Rear yard: minimum 30 feet.*

- (c) *Side yard: minimum 10 feet.*

- (2) *Maximum building height shall be as specified in Section § 202-22, Density Control Schedule (area and bulk schedule).*

- (3) *Maximum site coverage by all buildings and structures shall not be more than 50% of the lot area, such percentage to be calculated on the basis of the total project area.*

- (4) *Accessory buildings, including unattached garages, shall be located a minimum distance of 10 feet from any lot line and shall only be permitted in the rear or side yard.*

- (5) *Parking shall be in conformance with § 202-43, Off-street parking.*

AA. Section 202-64 is amended to read as follows:

- A. *Statement of purpose and intent.*

- (1) *The Board of Trustees finds that the historical character and attractive buildings in the Village of Penn Yan have a substantial positive impact on the property values, business climate, land use and general welfare of the Village's residents and property owners and visitors. Signs have a substantial effect on the historical character, building use, appearance and property value, which may be positive or detrimental. It is, therefore, the intent of this chapter to promote and protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and encourage the most appropriate use of the real property in the Village.*
  - (2) *The purpose of these regulations is to promote signs which are:*
    - (a) *Compatible with surroundings, meaning that every sign shall be considered as an integral architectural element of the building and site to which it principally relates.*
    - (b) *Orderly, readable and safe.*
    - (c) *Harmonious in terms of color, materials and lighting with the building to which it relates.*
    - (d) *Informative to the public but unobtrusive to vehicular and pedestrian traffic.*
- B. *Permit required. Except as otherwise provided in this chapter, no sign shall be erected or altered until a permit has been issued by the Code Enforcement Officer.*
- C. *General regulations. The regulations contained in this section shall apply to signs in every use district of the Village of Penn Yan.*
- (1) *No sign shall be located where it will impede or interfere in any way with a traffic control device, traffic visibility or pedestrian visibility. Specifically signs are prohibited between the elevations of three feet and seven feet above the street level within the triangular area formed by two intersecting street center lines and a line connecting points on such street center lines 60 feet distant from their point of intersection. No sign shall be erected within the right of way lines of any street, except temporary banners permitted with the approval of the Village Board of Trustees pursuant to Chapter 48, Banners, of the Code of the Village of Penn Yan.*
  - (2) *Signs in the Village right-of-way will be removed by Village personnel.*
  - (3) *No sign shall be erected or maintained upon the roof of any building. No sign attached to a building wall shall extend above the actual height of said wall or roofline.*
  - (4) *No sign shall be illuminated by or use flashing, intermittent, changing, rotating or moving lighting as a part thereof. No*

*illuminated sign or lighting device shall be so directed as to cause a glare or deflection hazard upon a street, highway, sidewalk or adjacent premises.*

- (5) *No mobile, portable or temporary sign shall be placed on the face of any building or upon any premises except for a sign intended to be used for a period of not more than 30 days and which is not permanently mounted. All temporary signs shall conform to Subsection J of this section.*
- (6) *No promotional or advertising device or merchandise shall contain or consist of banners, swoop flags, balloons, posters, pennants, ribbons, streamers, spinners or other moving devices. None of these devices shall be used to attract attention to a sign, merchandise or other means of advertising.*
- (7) *No sound amplifiers, public address systems or other sound devices shall be used as a means of advertising or to attract attention to a sign or business.*
- (8) *No vehicle or trailer shall be parked or placed on any property for the purpose of advertising unless it conforms with the provisions of this Code.*

*D. Signs not requiring permits. Signs not requiring permits are as follows:*

- (1) *Signs as may be required or erected by the Village, town, county, state and or federal governments.*
- (2) *Residential signs consisting of one nameplate or identification sign not larger than 60 square inches in area and indicating only the name and address of the occupant. Such sign may be attached to a building or may be on a separate support not more than four feet in height and shall be at least five feet from any property line or street line.*
- (3) *Name and/or address signs affixed to mailboxes not more than 32 square inches in area on each side.*
- (4) *Temporary signs pursuant to Subsection J of this section.*
- (5) *Political campaign signs.*

*E. Signs regulations applicable in all use districts. In all use districts, signs requiring a permit shall be subject to the following:*

- (1) *Signs customarily used to identify places of worship, cemeteries, public schools, libraries, museums, societies, social clubs and similar nonprofit type uses shall not exceed 10% of the total face of one side of the building.*
- (2) *Signs identifying multiple-family dwelling projects of more than five units or subdivision developments shall not exceed 20 square feet in area. Such signs shall either be attached to the first floor facade of the involved structure or be erected as a ground sign and not exceed six feet above grade level and not be*

*located nearer than 10 feet to a public street or highway right of way or any property line.*

- (3) *Signs used to identify commercial activities must be located upon the premises to which the sign refers.*

F. *Signs in the Village Center (VC) and Residential Transition (RT) Districts. Business and advertising signs are permitted and shall only advertise the name of the owner/occupant, street address, trademarks or trade names integral to the primary business, products sold and/ or the businesses or activity conducted on the premises where such sign is located and may be erected as provided herein.*

- (1) *Commercial structures may utilize either of the following applicable options for signage:*
- (a) *Any structure having a single tenant or activity: one sign not exceeding 10% of one side of the building, but in no event more 36 square feet in area and not exceeding 10 feet in its longest dimension.*
- (b) *Any structure having one main entrance serving more than one tenant or use: one sign for each tenant or use, all such signs to be located in a group, the area of which shall not exceed 10% of one side of the building, but in no event more than 36 square feet in area and not exceeding 10 feet in its longest dimension.*
- (c) *Any structure with more than one main entrance, with each separate entrance serving different tenant(s) or use(s): one sign for each tenant or use served by the entrance, placed at the entrance, the total area of all signs at such entrance not exceeding 10% of the side of the building upon which the entrance is located, but in no event more than 36 square feet in area, and not exceeding 10 feet in its longest dimension.*
- (2) *In lieu of the signs permitted in Subsection F(1), one of the following described signs may be erected:*
- (a) *One ground or freestanding sign per premises:*
- [1] *Not exceeding 20 square feet in area;*
- [2] *Not extending more than six feet above grade level; and*
- [3] *Located not nearer than five feet to a public street right of way line or property line; or*
- (b) *For a structure having a walkway roofed over with a permanent rigid canopy constructed of durable material or permanent roof serving more than one tenant, one sign:*
- [1] *Not exceeding 10 square feet in area;*

- [2] *Providing a minimum clearance of 7 1/2 feet between the walkway and the bottom of the sign, suspended from the underside of the canopy, perpendicular to the front of the business, at each entrance serving a different tenant or use;*
- [3] *Not more than four feet in length or 2 1/2 feet in height; and also*
- [4] *One sign on the front edge of the canopy, roof fascia or on a facade directly above the canopy or roof facing the parking area, no more than 12 square feet in area and 10 feet in length; or*
- (c) *A projecting sign erected perpendicular to the face of a building, provided that:*
  - [1] *No such sign, or any part of the supporting structure thereof, shall project more than six feet from the face of the building;*
  - [2] *No such sign shall exceed three feet in height;*
  - [3] *No such sign shall provide less than eight feet in clearance between grade level and the lowest structure point of the sign and any part of the support thereof protruding more than three inches from the face of the building.*
  - [4] *No such sign shall exceed 18 square feet in area.*
- (3) *In addition to signs permitted pursuant to Subsection F(1) and (2), the following signs are permitted:*
  - (a) *A permanent sign painted on the interior surface of a glass door or window, not to exceed 50% of the area of the window or door glass. The area of all such signs shall be counted toward the total area permitted pursuant to Subsection F(1) and (2).*
  - (b) *For businesses with side or rear entrance door leading to a parking lot or public way, one sign, mounted in the immediate vicinity of such entrance, not to exceed six square feet or four feet in any direction, as long as the such sign is a replica of the primary business sign.*
- G. *Signs in the General Commercial (GC), Planned Business (PB) and Industrial (I) Districts. Business and advertising signs are permitted, but shall contain only the name of the owner, street address, trademarks, logo or trade names integral to the primary business, products sold and/or the businesses or activity conducted on the premises upon which such sign is located.*
  - (1) *Building signs. One of the following signs may be erected:*

- (a) *For a structure having a single tenant or activity, regardless of the number of entrances:*
    - [1] *One sign;*
    - [2] *Not exceeding 10% of one side of the building;*
  - (b) *For a structure having one main entrance serving more than one tenant or use: one sign for each tenant or use, all such signs to be located in a group, the area of which shall not exceed 10% of the total above the grade of one side of the building.*
  - (c) *For a structure with more than one main entrance when each serves at least one tenant or use: one sign for each tenant or use, the total area of signs not exceeding 10% of one side of the building.*
- (2) *In lieu of the sign permitted in Subsection G(1) hereof, one of the following described signs may be erected:*
- (a) *One ground or freestanding sign per premises, not exceeding 50 square feet in area nor extending more than six feet above grade level or located nearer than five feet to a public street or right-of-way and no closer than 10 feet to a common side or rear lot line; or*
  - (b) *One freestanding pole sign, not exceeding 100 square feet in area not extending more than 25 feet above grade level, a minimum ground clearance of seven feet; no closer than three feet to the right of way or front property line and no closer to any side or rear lot line than five feet; or*
  - (c) *For a structure having a walkway covered by a permanent rigid canopy constructed of durable material or permanent roof serving more than one tenant, one sign not exceeding 10 square feet in area and providing a minimum clearance of 7 1/2 feet between the walkway and the bottom of the sign, suspended from the underside of the canopy at each entrance serving a different tenant or use no more than four feet in length or 2 1/2 feet in height, and one sign on the front edge of the canopy or roof fascia or on a facade directly above the canopy or roof facing the parking area, no more than 12 square feet in area and 10 feet in length; or*
  - (d) *A projecting sign perpendicularly affixed to the face of a building.*
    - [1] *No portion of the supporting structure of such sign shall project more than six feet from the face of the building.*

[2] *No portion of the sign shall exceed three feet in height.*

[3] *Such sign shall provide at least eight feet in clearance between grade level and the lowest portion of the sign and/or its supporting structure.*

[4] *Such sign shall not exceed 18 square feet in area.*

(3) *In addition to signs permitted pursuant to Subsection G(1) and (2), the following signs are allowed:*

(a) *A sign permanently painted on the interior surface of a glass door or window, not to exceed 50% of the area of the window or door glass. The total area of such signs for any open business shall be included in computing the total area permitted pursuant to Subsection G(1) and (2).*

(b) *Businesses having side or rear entrance doors leading to a parking lot or public way are permitted one sign, mounted on or in the immediate vicinity of such entrance, not to exceed six square feet, provided such sign is a replica of the primary business sign.*

(4) *Commercial and/or industrial premises having more than one principal building, use or activity proposed or existing upon a single lot shall be subject to Subsection I hereof, for with respect to regulations applicable to signs thereon.*

H. *Signs in the Waterfront Development and Conservation Districts (WDC). Business and advertising signs are permitted but shall contain only the name of the owner, street address, trademarks or trade names integral to the primary business, products sold and/or the businesses or activity conducted on the premises upon which the sign is located.*

(1) *Building signs. One of the following signs may be erected:*

(a) *For a structure having a single tenant or activity, regardless of the number of entrances: one sign; not exceeding 10% of one side of the building; not more than 36 square feet in area; not more than 10 feet in its largest dimension.*

(b) *For a structure having one main entrance serving more than one tenant or use: one sign for each tenant or use; all such signs to be located in a group; the area of which shall not exceed 10% of one side of the building, not more than 36 square feet in area; and no more than 10 feet in its greatest dimension.*

(c) *A structure with more than one main entrance when each serves at least one tenant or use: one sign for each*

*tenant or use, the total area of signs shall not exceed 10% of one side of the building; not more than 36 square feet in area; and not more than 10 feet in its greatest dimension.*

- (2) *In lieu of the signs permitted in Subsection H(1) hereof, one of the following described signs may be erected:*
- (a) *One ground or freestanding sign per premises, not exceeding 50 square feet in area; not extending more than six feet above grade level; not located nearer than 10 feet to a public street, right of way or any side or rear lot line; or*
  - (b) *For a structure having a walkway covered by a permanent rigid canopy constructed of durable material or permanent roof: one sign not exceeding 10 square feet in area; a minimum clearance of seven feet between the walkway and the bottom of the sign, suspended from the underside of the canopy at each entrance serving a different tenant or use; not more than four feet in length and 1/2 feet in height; or*
  - (c) *A projecting sign perpendicularly affixed to the face of a building.*
    - [1] *No portion of the supporting structure of such sign shall project more than six feet from the face of the building.*
    - [2] *No portion of the sign shall exceed three feet in height.*
    - [3] *Such sign shall provide at least eight feet in clearance between grade level and the lowest portion of the sign and/or its supporting structure.*
    - [4] *No such sign shall not exceed 18 square feet in area.*
- (3) *In addition to signs permitted pursuant to Subsection H(1) and (2), the following signs are permitted:*
- (a) *A sign permanently painted on the interior surface of a glass door or window, not to exceed 50% of the area of the window or door glass. The total area of such signs for any one business shall be included in computing the total sign area permitted pursuant to Subsection H(1) and (2).*
  - (b) *Businesses having side or rear entrance doors leading to a parking lot or public way are permitted one sign, mounted on or in the immediate vicinity of such*

*entrance, not to exceed six square feet, provided such sign is a replica of the primary business sign.*

- (4) *Commercial and/or industrial premises having more than one principal building, use or activity proposed or existing upon a single lot shall be subject to Subsection I hereof, with respect to regulations applicable to signs therein.*

*I. Multiple use parcels in the General Commercial (GC), Planned Business (PB), Industrial (I) and Waterfront Development and Conservation (WDC) Districts. Signage situate on any single lot on which more than one principal building, use or activity is proposed or exists such as, but not limited to, shopping centers, plazas, office parks or complexes, industrial parks or other multiple-commercial-use facilities shall comply with the following standards.*

- (1) *One project identification sign which identifies the name of the shopping center, plaza, office complex, industrial park or facility as a whole and does not identify any individual business or activity may be erected as either:*

(a) *A single- or double-sided ground sign:*

[1] *A maximum of 20 square feet in area per side and;*

[2] *Not more than 12 feet in height and at height; and*

[3] *Situate in a location and at a height which will not interfere with traffic line of sight; or*

(b) *A building mounted sign:*

[1] *Not exceeding 16 square feet; and*

[2] *Not more than four feet in height.*

- (2) *One tenant identification sign for each individual business or use that has a separate exterior entrance:*

(a) *Not exceeding 10% of the side of the building upon which the sign is mounted;*

(b) *Each such tenant sign shall be uniform in design and style, to the extent possible; and*

(c) *Each such tenant sign located in a similar position with respect to architectural features; and*

(d) *Any tenant having a second public entrance on more than one public way may have a second sign located next to that entrance, not to exceed six square feet in area.*

- (3) *Ground signs for individual occupants are prohibited.*

- (4) *Buildings or structures having multiple uses sharing one exterior entrance may have one building directory sign, no larger than 36 square feet in area, mounted on the building.*
  - (5) *To the extent practicable, the signs allowed in Subsection I(2) and (4) shall be located on the side of the building facing the common parking area or the public way and located adjacent to the main entrance.*
  - (6) *In addition, one entrance directory sign may be erected next to each public building entrance serving more than one tenant, other than the main entrance. The size of the entrance directory sign shall not exceed one square foot in area per tenant.*
- J. Temporary signs. Any sign of a temporary nature, not permanently erected or mounted, such as political campaign signs or posters, banners (not including banners permitted according to Chapter 48 of the Code of the Village of Penn Yan), promotional devices, commercial vehicles or trailers and other signs of a similar nature advertising or calling attention to coming events, civic activities, promotional sales, commercial businesses or services or similar events may be displayed without obtaining a permit. Such signs must be erected as a ground sign or affixed to the first story of a building and shall comply with all general regulations as stated in Subsection C hereof as well as comply with and the following:*
- (1) *No such sign shall be attached to a fence, tree, traffic control sign, light pole, utility pole, or support posts or poles, nor shall they be placed in a location that will obstruct or impair vision, traffic flow or in any manner create a hazard or nuisance to the health, welfare and/or safety of the general public.*
  - (2) *All such signs must be approved by the owner of the property upon which the sign is placed.*
  - (3) *Promotional signs. Signs promoting an event, promotional sale, civic activity or similar event shall not exceed three feet in height or be any wider than 18 inches and comply with the following:*
    - (a) *Sidewalk signs, otherwise known as "sandwich boards" or "A-frame" signs, shall be located within 12 inches of the building and shall in no way impede any exit of the building or pedestrian traffic. Sidewalk signs shall be removed each night when the business is closed. No more than one sidewalk sign may be placed outside a business at any one time.*
    - (b) *Temporary signs not meeting the size requirements and advertising a single civic, school or nonprofit organization event are allowed if the sign is erected no more than 15 days before the event and removed from the premises within 24 hours after the conclusion of the event.*

- (c) *Such sign must contain the date(s) of the event promoted. All temporary signs may be erected no more than 15 days before the event and must be removed within 24 hours after the advertised event has concluded.*
  - (d) *Where such signs are to be fixed to the interior of a window, said signs shall not exceed one sign per single window area and shall not exceed 50% of the surface area of the single window area.*
  - (e) *No temporary sign shall be in place for a period in excess of 30 days.*
- (4) *"Open" or "welcome" flags.*
- (a) *Cloth flags stating "open" or "welcome" shall be allowed in commercial districts on a limited basis. The requirements shall include, but not be limited to, the following:*
    - [1] *The bottom of the flag shall be located a minimum of eight feet above the sidewalk.*
    - [2] *The flag shall not extend more than one third the width of the sidewalk, measured from the buildings. Where no sidewalk exists, the Code Enforcement Officer will determine if and where a flag might be located.*
    - [3] *Flags will only be displayed while the business is open.*
    - [4] *Flags and flagpoles will be maintained in good condition and will be safely displayed.*
    - [5] *Flags and flagpoles will be subject to any other conditions required by the Code Enforcement Officer.*
    - [6] *The maximum flag size shall be one foot by two feet.*
  - (b) *Businesses desiring to install and maintain an "open" or "welcome" flag will obtain the approval of the Code Enforcement Officer prior to installing, mounting or displaying such a flag.*
  - (c) *It will be the sole determination of the Code Enforcement Officer to allow or disallow the installation and/or continued use of an "open" or "welcome" flag.*
- (5) *Real estate signs. Signs advertising the sale, lease or rental of the property on which they are placed shall comply with the following:*

- (a) *One temporary sign for the sale, lease or rental of the premises upon which the sign is located may be placed as follows:*
- [1] *In residential districts (R-1, R-2, PR and RT) and in the Village Center (VC), such signs shall not exceed six square feet in area, four feet in height, and may be placed in a first floor window, attached to the wall of the first floor of the building or a ground sign not less than five feet from any right of way line or property line.*
- [2] *In the General Commercial (GC) and Waterfront Development and Conservation (WDC) Districts, such signs shall not exceed 16 square feet in area with a maximum six feet in height. Such signs may be attached to the first floor of the building or placed as a ground sign not less than 15 feet from any right of way line or property line.*
- [3] *In the Planned Business (PB) and Industrial (I) Districts such signs shall not exceed 20 square feet in area, eight feet in height and may be attached to the first floor of the building or a ground sign not less than 20 feet from any right of way line or property line.*
- (b) *In addition to the sign allowed in Subsection J(4)(a) hereof, signs stating "Open House" or "Open For Inspection" may be placed as follows:*
- [1] *One sign, not to exceed six square feet in area with a maximum of four feet in height, may be attached to the first floor of the building or placed as a ground sign not less than five feet from any right of way line or property line, on the property five days prior to the event. Such sign shall be removed at the end of the day of the event.*
- [2] *One ground sign may be placed at the nearest primary street intersection to the premises being offered for sale. The size of the sign shall not exceed three square feet in area and two feet in any dimension; the sign may be in place only during the hours of the open house. All such signs must be removed daily at the end of the event.*
- (c) *Signs advertising the sale, lease or rental of the property shall be removed from the property no more than 15 days after the transfer of title, in the case of a sale, or*

*the property is leased or rented. Removal of such signs shall be the responsibility of the company, agent or owner who placed such signs.*

- (6) *Auction signs.*
- (a) *One temporary sign for the auction of property or goods may be placed on the premises at which the auction is to be held. Such sign shall comply with the following:*
- [1] *In residential districts (R-1, R-2, PR and RT) and in the Village Center (VC), such signs shall not exceed six square feet in area, with a maximum of four feet in height, and may be placed in a first floor window, attached to the wall of the first floor of the building or placed as a ground sign not less than five feet from any right of way line or property line.*
- [2] *In the General Commercial (GC) and Waterfront Development and Conservation (WDC) Districts, such signs shall not exceed 16 square feet in area, with a maximum of six feet in height and may be attached to the first floor of the building or placed as a ground sign not less than 15 feet from any right of way line or property line.*
- [3] *In the Planned Business (PB) and Industrial (I) Districts such signs shall not exceed 20 square feet in area with a maximum of eight feet in height and such signs may be attached to the first floor of the building or placed as a ground sign not less than 15 feet from any right of way line or property line.*
- (b) *In addition to the sign allowed in Subsection J(5)(a), hereof, one ground sign may be placed at the nearest primary street intersection to the premises at which the auction is intended to occur, the size of which shall not to exceed three square feet in area with a maximum of two feet in any dimension, during the hours of the auction only. All such signs must be removed daily at the end of the event.*
- (c) *Signs advertising auctions shall be removed from the property no more than 15 days after the conclusion of the auction. Removal of such signs shall be the responsibility of the auction company, agent or owner who placed such signs.*
- (7) *Yard sale signs. Signs advertising a single noncommercial sale of used merchandise conducted by a resident of the Village of*

*Penn Yan at the residence of the person holding the event shall comply with the following:*

- (a) *A sign advertising the dates and times of the sale may be placed on the residential property upon which the sale is to occur. Such signs may be placed no more than 15 days prior to the commencement of such sale and shall be removed no more than 24 hours after the end of the sale. Such signs shall be no larger than six square feet in size, be not greater than 42 inches above ground level and placed not less than three feet from any right of way line and not less than five feet from any property line.*
  - (b) *An off-premises A-frame sign or ground sign may be placed at each of the two intersections nearest to the property. Such signs shall be no larger than 18 inches in width, no greater than three feet in height and may only be in place on the actual sale dates.*
  - (c) *Failure to remove such signs within five days of the termination of the sale shall constitute a violation pursuant to § 202-77 of this chapter.*
- (8) *Construction signs. Such signs may be placed on properties which have a valid building permit for work being conducted on the property upon which the sign is placed. All such signs shall be removed upon expiration of permits or completion of work, whichever shall occur first. All such signs comply with the following:*
- (a) *Residential premises in Zoning Districts R-1, R-2, PR and residential construction in Zoning Districts RT and VC:*
    - [1] *One sign per contractor, each not to exceed four square feet in area with a maximum of three feet in height may be not less than five feet from any property line or public right of way line.*
    - [2] *Signs required by state or federal sponsoring agencies not to exceed 16 square feet for the total of all such signs, six feet in height above the ground and placed five feet from the property line and public right of way line.*
  - (b) *Commercial and industrial construction. In Zoning Districts GC, PB, I, WDC and commercial premises in Zoning Districts RT and VC:*
    - [1] *A sign may be placed on a temporary trailer or structure which is located on the premises for purposes incidental to construction work. The sign may identify the contractor or construction firm utilizing such temporary trailer or*

*structure. Any such sign shall not exceed 20 square feet and the sign shall not protrude beyond the walls or above the roof of such temporary trailer or structure.*

*[2] One ground or wall "site development sign," for the purpose of identifying the developer of the premises upon which the sign is placed.*

*[a] In the VC and RT Zoning Districts, such sign shall not exceed 20 square feet in area with a maximum of eight feet in height, placed on the exterior of the building or, if a ground sign, not less than five feet from any right of way line or property line.*

*[b] In the GC and WDC Zoning Districts, such a sign shall not exceed 32 square feet in area with a maximum of 10 feet in height placed on the face of the building or, if a ground sign, not less than five feet from any right of way line or property line.*

*[c] In the I and PB Zoning Districts such a sign shall not exceed 64 square feet in area with a maximum of 12 feet in height placed on the face of the building or, if a ground sign, not less than 15 feet from any right of way line or property line.*

*[3] Signs required by state or federal sponsoring agencies shall be placed not less than 10 feet from any right of way or property line.*

*(9) Political campaign signs are exempt from these regulations except with respect to those regulations which enhance public safety.*

*K. Application for permits.*

*(1) An application for a building permit as required by this chapter shall be made in writing to the Code Enforcement Office and shall contain the following information:*

*(a) The location of the building, structure or land to which or upon which the sign is to be erected.*

*(b) Detailed drawings of the proposed sign, including but not limited to the following information:*

*[1] Lettering and/or pictorial matter composing the sign.*

- [2] *Color of the sign.*
- [3] *Elevation of the side of the building to which the sign is to be attached, if the sign is to be attached, with the dimensions thereof, in the event that the sign is to be attached to a building.*
- [4] *Description of the material of which the sign is intended to be constructed.*
- [5] *Construction and mounting details, including footer size and design, stamped by a registered design professional in the event New York State Building Code compliance is required.*
- [6] *Type, location and intensity of any lighting devices.*
- [7] *A location plan showing the position of the sign on any building, structure or land and its position relative to all adjacent structures, property lines and any private or public street or highway.*

(c) *Such other information as required by the Code Enforcement Office to ensure compliance with this code and all applicable building codes.*

(2) *The application fee, as established by the Board of Trustees, shall be paid upon application for a building permit.*

*L. Issuance of permit, variances, period of validity, fees.*

(1) *Upon receipt of a complete application for a building permit, the code Enforcement Officer shall examine said application and all data submitted therewith to ensure compliance with the requirements of this chapter, the criteria contained herein and with other regulations of the Village as may be applicable. The Code Enforcement Officer shall approve or disapprove said application within 10 days of receipt of all required documentation and data, and shall notify the applicant either with the issuance of the permit or a letter of denial explaining the reasons for denial and advising the applicant of his or her right to appeal the decision to the Zoning Board of Appeals.*

(2) *A party aggrieved by the determination of the Code Enforcement Officer with respect to an application for a building permit may, within 30 days of the decision by the Code Enforcement Officer, appeal said decision to the Zoning Board of Appeals. After a hearing, at which the aggrieved party may present his application and any other pertinent information and/or documentation, the Board may approve, approve with modifications or deny the application and shall have the*

*authority to direct the issuance of a building permit upon such conditions as may be appropriate.*

- (3) Upon completion of installation of the approved sign the applicant shall, within 10 business days of such completion, notify the Code Enforcement Office of completion. The Code Enforcement Office shall then conduct an inspection to verify compliance of the sign.*
- (4) In the event that the sign is not in compliance, the Code Enforcement Officer shall notify the applicant, by certified mail, of the deficiencies and the applicant shall have 30 days to correct the cited deficiencies and notify the Code Enforcement Office of the remedial action.*
- (5) Upon determination of the Code Enforcement Officer that the sign is in full compliance, a certificate of compliance shall be issued.*

*M. Nonconforming signs. All signs which have been legally erected and are in existence as of the effective date of this chapter which do not conform to this new chapter shall be known as "preexisting nonconforming signs." Such preexisting nonconforming signs need not comply with the provisions of this chapter except as follows:*

- (1) A change in the size, content or location of a preexisting nonconforming sign displayed in any district shall terminate the status of that preexisting nonconforming sign.*
- (2) A change in the type of use in the premises for which the preexisting nonconforming sign(s) has been maintained shall terminate each sign's protected status as a preexisting nonconforming sign.*
- (3) In the event that the use of a preexisting nonconforming sign is abandoned for a period of six months, its status as a preexisting nonconforming sign shall terminate.*
- (4) All preexisting nonconforming signs shall be maintained pursuant to Subsection O hereof or its status as a preexisting nonconforming sign shall terminate.*
- (5) A change in the ownership of a preexisting nonconforming sign alone shall not terminate its status. The owner or legal possessor of a preexisting nonconforming sign shall have the right to repair it or restore it, but only to its original condition and/or content. Such repairs and/or restoration shall not terminate its status, except as herein provided.*

*N. Maintenance. All signs erected and maintained within the limits of the Village of Penn Yan shall be kept clean, neatly painted and free from all hazards at all times and shall be maintained in a safe condition so as not to be detrimental to the public health or safety.*

- (1) *Signs must be constructed of durable materials, maintained in good condition and not allowed to become dilapidated. Dilapidated signs shall be removed by the owner upon order by the Code Enforcement Officer.*
  - (2) *No sign shall be altered in any way subsequent to approval of plans thereof.*
  - (3) *No sign shall be maintained which advertises a business or activity which no longer exists on the property where said sign is located. Said sign shall be removed by the owner upon order of the Code Enforcement Officer within 30 days of the notice.*
- O. *Notice of noncompliance; revocation of permits; costs. In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer shall give written notice to the occupant, the owner of the affected property and the permit holder, which notice shall specify the violations complained of and the remedial action required to remove the same. In addition, said notice shall advise of the contents of this section and the right to appeal an administrative decision to the Zoning Board of Appeals. In the event that the violations are not corrected within 30 days of the service of a written notice as aforesaid, the Code Enforcement Officer shall revoke the permit issued for such sign, shall have order that such sign be removed.*

BB. Former § 202-65.1, Outdoor furnaces, added 11-18-2008 by L.L. No .5-2008, is repealed.

CC. Section 202-70 is amended to read as follows:

*Any lot held in single and separate ownership prior to the adoption of this chapter and whose area is less than the specified minimum lot requirements of this chapter for the district may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:*

- A. *Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.*
- B. *Such lot has an area of at least 3,000 square feet and a minimum width of at least 40 feet at the required setback line if it is to be used for residential purposes.*
- C. *The following minimum yard dimensions are maintained for residences:*
  - (1) *Side yards: 10 feet.*
  - (2) *Rear yards: 15 feet.*
  - (3) *Front yards: 15 feet.*
- D. *No detached accessory building shall be located closer to a side lot line than three feet nor less than 10 feet to the residence building and is located behind the rear line of such residence building. No accessory building shall be located closer to the rear lot line than three feet if no easement is located along such rear lot line.*
- E. *All other bulk requirements for that district are complied with.*

DD. In § 202-75.3, former Subsection F, which regarded the supersession of New York State Village Law, is repealed.

EE. In § 202-76.1, former Subsection F, which regarded the supersession of New York State Village Law, is repealed.

FF. Article XIII, Administration, is repealed.

GG. Section 202-81 is amended as indicated: “...on its own motion ~~or upon recommendations of the Village Planning and Development Committee and/or the Village Planning Board,~~ amend this chapter by local law...”

HH. Section 202-90 is amended as indicated: “...set by the Village Board of Trustees by resolution ~~from time to time.~~”

II. Attachment 1, Use Regulation Table, of this chapter is amended as follows:

- (1) The table entry for “accessory structure” is amended to list the use as “P” (permitted) in the R-2L (General Residential-Limited) District.
- (2) Two new table entries for “manufactured home” and “manufactured home park” are added under the heading “Residential Uses” to read as follows:

|                               | <i>R-1</i> | <i>R-2</i> | <i>R-2L</i> | <i>RT</i> | <i>VC</i> | <i>GC</i> | <i>WDC</i> | <i>I</i> | <i>PR</i> | <i>PB</i> |
|-------------------------------|------------|------------|-------------|-----------|-----------|-----------|------------|----------|-----------|-----------|
| <i>Manufactured home</i>      |            | <i>S</i>   |             | <i>S</i>  |           |           |            |          |           |           |
| <i>Manufactured home park</i> |            | <i>S</i>   |             |           |           |           |            |          |           |           |

- (3) The table entry for “hospital” is amended to list the use as “P” (permitted) in the GC (General Commercial) District.
- (4) The table entry for “nursing home” is amended to list the use as “P” (permitted) in the GC (General Commercial) District.
- (5) The table entry for “artist loft” is amended to list the use as “S” (special use permit required) in the VC (Village Center) District.