

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, SEPTEMBER 4, 2007 – 7:30 P.M.
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY
AGENDA

- | | | |
|----|--------------------------------|---------------|
| 1. | Call To Order | |
| 2. | Pledge of Allegiance | |
| 3. | Mayor's Report | |
| 4. | Trustees' Reports | |
| 5. | Village Administrator's Report | Approximate |
| 6. | Public Comment | Starting Time |
| # | Agenda Items: | of Discussion |

| | | |
|-----|--|--|
| | Committee Reports | 7:45 p.m. |
| 7. | Update on Pelham Post Office. | Discussed |
| 8. | Update on Flooding initiatives. | Discussed |
| 9. | Update on Streetscape Clean-up & Improvements (Tr. Morris) | Cont'd to Sept. 18th |
| 10. | Update on Comprehensive Plan update (Trustee Weinstein). | Discussed Pub Mtg. Sept. 25th |
| 11. | Update on Website and Telecommunications initiatives. | Discussed |
| | Site Plans | 8:15 p.m. |
| 12. | Authorizing conversion of single- to two-family home at 125 4 th Ave. | Authorized |
| | Streets, Traffic and Parking | 8:45 p.m. |
| 13. | Amending the Code to prohibit parking on the south side of Second Street, between 3 rd and 4 th Avenues. | Approved deletion only |
| | General Business | 8:50 p.m. |
| 14. | Increasing Water Rates for the Pelham Water System, to match increases in NYC DEP and United Water Rate pass-throughs. | Approved |
| 15. | Public Hearing considering adoption of a mandated update to the Village Code, to participate in the National Flood Insurance Program. | Approved |
| 16. | Public hearing considering adoption of a Local Law enacting Newspaper Rack Regulations, as amended. | Tabled |
| 17. | Updating the authorized contractors list for pre-audit payments. | Approved |
| 18. | Authorizing the updated NY Power Authority Rate Agreement. | Approved |
| 19. | Authorizing renewal of the Section 8 Admin. agreement w/NRNRC | Approved |
| 20. | Closing the public comment period and authorizing submission of Pelham's Pre-Disaster Hazard Mitigation Plan to FEMA for review. | Approved |
| 21. | Scheduling a Public Hearing September 18, 2007, on a Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers. | Scheduled for Sept. 18th |
| 22. | Authorizing the Annual Children's Center Fun Run. | Approved |
| 23. | Authorizing the Appointment of a new Planning Board Chair, and return to normal Planning Board membership of the current Chair. | Authorized |
| | Housekeeping | 9:40 p.m. |
| 24. | Authorizing the Accounts Payable. | Approved |
| 25. | Old Business/New Business | |
| 26. | Minutes – July 17, 2007 and August 7, 2007 | Tabled |
| 27. | Executive Session | |
| 28. | Adjournment | Adjourned |

Next Regular Board Meetings are Tuesdays September 18th and October 2nd
Special Meeting on Comprehensive Plan Tentatively Scheduled Sept. 25th 7:30 p.m.
* All meetings start at 7:30 p.m. unless otherwise noted. Agenda is subject to change.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, SEPTEMBER 4, 2007 – 7:30 P.M.
VILLAGE HALL – 195 SPARKS AVENUE, PELHAM, NY

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Edward Hotchkiss at 7:35 p.m.

The following members of the Board of Trustees were present:

Mayor Edward Hotchkiss, Trustees Greco, Lewis, Morris, and Potocki. Trustee Weinstein attended the meeting later. Trustee Homan was absent.

Village staff in attendance:

Administrator/Treasurer Richard Slingerland and Administrative Aide Devron Wilson

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Edward Hotchkiss.

Item #3 – Mayor's Report:

Mayor Hotchkiss reported that the Pelham Fire Department will host a memorial service for the firefighters who passed away as a result of the terrorist attack on the World Trade Center on September 11th, 2001. The memorial service will be held on Tuesday September 11th, 2007 at the 9/11 Memorial on Harmon Avenue at 8:30am.

Item #4 – Trustees' Report:

Trustee Greco reported that Engine 5 is still under repair. There is a problem with the transmission. If the transmission can't be fixed by the end of this week, it will be replaced with another rebuilt transmission.

Trustee Potocki reported that Police Chief Joseph Benefico asked him to remind residents that school opens tomorrow. Therefore, he advises residents to drive slowly near the schools. Trustee Potocki also reported that parking regulations have changed around the Middle School and High School. Permit parking is allowed on the south side of Colonial Avenue between Pelhamdale and Highbrook Avenues, and on the east side of Wolfs Lane near the Middle School after 9am.

Trustee Lewis had nothing to report on that was not included in the agenda.

Trustee Morris had nothing to report.

Item #5 – Village Administrator's Report:

There has been flooding near 55 1st Street since the paving was done on 1st Street. Administrator Slingerland reported that he will send a letter to Gindsburg Development Corporation to review the paving on 1st Street.

Item #6 – Public Comment: None.

Item #7 – Update on Pelham Post Office:

Mayor Hotchkiss mentioned that Mr. Santomero and the Post Office have reached an agreement which would allow the Post Office to remain at their current location at 1 Wolfs

Lane until April of 2009. A meeting is scheduled with the Post Office and the village for Thursday September 6, 2007 to discuss concerns the village has with the plans for the new Pelham branch post office, which will be located at 26 First Street.

Item #8 – Update on Flooding initiatives:

Mayor Hotchkiss reported that the village has received a proposal from Dolph Rotfeld Engineering, P.C. to conduct a drainage and flood alleviation study in the village. Trustee Greco responded by informing everyone that these type of studies have already been done. Trustee Greco was not pleased with Dolph Rotfeld's services in the past; therefore he is reluctant to use Dolph Rotfeld to conduct the drainage and flood alleviation study. Trustee Greco asked where is the funding coming from to pay for the drainage and flood alleviation study?

Mayor Hotchkiss informed everyone that the village will pay for the drainage and flood alleviation study from fund balance. Furthermore, Mayor Hotchkiss would like to have a detailed plan in place once the study is complete. The Village will send out an RFP to video the entire storm-drain line from 7th Avenue to First Street.

Background information:

Status of Village participation in the FEMA DR-1692 Hazard Mitigation Program

Flood Grant – SEMO/ FEMA- The Village received a letter from SEMO on August 1st acknowledging our letter of intent to participate in the FEMA DR-1692 Hazard Mitigation Program. The letter confirms SEMO accepting of but one improvement which is constructing a dry-berm to protect the homes on Marquand Place from flooding as a result of run-off from the Hutchinson River Parkway. Since receiving the letter, Administrator Slingerland has spoken with representatives from SEMO, and they've agreed to re-consider the idea of constructing a dry-berm along the Hutchinson River Parkway at Marquand Place.

The Village is in the process of completing an application for the Hazard Mitigation Grant Program (HMGP) to acquire funds to improve the flooding situation in Pelham.

Status of Phase 2 Flood Remediation Project for the CDBG Program

Flood Grant(s) - the Village submitted our request for Phase 2 funding to the County Planning Department for CDBG funds, which is under review. That requested another \$250,000, to be matched by \$250,000 from the Village. We are waiting to hear the results of the County's review, which is currently being coordinated with the Village and our engineers at Dolph Rotfeld Engineering.

The Village has received a proposal from Dolph Rotfeld Engineering, P.C. to conduct a drainage and alleviation study in the village.

Item #9 – Update on Streetscape Clean-up & Improvements (Tr. Morris):

Trustee Morris will make a report on this topic at the next Board of Trustees Meeting on Tuesday September 18, 2007.

Item #10 – Update on Comprehensive Plan update (Trustee Weinstein):

A public meeting to review the comprehensive plan is scheduled for Tuesday September 25, 2007 at 7pm at Village Hall. Representatives from Saratoga & Associates will be at the meeting to give a presentation to the board and public.

Item #11 – Update on Website and Telecommunications initiatives:

Administrator Slingerland informed everyone that the village has received a draft version of the “Work Order Request Form” for the village website. Trustee Lewis suggested that all board members visit the website to review the draft “Work Order Request Form”. Administrator Slingerland and Administrative Aide Devron Wilson have been coordinating with Westchester County to implement an emergency notification system for the village. Mr. Slingerland also reported that he has been working on creating an email blast notification system for the village website. He hopes to have this completed in a few weeks.

Background information

Website

Aplus.net has been working diligently on creating a Work Order Request Form and Database for the village website. Last week Aplus.net provided the village with a draft of the Work Order Request Form in addition to a link to access the database. The Village hopes to have this system finalized real soon.

To Access the Work Order Request Form for visit:

<http://pelhamgov.com/epelham/Work%20Order%20Request%20Form.htm>

To Access the Database admin panel visit:

<http://www.pelhamgov.com/epelham/admin/index.php>

user names and passwords are: admin and admin

Reverse 911 Emergency Notification System

Administrative Aide Devron Wilson spoke with Art Kersting (County Non-Emergency/ Emergency Hotline Administrator). He informed Mr. Wilson that to set the village up on the county emergency notification system is a simple and easy process. First the village would need to contact Jen Wacka (County OEM) to have her approve Pelham to be placed on the emergency notification system. Once she approves Pelham, she will set us up on the system. In the event of a non-emergency, the village would contact Art Kersting with a script which will be sent out to Pelham residents. In the event of an emergency, the village would contact Jen Wacka with a script which will be sent out to Pelham residents. All calls will be made to land-lines only.

Jen Wacka returns from vacation on September 4th at which time Mr. Wilson will try to contact her to discuss matters further.

Email Blast notification

Administrator Slingerland has been working to get this implemented and hopes to have a system in place in a few weeks.

Village of Pelham Work Order Request

Please use this form to report a service problem (a missed garbage or trash pickup, for instance), to request public works repairs (potholes, catch basins, etc.) or to notify the village of a public concern (litter, for example). By automating the reporting process, the system is intended to improve efficiency by reducing the need for village employees to handle phone calls and fill out forms. This will allow more time to respond to requests by citizens and merchants. The system also will help the village measure performance and track how well we respond to requests for service. Village employees are still available by phone at 738-2015, but we urge Pelhamites to use the online system as much as possible. We look forward to hearing your feedback on the system.

Very truly yours,

Ed Hotchkiss, Mayor

Request:

- Please check the box for the action you are requesting. If "other," please describe the problem in the space allotted. If you cannot fit the information in the allotted space, please email details to:
 - fix pothole
 - repair sidewalk (this is a homeowner's responsibility, unless a Village tree has damaged the sidewalk)
 - fix catch-basin or manhole
 - remove a dead tree
 - request a street tree be planted
 - fix a street light
 - report a garbage or recycling miss
 - report a water leak
 - put me on a parking lot permit waiting list, for Lot ___ (e.g. Lot 1, Lot 2, 3, 4, 7, 9, 10)
 - other, explain:

Location of Repair/Request:

Last Name

First Name

Resident Contact Information * **The Village of Pelham cannot process anonymous complaints**

Street Address

Address (cont.)

City

State/Province

Zip/Postal Code

e-mail address:

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Revised:

Item #12 – Authorizing conversion of single- to two-family home at 125 4th Ave:
Victoria Hage, AIA from Raymond Beeler Architect and Ms. Gimenez of 125 4th Avenue gave a brief presentation to the board about the conversion.

A motion was made by Trustee Greco, with a second by Trustee Potocki to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

AUTHORIZING THE SITE PLAN (GIMENEZ) TO CHANGE AN EXISTING 1-FAMILY HOUSE TO A 2-FAMILY HOUSE AT 125 4TH AVE

RESOLVED, that the application for to change an existing 1 family house to a 2 family house at 125 4th Ave is approved, based on the review and recommendations by the Planning Board (the approval memo is attached to and made a part of this resolution) and;

BE IT FURTHER RESOLVED, that conditions apply as follows, that:

1. Work shall be performed as shown on Project Drawing A-1 through A-9 (dated 8/15/07 Rev.), prepared by Raymond Beeler Architect, PC. All elements of the proposed change shall be in compliance with the site plan as approved by the Planning Board.
2. The application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
3. At no time may construction commence without strictly adhering to the construction timeline. Noncompliance will be considered a violation of the Planning Board approval;
4. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per the Village Noise Ordinance.
5. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
6. The application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
7. At no time may construction commence without strictly adhering to the construction timeline. Noncompliance will be considered a violation of the Planning Board approval;

8. Raymond Beeler Architect, PC will certify compliance with all specifications on the plan and provide a written and stamped sign off of all certifications in order to obtain certificate of compliance;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by Gimenez for 125 4th Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

BE IT FURTHER RESOLVED, that the Mayor, Village Administrator, Building Inspector and officials of the Village of Pelham are authorized to take the necessary and appropriate actions to effect this site plan approval.

MEMO

Date: August 22, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: Application to change an existing 1-family house to a 2-family house at 125 4th Avenue

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application to change the existing 1-family house at 125 4th Avenue to a 2-family house.

Work shall be performed as shown on Project Drawings A-1 through A-9 (dated 8/15/07 Rev.), prepared by Raymond Beeler Architect, PC.

Item #13 – Amending the Code to prohibit parking on the south side of Second Street, between 3rd and 4th Avenues:

* Trustee Potocki would like to review the parking situation on the south side of Second Street from Third Avenue to Fourth Avenue.

A motion was made by Trustee Lewis, with a second by Trustee Morris to only adopt the section of the resolution that would authorize the deletion of “No Parking” on the south side of Second Street from 4th Avenue to Fifth Avenue from village code. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION
AMENDING THE CODE
TO EFFECT SECOND STREET PARKING REGULATION CHANGES

FROM THIRD AVENUE TO FOURTH AVENUE

Amending Chapters: 90-49, No Parking Any Time, 90-50, Standing Prohibited; 90-51, Stopping Prohibited, as follows:

Deleting the existing provisions for Chapter: 90-49, No Parking Any Time, for Second Street, as follows;

Delete:

| Street | Side | Location |
|---------------|-------|------------------------------------|
| Second Street | South | From Fourth Avenue to Fifth Avenue |

Add:

| Street | Side | Location |
|---------------|-------|------------------------------------|
| Second Street | South | From Third Avenue to Fourth Avenue |

Adding references to Chapters: 90-50, Standing Prohibited and 90-51, Stopping Prohibited, as follows:

| Name of Street | Side | Location |
|----------------|-------|------------------------------------|
| Second Street | South | From Third Avenue to Fourth Avenue |

Item #14 – Increasing Water Rates for the Pelham Water System, to match increases in NYC DEP and United Water Rate pass-throughs:

A motion was made by Trustee Greco, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

INCREASING WATER RATES
FOR THE PELHAM WATER SYSTEM 5911901
PURSUANT TO CHAPTER 90-20
OF THE CODE OF THE VILLAGE OF PELHAM

RESOLVED, that the Board of Trustees of the Village of Pelham, hereby adopts water rate changes as provided for in Chapter 90-20 of the Code of the Village of Pelham, as follows:

BE IT ENACTED BY the Board of Trustees of the Village of Pelham as follows:

BE IT ENACTED BY the Board of Trustees of the Village of Pelham as follows:

| | Meter size | Current Rates | Proposed rate of incr. of 25% to prevent future losses, and cover rate increases and pass-throughs by United Water New Rochelle & NYC DEP |
|---|---------------|---------------|---|
| Base Rate | 1/2" and 5/8" | \$40.79 | \$50.99 |
| | | | |
| Meter Rate | 3/4" | \$45 | \$56.25 |
| Meter Rate | 1" - 1 1/4" | \$80 | \$100 |
| Meter Rate | 1 1/2" | \$150 | \$187.50 |
| Meter Rate | 2" | \$245 | \$306.25 |
| Meter Rate | 3" | \$467 | |
| | | | |
| Consumption Rates -- cost per 100 cubic feet) | | | |
| First 1200 CCF | | \$ 3.39 | \$ 4.24 |
| next 36000 CCF | | \$ 3.19 | \$ 3.99 |
| Next 60000 CCF | | \$ 2.61 | \$ 3.26 |

Item #15 – Public Hearing considering adoption of a mandated update to the Village Code, to participate in the National Flood Insurance Program:

A motion was made by Trustee Weinstein, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

LOCAL LAW NUMBER OF 2007

A local law that repeals Chapter 45 of the Code of the Village of Pelham and adopts a new local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS FOLLOWS:

SECTION 1

Chapter 45 Flood Damage Prevention of the Code of the Village of Pelham is repealed, and the following Chapter 45 Flood Damage Prevention is adopted.

SECTION 1.0

STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

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

1.2 STATEMENT OF PURPOSE

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

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

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

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

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

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

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

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural

integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

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

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

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

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

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

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial

improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

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

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Pelham, Westchester County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Village of Pelham, Community Number 360925, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers 36119C0337F, 36119C0339F, 36119C0341F, 36119C0343F, whose effective date is September 28, 2007, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Westchester County, New York, All Jurisdictions" dated September 28, 2007.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: Village Hall, 195 Sparks Avenue, Pelham, New York. 10803.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through March 20, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Pelham from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

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

Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee as established by resolution of the Board of Trustees. In addition, the applicant shall be responsible for reimbursing the Village of Pelham for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

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

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all

new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

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

4.4-4 CONSTRUCTION STAGE

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

4.4-5 INSPECTIONS

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

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Village of Pelham agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Pelham for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Pelham for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,
 - (ii) the Village of Pelham agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Pelham for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Pelham for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

- (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
 - (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength

that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Village of Pelham shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

- (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;

 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

 - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Section 2.

Be it enacted this 4th day of September, 2007 by the Board of Trustees of the Village of Pelham, Westchester County, New York, that this local law shall be effective upon its adoption and filing with the Secretary of State of the State of New York.

Attachment A

MODEL FLOODPLAIN

DEVELOPMENT

APPLICATION FORM

Be it enacted this _____ day of _____, 2007 by the Board of Trustees of the Village of Pelham, Westchester County, New York, to be effective upon its adoption and filing with the Secretary of State.

SEAL

ATTEST _____ CLERK

Attachment A

MODEL FLOODPLAIN

DEVELOPMENT

APPLICATION FORM

APPLICATION # _____

Page 1 of 4

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE) _____ DATE

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT)

| NAME | ADDRESS | TELEPHONE |
|-----------|---------|-----------|
| APPLICANT | | |
| BUILDER | | |
| ENGINEER | | |

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

APPLICATION # _____

PAGE 2 of 4

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

| <u>ACTIVITY</u> | <u>STRUCTURE TYPE</u> |
|--|--|
| <input type="checkbox"/> New Structure | <input type="checkbox"/> Residential (1-4 Family) |
| <input type="checkbox"/> Addition | <input type="checkbox"/> Residential (More than 4 Family) |
| <input type="checkbox"/> Alteration | <input type="checkbox"/> Non-residential (Floodproofing? <input type="checkbox"/> Yes) |
| <input type="checkbox"/> Relocation | <input type="checkbox"/> Combined Use (Residential & Commercial) |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Manufactured (Mobile) Home |
| <input type="checkbox"/> Replacement | (In Manufactured Home Park? <input type="checkbox"/> Yes <input type="checkbox"/> No) |

ESTIMATED COST OF PROJECT \$ _____

B. OTHER DEVELOPMENT ACTIVITIES:

- Fill Mining Drilling Grading
- Excavation (Except for Structural Development Checked Above)
- Watercourse Alteration (Including Dredging and Channel Modifications)
- Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
- Road, Street or Bridge Construction
- Subdivision (New or Expansion)
- Individual Water or Sewer System
- Other (Please Specify) _____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

The proposed development is located on FIRM Panel No. _____, Dated _____.

The Proposed Development:

- The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.
- The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____ Ft. NGVD 1929/ NAVD 1988 (MSL)
 Unavailable
- See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED _____ DATE _____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by LOCAL ADMINISTRATOR)

The applicant must submit the documents checked below before the application can be processed:

- G A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- G Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters. Other _____
- G Elevation Certificate
- G Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- G Plans showing the watercourse location, proposed relocations, Floodway location.
- G Topographic information showing existing and proposed grades, location of all proposed fill.
- G Top of new fill elevation _____ Ft. G NGVD 1929/ G NAVD 1988 (MSL)
- G PE Certification of Soil Compaction
- G Floodproofing protection level (non-residential only) _____ G NGVD 1929/ G NAVD 1988 (MSL)
For floodproofed structures, applicant must attach certification from registered engineer or architect.
- G Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by LOCAL ADMINISTRATOR)

I have determined that the proposed activity: A. Is
B. Is not
in conformance with provisions of Local Law # _____, (yr) _____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED _____, DATE _____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPLICATION # _____ Page 4 of 4

APPEALS: Appealed to Board of Appeals? Yes No
Hearing date: _____
Appeals Board Decision --- Approved? Yes No

Conditions:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is:
FT. NGVD 1929/
 NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. NGVD 1929/ NAVD 1988 (MSL).

Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by LOCAL ADMINISTRATOR)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO
DATE _____ BY _____ DEFICIENCIES? YES NO

SECTION 8: CERTIFICATE OF COMPLIANCE (To be completed by LOCAL ADMINISTRATOR)

Certificate of Compliance issued: DATE: _____

BY: _____

Attachment B

**SAMPLE
CERTIFICATE OF COMPLIANCE**

for Development in a Special Flood Hazard Area

**CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA**

(Owner Must Retain This Certificate)

Premises located at: _____

Owner: _____

Owner's Address: _____

Permit No. _____ Permit Date: _____

Check One:
 New Building
 Existing Building
 Fill
 Other:

The Local Floodplain Administrator is to complete a. or b. below:

a. Compliance is hereby certified with the requirements of Local Law No. _____, (yr) _____.

Signed: _____ Dated: _____

b. Compliance is hereby certified with the requirements of Local Law No. _____, (yr) _____, as modified by variance no. _____, dated _____.

Signed: _____ Dated: _____

Item #16 – Public hearing considering adoption of a Local Law enacting Newspaper Rack Regulations, as amended:

The board would like the village' s prosecuting attorney Martha Conforti and Village Administrator Slingerland to amend the Local Law to limit newspaper rack locations to 5th Avenue and Wolfs Lane, and specify commercially zoned areas, specifically business and office zone areas.

* This topic has been tabled until the next scheduled Board of Trustees Meeting on Tuesday September 18, 2007.

A LOCAL LAW to enact a new Chapter 59 of the Code of the Village of Pelham entitled, "Newsracks" to regulate the placement of newsracks placed in public places around the Village.

Section 1. Chapter 59 of the Code of the Village of Pelham, NY, entitled, "Newsracks", is hereby adopted as follows:

§ 59-1. Intent.

A. Findings. The Board of the Village of Pelham, NY, hereby finds that:

(1) The uncontrolled placement and lack of maintenance of newsracks in public rights-of-way present an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.

(2) Without proper regulation, unsightly newsracks may be placed in locations where they obstruct walkways, or crosswalks, and endanger persons using public rights-of-way, and such placements constitute public nuisances.

(3) The existence of these factors constitutes an unreasonable interference with and obstruction of the use of public rights-of-way; a potentially dangerous condition; an offense to the senses; and an obstruction of the free use of property as to interfere with the comfortable enjoyment of life and property by the entire community.

(4) The Village of Pelham recognizes, however, that the use of such rights-of-way is historically associated with the sale and distribution of newspapers and publications and

that access to those areas for such purposes should not be absolutely denied. The Village of Pelham further finds that these strong and competing interests require a reasonable accommodation which can best be achieved through means defined in this chapter, which is designed to accommodate such interests regulating the place and manner of using such newsracks.

B. Purpose. The provisions and prohibitions of this chapter have the purpose of securing and promoting the public health, safety and general welfare of persons in the Village in their use of public rights-of-way through the regulation of placement, appearance, number, size and servicing of newsracks on the public rights-of-way so as to:

- (1) Provide for pedestrian and driving safety and convenience.
- (2) Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress to, or egress from, any place of business or from the street to the sidewalk, or access to drop curb cuts.
- (3) Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs, hydrants and similar appurtenances.
- (4) Reduce visual blight on the public rights-of-way; protect the aesthetics and value of surrounding properties.
- (5) Reduce exposure of the Village to personal injury or property damage claims and litigation.
- (6) Protect the right to distribute information protected by the United States and New York State Constitutions through use of newsracks.
- (7) Protect the rights of disabled citizens to use public rights-of-way as detailed in the Americans with Disabilities Act (ADA).

C. Preservation of constitutional rights. It is not the intent of this chapter to, in any way, discriminate against, regulate or interfere with the publication, circulation, distribution or dissemination of any printed material that is constitutionally protected.

§ 59-2. Definitions.

VILLAGE ADMINISTRATOR – Refers to the Village Administrator of the Village of Pelham or his or her designee.

BUILDING INSPECTOR – Refers to the Building Inspector of the Village of Pelham.

DISTRIBUTOR -- The person responsible for placing and maintaining a newsrack in a public right-of-way.

NEWSRACK -- Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display, sale or distribution of newspapers, advertising materials or other written materials.

PERSON -- Any person or persons or entity, including, but not limited to, a corporation, limited-liability company, partnership, unincorporated association or joint venture.

RIGHT-OF-WAY -- The area between property lines which may be unimproved or surfaced and which may include public highways, streets, roadways and sidewalks.

ROADWAY -- That portion of a street improved, designed or ordinarily used for vehicular travel.

SIDEWALK -- Any surface provided for the exclusive use of pedestrians.

STREET -- All the area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, highways, alleys, sidewalks and unimproved areas.

§ 59-3. Permit required.

It shall be unlawful for any person, firm or corporation to install, place, maintain or operate on any public street or sidewalk, or in any other public way or place in the Village, any newsrack, without first having obtained a permit from the Building Inspector specifying the exact location of such newsrack. One permit may be issued to include any number of newsracks, provided that all newsrack locations are indicated on the permit.

§ 59-4. Application for permit; fee.

A. Application for such permit shall be made, in writing, to the Building Inspector upon

such form as shall be provided by him or her and shall contain the name and address of the applicant, the contact person's name, title, telephone and facsimile number and e-mail address, and the proposed specific location of each newsrack and shall be signed by the applicant.

B. From the above application information, the Building Inspector shall approve or disapprove the locations in accordance with the standards and criteria set forth in this chapter within 15 days of filing the application for such permit. In any case where the Building Inspector disapproves of a particular location, such disapproval shall be without prejudice to the applicant designating a different location.

C. The Building Inspector shall grant a permit if the location and installation of the newsrack comply with all of the standards and criteria set forth in this chapter and if all other requirements of this chapter are met.

D. An annual permit fee shall be set forth in the Village's fee schedule for each application, at such rates as may be set by resolution of the Board of Trustees for such placement in the Village of Pelham.

§ 59-5. Conditions and duration of permit.

A. Permits may be issued for the installation of a newsrack or newsracks without prior inspection by the Village of the location, but such newsrack or newsracks and their installation, use or maintenance shall be conditioned upon continued observance of the provisions of this chapter.

B. Such permits shall be valid for one (1) calendar year and shall be renewable pursuant to the criteria and standards for original applications and upon payment of the permit fee.

C. Newsrack permits shall not be assignable.

D. The Village Administrator and the Building Inspector must be notified in writing of a proposed newsrack replacement with a new or different newsrack or the relocation of a newsrack to a different location, which location shall be specified in such notice. The Building Inspector shall approve or disapprove such replacement or relocation, in accordance with the criteria and standards set forth in this chapter, for a permit within 15 days of receipt of such written notification. If the replacement is approved by the Building Inspector, the existing permit shall be amended to reflect the change approved.

§ 59-6. Indemnification.

As a condition of approval of any newsrack permit, the distributor shall file a written statement with the Building Inspector, in a form satisfactory to the Village Attorney, by which the newsrack owner agrees to indemnify, hold harmless and defend the Village, its officers and employees against any loss, liability or damage, including expenses and costs, for bodily or personal injury and for property damage sustained by any person as a result of the installation, use and/or maintenance of a newsrack within the Village.

§ 59-7. Insurance.

As a condition of approval of any newsrack permit, the distributor shall file with the Building Inspector a certificate of insurance from an AM Best A-rated insurance company authorized to conduct business in New York, demonstrating that the distributor has general liability insurance with limits of at least \$1 million each occurrence and \$2 million general aggregate. The insurance policy must name the Village of Pelham as an additional insured. The insurance shall be maintained during the permit period of any newsrack and provide for not less than 30 days' notice of cancellation to the Village Administrator and the Building Inspector.

§ 59-8. Location, placement and number of newsracks.

Any newsrack that rests, in whole or in part, on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the following provisions:

A. No newsrack shall project onto, into or over any part of the roadway of any public street, nor shall it rest, wholly or in part, upon, along or over any portion of the roadway of any public street.

B. Newsracks may be placed next to each other, provided that no more than three newsracks may be grouped, which group of newsracks shall not extend for a distance of more than eight feet. All newsracks in a group of newsracks shall abut the adjacent newsrack in such group unless safety considerations require otherwise. There shall be a space of not less than three feet between each group of newsracks.

C. No newsrack shall be placed, installed or maintained:

- (1) Within five feet of a marked crosswalk.
- (2) Within 10 feet of a street corner without a marked crosswalk.

- (3) Within 15 feet of a fire hydrant.
- (4) Within five feet of a fire call box or police call box.
- (5) Within five feet of a driveway or alley.
- (6) In a place that reduces the clear space for the passageway of pedestrians to less than four feet.
- (7) On any access ramp for disabled persons.
- (8) Where such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including parked or stopped vehicles, or the ingress to or egress from any residence or place of business.
- (9) Where such installation, use or maintenance endangers the safety of persons or property.
- (10) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping, or within three feet of any display window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purposes.
- (11) Within 250 feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.

D. Except as provided for in § 59-8 B of this chapter, no more than one newsrack shall be located on any public right-of-way within a space of 100 feet in any direction within the same block of the same street; provided, however, that no more than eight newsracks shall be allowed on any one block except the area adjacent to the Metro North railroad station. In determining which newsracks shall be permitted to be located or to remain if already in place, the Building Inspector shall be guided by the following criteria:

- (1) No more than one newsrack for the same publication may be placed on any one block, unless the length of the sidewalk on a block is greater than 250 feet in length [see §58-C. (11)].

§ 59-9. Standards for maintenance and installation.

Any newsrack that, in whole or in part, rests upon, in or over any public sidewalk or parkway shall comply with the following standards:

A. No newsrack shall exceed five feet in height, 30 inches in width, or two feet in thickness.

B. Newsracks must be secured in a safe manner. No newsrack, however, shall be chained, bolted or otherwise attached to any municipal fixture, such as a parking meter,

stop sign, or other traffic sign or control device, located in the public right-of-way, or to any tree or tree support.

C. No newsrack shall be used for advertising signs or publicity purposes other than those dealing with the display, sale, purchase or distribution of the newspaper or periodical sold or distributed in the newsrack.

D. Each coin-operated newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event that the person is unable to receive the paid-for publication. The coin-return mechanism shall be maintained in good working order.

E. Each newsrack shall have affixed to it, in a readily visible place so as to be seen by anyone using the newsrack, the permit number, together with a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism or to give any notice provided for in this chapter.

F. Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

- (1) It shall not be permitted to remain empty for a period exceeding 30 consecutive days.
- (2) It is reasonably free of dirt and grease.
- (3) It is reasonably free of chipped, peeling and cracked paint in the visible painted areas.
- (4) It is reasonably free of rust and corrosion in the visible unpainted metal areas.
- (5) The clear plastic or glass parts, if any, through which the publications are viewed are unbroken and reasonably free of cracks and dents.
- (6) The paper or cardboard parts or inserts are reasonably free of tears and are legible.
- (7) The structural parts are not dented or broken.
- (8) It is free of graffiti.

§ 59-10. Violations; removal; inspection fees.

Upon determination by the Building Inspector that a newsrack has been installed, used or maintained in violation of this chapter, the Building Inspector shall issue an order to the distributor of the newsrack to correct the violation. Such order shall be telephoned or sent by facsimile to the distributor and confirmed by mailing a copy of the order by

certified mail, return receipt requested, or by registered mail or delivery service, signature required. The order shall specifically describe the violation, suggest actions necessary to correct the condition, and inform the distributor of the right to appeal. Failure to properly correct the offending condition within 10 days (excluding Saturday, Sunday and legal holidays) after the mailing date of the order or to appeal the order as provided in § 59-11 within five days after its receipt shall result in the offending newsrack being summarily removed and possessed as unclaimed property. If the offending newsrack is not properly identified as to owner under the provisions of this chapter, it shall be removed immediately and processed as unclaimed property. An impound fee, which shall be measured by the Village's cost and expense of impounding, shall be assessed against each newsrack summarily removed. The Building Inspector shall cause inspection to be made of the corrected condition or of a newsrack reinstalled after removal under this section. The distributor of said newsrack shall be charged an inspection fee for each newsrack so inspected in an amount established by resolution of the Board of Trustees. This fee shall be in addition to all other fees and charges required under this chapter.

§ 59-11. Appeals.

Any person aggrieved by a finding, determination, notice, order or action taken under this chapter may appeal to the Village Administrator or the Village Administrator's designee. An appeal must be perfected within ten (10) days after receipt of notice of any protested decision or action, by filing with the Village Administrator a letter of appeal briefly stating the basis for the appeal. A hearing shall be held on a date not more than fifteen (15) days after receipt by the Village Administrator of the letter of appeal. The appellant shall be given at least five (5) days' notice of the time and place of the hearing. The Village Administrator or the Village Administrator's designee shall give the appellant, and any other interested party, a reasonable opportunity to be heard in order to show cause why the determination of the Building Inspector should not be upheld. At the conclusion of the hearing, the Village Administrator shall make a final decision. The decision shall be immediately subject to appeal through a court of competent jurisdiction.

§ 59-12. Existing newsracks.

Any newsrack in existence prior to the effective date of this chapter and which does not have a newsrack permit shall be removed or brought into conformance with the provisions of this chapter, including the issuance of a permit for such newsrack, within forty-five (45) days after the effective date of this chapter. If the distributor fails to comply with this provision, the Building Inspector shall issue an order to the distributor

of the newsrack to correct such violation in accordance with § 59-10 of this chapter, and shall enforce such order in accordance with those provisions.

§ 59-13. Emergencies.

Nothing contained in this chapter shall be interpreted to limit or impair the exercise by the Village of its police power, in the event of an emergency, as determined by the Building Inspector, to remove any newsrack that presents a danger of imminent personal injury or property damage to users of the Village rights-of-way or would otherwise hamper or impair the fulfillment by the Village of its governmental obligations, including, but not limited to, snow removal and street cleaning.

Section 2. This Local Law shall take effect immediately upon adoption and filing with the Secretary of State of the State of New York.

Signed: _____ Dated: _____

Item #17 – Updating the authorized contractors list for pre-audit payments:

Trustee Weinstein suggested that the village research companies that would extend a discount to the village for prompt payment.

A motion was made by Trustee Greco, with a second by Trustee Weinstein to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

ADDING TO THE LIST OF UTILITIES AND CONTRACTS
TO BE APPROVED FOR AUTOMATIC PAYMENT
(PRIOR TO AUDIT AND APPROVAL BY THE BOARD)

WHEREAS, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village, with allowances for exclusion from prior audit of certain bills in advance of audit of claims by the Board of Trustees, including public utility services, postage, and amounts due on contracts for periods exceeding one year.

BE IT RESOLVED, pursuant to the New York State Village Law, the Board of Trustees authorizes additions to the list of bills to be paid in advance of audit of claims, as follows:

Company:

Chase (Credit Card)
CRP Sanitation
Deer Park
Federal Express
Metro Fuel
Pembroke (Federal DOT drug testing)
Poland Springs
Sprague
Sprint
Toyota Financial (Police Chief's car lease)

Replacing:

Suburban Carting

Nextel

GMAC Finance

Item #18 – Authorizing the updated NY Power Authority Rate Agreement:

A motion was made by Trustee Weinstein, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

AUTHORIZING THE UPDATED
NY POWER AUTHORITY
RATE AGREEMENT

RESOLVED, that the Mayor and Board of Trustees of the Village of Pelham authorize the updated NY Power Authority Rate Agreement, and authorize the Mayor, Village Administrator and Village Attorney to take the necessary and appropriate actions to sign and effect this agreement.

Item #19 – Authorizing renewal of the Section 8 Admin. agreement w/NRNRC:

A motion was made by Trustee Potocki, with a second by Trustee Morris to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

AUTHORIZING THE RENEWAL OF THE CONTRACT
BETWEEN THE VILLAGE OF PELHAM AND NRNRC

RESOLVED, that the proposal to renew the Agreement with the NRNRC is hereby accepted and the agreement is authorized by the Board of Trustees of the Village of Pelham; and

BE IT FURTHER RESOLVED, that the term of this agreement is for two (2) Federal Program years, expiring March 31, 2009; and

BE IT FURTHER RESOLVED, that the Mayor, Village Administrator and Village Attorney are authorized to take the necessary and appropriate actions to effect this agreement.

Item #20 – Closing the public comment period and authorizing submission of Pelham's Pre-Disaster Hazard Mitigation Plan to FEMA for review:

A motion was made by Trustee Greco, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

Motion of the Board:

PUBLIC HEARING AND CLOSE TO THE 60 DAY PUBLIC COMMENT PERIOD
(originally opened May 1, 2007, and extended to August 17, 2007)
FOR THE VILLAGE OF PELHAM'S
PRE-DISASTER HAZARD MITIGATION PLAN
BEING PERFORMED UNDER THE AUSPICES AND FUNDING
FROM THE NYS EMERGENCY MANAGEMENT OFFICE (SEMO)
AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
AND DECLARING THE PLAN AS COMPLETE AND READY FOR FEMA
CONSIDERATION, PRIOR TO ADOPTION AS FINAL

Pursuant to the requirements of NY SEMO and FEMA for the preparation of Pre-Disaster Hazard Mitigation Plans, which the Village has been performing in compliance with the necessary funding requirements of the Village of Pelham, and SEMO, and FEMA, the Board of Trustees of the Village of Pelham hereby closes the Public Comment Period, originally opened on May 1, 2007.

This plan provides a concentration in flood hazard mitigation planning with the goal of fulfilling eligibility requirements for insurance rate reductions and grant funding to complete vital hazard mitigation projects and programs. Section 5-508 of the NYS Village Law.

This 60-day Public Comment Period was extended by approximately 45 days, to accommodate additional contact and circulation for comment from surrounding jurisdictions including the Eastchester, New Rochelle, Mt. Vernon, Pelham Manor, and interested governments and agencies, including the Town of Pelham, the Pelham Public School District, and the Pelham Chamber of Commerce – during which time the Village circulated copies of the draft reports seeking written and documented input from

involved and interested parties, and received none other than those submitted by residents of 7th Avenue, 4th Avenue and Marquand Avenue, who are regularly impacted by flooding.

Resolved, that the Mayor and the Board of Trustees accept this Draft Report as complete and ready for submission to FEMA for final consideration and acceptance, and subsequent adoption as final upon receipt of an acceptable review from FEMA.

Item #21 – Scheduling a Public Hearing September 18, 2007, on a Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers:

A public hearing will be held on this topic at the next scheduled Board of Trustees meeting on Tuesday September 18, 2007.

A motion was made by Trustee Weinstein, with a second by Trustee Greco to schedule the public hearing for Tuesday September 18, 2007. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

To: Richard Slingerland
From: Martha L. Conforti
Re: New Local law drafted 6/27/07
Date: June 29, 2007

As you requested, I have drafted a new local law that will repeal Section 68-19 that limits prosecution of violations of the leaf blower law to home owners. The proposed local law allows the Village to prosecute not only the owner of the premises where the violation of the property where the violation occurs, but also the individuals who violate the law. As written the law also allows the Village to prosecute the employers of the violators. In this way the Village can prosecute the landscaping companies, not merely the laborers. This is important because some of the established landscapers repeatedly violate the laws about the use of leaf blowers.

The current language that will be repealed as a result of the proposed new law is:

§ 68-19. Enforcement.

This article shall be enforced against the owner, as defined in § 54-8 of Chapter 54 of the Code of the Village of Pelham, of the premises upon which such violation occurs.

The language of the new law is:

§ 68-19. Penalties for offenses.

For a violation of the provisions of this Article the owner, as defined in § 54-8 of the Code of the Village of Pelham, of the premises where such a violation has occurred, and the landscaper, gardener, contractor or any other person, as defined in Section 1-9 of the Code of the Village of Pelham, who commits, takes part in or assists in any such violation shall be subject to the penalties set forth in Article III of Chapter 1 of the Code of the Village of Pelham,

The two definitions to which the new local refers are as follows.

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

PERSON — Any natural person, partnership, firm, association, corporation, utility, governmental agency or other entity capable of being sued. Whenever used in any section prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

RESOLUTION

SCHEDULING A PUBLIC HEARING

on a Proposed Local Law to add Landscapers
to the list of entities that may be given a violation
under Chapter 68 on Noise re: Leaf Blowers.

The Board of Trustees of the Village of Pelham hereby schedules a public hearing to be held at 7:30 p.m. on Tuesday, September 18, 2007, in Village Hall at 195 Sparks Avenue, Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, as follows:

A Proposed Local Law to add Landscapers to the list of entities that may be given a violation under Chapter 68 on Noise re: Leaf Blowers.

A copy of the Local Law is on file in the offices of the Village Clerk and may be viewed during normal business hours of 8 a.m. to 5 p.m., or an electronic copy may be obtained from the opening page of the Village's website www.pelhamgov.com.

By Order of the Mayor and Board of Trustees

Terri Rouke, Village Clerk

Richard Slingerland, Village Administrator/Deputy Clerk

LOCAL LAW NUMBER OF 2007

A local law that repeals Section 68-19 and adopts a new Section 68-19 that defines the parties who can be prosecuted for violating the laws limiting the use of leaf blowers.

BE ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM AS FOLLOWS:

SECTION 1

Section 68-19 is repealed, and the following new Section 68-19 is adopted: changes are made in Article V of Chapter 68 of the Code of the Village of Pelham:

§ 68-19. Penalties for offenses.

For a violation of the provisions of this Article the owner, as defined in § 54-8 of the Code of the Village of Pelham, of the premises where such a violation has occurred, and the landscaper, gardener, contractor or any other person, as defined in Section 1-9 of the Code of the Village of Pelham, who commits, takes part in or assists in any such violation shall be subject to the penalties set forth in Article III of Chapter 1 of the Code of the Village of Pelham,

SECTION 2

This local law shall take effect upon its adoption and filing with the Secretary of State.

Item #22 – Authorizing the Annual Children’s Center Fun Run:

A motion was made by Trustee Lewis, with a second by Trustee Morris to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

Authorizing the annual Pelham Children’s Center 5K and Fun Run
Saturday, October 13, 2007

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorizes the Annual Pelham Children’s Center Fun Run, to be held on Saturday October 13, 2007, from 7 a.m. to 10 a.m., as follows:

5K race starting at 8 a.m. starting at Colonial School and ending up at the Daronco Townhouse along the normal route in Pelham, and the

Fun Run starting at 8 a.m. at Colonial School Playground and finishing up at the Townhouse.

BE IT FURTHER RESOLVED, that the assistance of the Village, including the Police and Public Works Departments is authorized to facilitate this event.

Item #23 – Authorizing the Appointment of a new Planning Board Chair, and return to normal Planning Board membership of the current Chair:

Mayor Hotchkiss reported that Gwen Tapogna has done a great job as Planning Board Chairman. However, she can no longer chair the planning board due to personal reasons. Richard Veith will replace Gwen Tapogna as Planning Board Chairman and Gwen Tapogna will remain on the planning board as a member.

A motion was made by Trustee Weinstein, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

AUTHORIZING THE APPOINTMENT BY THE MAYOR
OF RICHARD VEITH AS CHAIRMAN OF THE PLANNING BOARD
FOR THE REMAINDER OF HIS TERM

RESOLVED, that the Board of Trustees authorizes the appointment by the Mayor from the current membership of the Planning Board of Richard Veith as Chairman of the Planning Board for the remainder of his term, replacing Gwen Tapogna who has withdrawn from the Chairmanship, who shall remain a member of the Planning Board.

BE IT FURTHER RESOLVED, that the assistance of the Village, including the Police and Public Works Departments is authorized to facilitate this event.

Item #24 – Authorizing the Accounts Payable:

A motion was made by Trustee Weinstein, with a second by Trustee Lewis to adopt the resolution. The resolution was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

* First Resolution prepared August 24, 2007; a second resolution may be added later, prior to audit by the assigned Board Member.

RESOLUTION

WHEREAS, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Trustees after audit of the following claims, authorizes payment for services rendered and materials received, for the following items that have been submitted to the Treasurer's Office for payment and authorized by the Village Administrator:

| <u>Fund Name:</u> | <u>Amount</u> |
|-----------------------|---------------|
| General Fund | \$269,952.73 |
| Water Fund | \$440.00 |
| Capital Projects Fund | \$37,729.75 |
| Trust and Agency Fund | \$506.25 |
| H3 Fund | \$0.00 |
| Grand Total | \$308,628.73 |

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby approves payment of the above-mentioned claims and authorizes payment thereof.

RESOLUTION (Revised)

WHEREAS, pursuant to Section 5-524 of the New York State Village Law, the Board of Trustees shall audit all claims against the Village.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the Board of Trustees after audit of the following claims, authorizes payment for services rendered and materials received, for the following items that have been submitted to the Treasurer's Office for payment and authorized by the Village Administrator:

| <u>Fund Name:</u> | <u>Amount</u> |
|-----------------------|---------------|
| General Fund | \$281,595.47 |
| Water Fund | \$800.00 |
| Capital Projects Fund | \$38,409.75 |
| Trust and Agency Fund | \$506.25 |
| H3 Fund | \$ 0.00 |
| Grand Total | \$321,311.47 |

RESOLVED, that this Board hereby approves payment of the above mentioned claims and authorizes payment thereof.

Item #25 – Old Business/New Business: None.

Item #26 – Minutes – July 17, 2007 and August 7, 2007:

This topic has been tabled to the next scheduled Board of Trustees Meeting on Tuesday September 18, 2007.

Item #27 – Executive Session:

The Mayor asked for a motion to go into Executive Session to discuss personnel matters. On the motion of Trustee Morris, seconded by Trustee Lewis, the Board voted to go into Executive Session. The motion passed unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

Item #28 – Adjournment:

On the motion of Trustee Lewis, seconded by Trustee Greco, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 10p.m. to discuss personnel matters. The motion passed unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

Respectfully submitted,
Devron Wilson, Administrative Aide
Richard Slingerland, Administrator/Deputy Clerk