

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

1. Call To Order
2. Pledge of Allegiance
3. Mayor's Report
4. Trustees' Reports
5. Village Administrator's Report
6. Public Comment

Approximate
Starting Time
of Discussion

Agenda Items:

#	Agenda Items:	Approximate Starting Time of Discussion
	Discussion of Post Office Relocation Plans	8:00 p.m.
7.	Discussion and finalization of comments to be submitted by the Village to the Postal Service proposal for a new Pelham Branch Post Office at 26 First Street	Discussed
	Committee Reports	8:45 p.m.
8.	Update on Flooding initiatives.	Discussed
9.	Update on Streetscape Clean-up & Improvements (Tr. Morris)	Discussed
10.	Update on Comprehensive Plan update (Trustee Weinstein).	Discussed
11.	Update on Website and Telecommunications initiatives.	Discussed
	Streets, Traffic and Parking	9:00 p.m.
12.	Amending the Code to make permanent Stop Signs on First Street at Third Avenue, to make it an "all-way" stop intersection.	Approved
	Human Resources and General Business	9:15 p.m.
13.	Authorizing the completion of probation for a firefighter.	Approved
14.	Scheduling a Public Hearing on a mandated update to the Village Code, through a draft local law to update the Village Code to continue to participate in the National Flood Insurance Program.	Scheduled for Sept. 4th
15.	Public hearing and consideration of a Local Law enacting Newspaper Rack Regulations.	Cont'd to Sept. 4th
16.	Authorizing a Change Order to set the final contract amount for Acocella Contracting, Contract 2006-07 CDBG Sidewalks.	Approved
17.	Acceptance of additional donations for the Police Tactical Team	Approved
18.	Authorizing the acceptance of a \$10,000 member item grant for cameras for the Police Department, and safety gear for the Fire Department	Approved
19.	Authorizing a new rate and letter agreement for Conforti and Tarcher to act as the Village's prosecuting attorney.	Approved
20.	Authorizing Tax Certiorari Judgements/Settlements with four Pelham Properties.	Approved
	Housekeeping	9:45 p.m.
21.	Authorizing the Accounts Payable.	Approved
22.	Old Business/New Business	
23.	Minutes – July 17, 2007	Tabled
24.	Adjournment	Adjourned

Next Regular Board Meetings are Tuesdays September 4th and September 18th

* All meetings start at 7:30 p.m. unless otherwise noted. Agenda is subject to change.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING MINUTES
TUESDAY, AUGUST 7, 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, Homan, Lewis, Morris, Potocki, and Weinstein. Trustee Greco 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 had nothing to report.

Item #4 – Trustees’ Report:

Trustee Potocki reported that the Pelham Police Department has received over \$9,000 in donations for the Pelham Police Department Tactical Unit Fund. The Village plans to send 1 or 2 more officers to Tactical Training this fall. Trustee Potocki thanked everyone who donated to the Pelham Police Department Tactical Unit Fund.

Trustee Homan reported that she has (2) two matters to discuss during the executive session portion of the meeting.

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

Trustees Lewis and Weinstein were not present during this segment of the meeting

Item #5 – Village Administrator’s Report:

Administrator Slingerland reported that the village recently had their annual audit. The auditors who conducted the audit will provide a full report to the village in a few weeks.

Mr. Slingerland also reported that Dolph Rotfeld Engineers suggested that the village video the entire line of storm drain pipe on 4th Avenue and 7th Avenue.

Item #6 – Public Comment:

Louise Podszus of 59 Clifford Avenue mentioned the following:

1. The hedges on the corner of Clifford and Washington Avenues are too high and are obstructing visibility.
2. There is a lilac bush in front of 85 Storer Avenue that impedes the sidewalk.

3. Residents at 88 Clifford and 91 Clifford are blocking the sidewalk when parking their vehicles in their driveways.
4. There are several sidewalks throughout the village that are deteriorated and need restoring.

Administrator Slingerland mentioned that he had been reviewing the hedge complaint with the homeowners at the corner of Clifford and Washington, and that the hedges are in compliance with the law. He advised her that the Village would move the stop sign closer to Washington Avenue, and clear some Village tree branches to improve visibility. He said he would call her to follow-up on her complaints.

Trustee Homan suggested that the village start a campaign to inform homeowners to maintain their sidewalks.

Item #7 – Discussion and finalization of comments to be submitted by the Village to the Postal Service proposal for a new Pelham Branch Post Office at 26 First Street:

* Letter and comments being prepared in draft form.

Mayor Hotchkiss reported that a meeting was held last week Tuesday with representatives from the Board of Trustees, Architectural Review Board, and Planning Board to discuss the Postal Service proposal for a new Pelham Branch Post Office at 26 First Street.

He said the Village would like to keep the post office in town. However, the village has several issues with the Post Office's proposal. The Villages' primary issues are as follows:

1. The proposed customer entrance is almost a four block walk from the business district.
2. The architecture and windows may need to be altered a bit.
3. Part of the proposed building will be located in a residential zone and another part of the building will be located in a business zone.

*The Village Administrator announced the Village's plan to send the Post Office a comprehensive comment letter Friday stating the Villages' concerns with the new building and its location.

Residents concerns and Village responses:

Tom Keith of 48 1st Street (Hometown Products) mentioned that he has a major problem with the Post Office building re-locating directly next to his property. Mr. Keith believes that if the Post Office building is re-located to the property directly west of his property, all natural sunlight and ventilation that his building now receives from the west side of the building, will be eliminated.

Peter Paganessi of 55 1st Street mentioned that he loves the quiet nature of the town. Mr. Paganessi believes that moving the post office to 26 First Street would increase traffic along 1st Street thereby creating more noise and ultimately disrupting the lives of families in that area.

Robert Bing of 55 1st Street asked the village, what the earliest time the loading zone can operate. He mentioned there will be a lot of noise and traffic in that area which is why the Post Office should be located closer to the business district.

Chrissy Conroy of 37 1st Street stated that she does not want the Post Office across the street from her home. She believes that the property value of her home will decrease if the Post Office is located directly across the street from her home. She asked what residents can do to influence the Post Office to move elsewhere. Mayor Hotchkiss informed everyone that the village has presented the Post Office with several other locations (between 8 and 10) for relocation within the village. However, at this time the representatives of the Post Office seem only to be interested in the property at 26 1st Street, as they already own it and it will provide adequate space for their day-to-day operations.

David Holgado of 35 1st Street mentioned that when purchasing his home, representatives of Ginsburg Development Group led him to believe that the property at 26 1st Street would be converted into green-space.

Mayor Hotchkiss stated that the Post Office is important to Pelham for (2) two reasons. First reason is convenience. If there wasn't a Post Office in Pelham, residents and small businesses with post office boxes would have to travel to Mount Vernon or New Rochelle to access the nearest Post Office. Second reason is foot traffic. Having the Post Office located in or near the downtown area of Pelham, generates foot traffic for other downtown businesses and merchants.

Dave Garufi of 7 2nd Avenue asked why the prior proposal to relocate the Post Office to 3rd Street and 5th Avenue never came to fruition. Trustee Homan informed everyone that having the Post Office move to 3rd Street at 5th Avenue would not be conducive to improving the Downtown of the village because it would eliminate too many parking spots. There is an existing parking deck and an open parking lot currently at that location. Administrator Slingerland mentioned the Post Office's position that 10,000 square feet of the parking deck would have to be removed, in order for the Village to provide the Post Office with land comparable to what they own on First Street, and that the Village would have to replace the lost parking spaces at its own cost.

Alison Holgado of 35 1st Street asked what will happen to the current Post Office site at 5th Avenue. Mayor Hotchkiss mentioned that the current landlord has many alternatives. Administrator Slingerland mentioned that the landlord will have to submit any future plans for the property to the village for review through the land-use and site plan review process.

Meredith Miske of 5 2nd Avenue asked if the village is definitely going to propose that the Post Office parking lot be located on the west side of the Post Office building. If so, she is concerned for her children's safety with the potential increase of traffic in that area.

Julie Chang of 55 1st Street said she appreciates that the Village has been trying to work with the Post Office on this matter for several years. She asked if there would be an opportunity for residents to view and submit comments for the letter being sent to the Post Office this week.

Mr. Slingerland informed everyone that residents will not be able to view the letter in draft form. However, residents may submit their comments and concerns to the village, which the Village would include in the package being sent to the Post Office.

Peter Dipaola of 55 1st Street asked if there had ever been a proposal to move the Post Office to the industrial area of Pelham Manor.

Suzy Coviello of 8 2nd Ave. asked if trucks would be parked at the Post Office day and night.

David Holgado of 35 1st Street asked if the area where he lives was re-zoned from commercial to residential? Mr. Slingerland responded by informing everyone that the area where Marbury Corners is located was rezoned a commercial zone to accommodate Marbury Corners.

The Board commented that after working with the Post Office for several years (nearly 10 years) on proposed alternative locations to relocate operations, the Village is resigned to the idea that the Post Office will be moving to 26 1st Street within the next year or two.

At this point, the discussion of the Post Office was completed.

Executive Session on Personnel:

The Mayor asked for a motion to go into Executive Session to discuss personnel matters. On the motion of Trustee Weinstein, seconded by Trustee Morris, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 9:50 p.m. to discuss personnel matters. The motion passed by vote of five in favor, none opposed. Trustee Homan was absent at the time of the motion.

The meeting of the Board of Trustees was called back to order by Mayor Edward Hotchkiss at 10:25 p.m.

Item #8 – Update on Flooding initiatives:

Mayor Hotchkiss reported that Dolph Rotfeld Engineers will submit a proposal to the village by the end of the week for recommended storm remediation work. Dolph Rotfeld also suggested that the village should video the entire storm drain that runs along 4th and Highbrook Avenues, to determine its condition, and functionability. A request for proposals will have to go out to video the storm drain.

Flood Grant -- FEMA – The Village submitted a "letter of intent" to SEMO/FEMA to initiate the FEMA 406 Hazard Mitigation process. We listed several ways to address flooding, including upsizing storm-drain pipes, adding catch basins and storage basins, and other similar improvements. We just received a letter within the past couple of days acknowledging our letter of intent and accepting all but one improvement type. We had requested they consider a dry-berm, or dry-levee, to protect the people down on Marquand Avenue from flooding off of the Hutchinson River. SEMO/FEMA had originally said a levee or similar improvement was

ineligible. However, the Village plans to ask them to reconsider it, and will try and schedule a meeting with them here in Pelham. The deadline for applications is November 1, 2007.

Status of Phase 2 Flooding Remediation Project this summer 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.

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

The Village surveyed (10) ten communities regarding their streetscape clean-up practices. Trustee Morris, Administrator Slingerland, and Mayor Hotchkiss recently met with General Foreman Harry Pallett to discuss clean-up practices around the Metro North station.

Survey data from nearby communities about Streetscape Clean up and Downtown improvements:

Results of a Survey to be presented by Trustee Laura Morris:

Specifically, several communities were contacted with the request to answer this questionnaire prepared by the Downtown Cleanup Committee, which found these communities to be among the best for clean Downtowns and overall cleanliness of public spaces.

Municipalities we contacting included Bronxville, Dobbs Ferry, Hastings, Larchmont, Mamaroneck Village, Pleasantville, Rye City, Scarsdale and Tarrytown.

Pelham Questionnaire:

1. What staff time (person hours and shifts) do you employ in cleaning streets, parks, open spaces, and sidewalks?
2. How many times a week does your municipality sweep the streets in the Downtown business area?
3. What codes do you have requiring requiring merchants / buildings in the shopping area (Downtown) to keep the sidewalk clean?
4. How vigorously do you enforce the code? For example, how often do you ticket or how many tickets do you issue on average? Can you give a number, or an estimate, of how many of those tickets were issued regarding trash and litter?
5. How important is a clean, little-litter streetscape to your main shopping area?
6. How important is this (clean parks) for parks and open spaces to the residents of your village?
7. How many days does your municipality empty Downtown/Village/Parks trashcans? Does the DPW do it or you do contract it out?
8. Do you clean up around the train station even if it is Metro North's responsibility? If so, to what extent?
9. Do you clean up around entrances to highways and parkways?
10. Does any of your municipalities have a Business Improvement District (BID)? If so, who/what was the main proponent behind getting it passed, and who had to actually vote on its creation (e.g. all affected property owners)?

Survey results:		Communities									
#	Ques.	Bronxville	Dobbs Ferry	Hastings	Larchmont	Mamaroneck	Pelham	Pleasantville	Rye City	Scarsdale	Tarrytown
1	Staff and time employed cleaning the streets?	DPW and Highway	1 street sweeper	1 Street sweeper	Parks & disab. emp	1 Street Sweeper	2-4 FT DPW	1 Sweeper, DPW	DPW sweep	1 FT PW	48 hrs, 64 hrs summ
	" " Parks?	DPW/Hwy	3 Parks	Contract	" "	Parks Dept	DPW	Rec	Rec/Pk	4 Parks	DPW
	" " Open Spaces?	DPW/Hwy	Parks/Seas	Contract	" "	Parks Dept	DPW	Rec	Rec/Pk	Contract	Rec
	" " Sidewalks	hrs/day	Owner Resp	N/A	Owner Resp	1 FT swk c/hr	Owners	volunteer	N/A	1 Sidewlk	owner
2	How many times a week does municipality sweep Downtown streets?	6 days, 2 hrs a day, start 4 a.m.	7 days Sweep Downtown	4 days, M, T, Th, Fri	5 days, 6 days in summer	6 days a week	4 days summer 2-3 F/S	2 days/week, Apr-October	6 days a week	5 1/2 days	6 days
3	What Codes do you have requiring merchants/ owners to keep the sidewalks clean?	Local Laws req owners clean maint	Codes to Clean, Gbg Rules	Req clean sidewalks treept probs	Sid Codes: merchants typ sweep into street	Sdws must be clean 1/2 hr before/ after bus.	82-6 requires clean sidewalks	Must sweep before 2 p.m., and not into st	mostly snow & ice and garbage	No litter code, but garbg & snow/ice	Code reqs clean and litter free
4	How vigorously enforce the Code?	Unsure: most snow	Cyclical, by Complaints	Not really	Infrequent	Prefer warnings	Mostly warnings	Somewhat	not very	N/A	Some tickets
	How often ticket?	Warnings	recent blitz	N/A	Little enf.	N/A	" "	3x per mo	N/A	N/A	occas
	How many tickets on avg?	N/A	~ 14	N/A	N/A	N/A	" "	" "	N/A	N/A	N/A
	#/Est. of tickets trash/ litter?	N/A: plan power wash	" "	N/A	N/A	N/A	" "	mostly shrubs/grss	N/A	N/A	N/A
5	How important Clean Downtown?	CBD Vital	#1 Priority	Very	Very	High Priority	High Priority	Extremely	Very	Very	Very
6	How important Clean Parks & Open Spaces?	Very	Very Impt.	Very	Very	Very	Very	Extremely	Very	Very	Very
7	How many days empty Downtown Garbage Cans?	7 days	7 days	6 days	6 days	7 days	6 days	6 days	6 days a week	7 Days, twice day	7 days
	DPW empty or Private?	DPW/Hwy	DPW	DPW	DPW	DPW	M-F CRP, Sat DPW	DPW/parks	DPW	DPW	DPW
	Apt/Bus. Dump in cans prob?	Yes: major	Yes: major	Yes: maj.	Yes: major	Not sure.	Yes: majr	Yes much	Yes!!!	Yes	Yes
8	Clean up around Train Station, even if Metro North's?	Yes: incl. mowing	No, just municipal	No.	Yes.	No.	Yes: mow & clean	only village property	light pickup	No.	No
	If so, to what extent?	Lg. issues Metro Nth	N/A	N/A	Pickup trash	N/A	wkly mow 3x wk cln	n/a	some gbg	N/A	N/A
9	Clean up around entrances/ exits to parkways?	No: 1 exit	No.	May incl. with Ann. Clean-up	N/A	No. Village Streets only, 1-95/DOT	Not right now, exploring	Yes, occasionally	no.	Yes, periodically	No. DOT does own
10	Any have a Bus. Imp. District (a.k.a. BID)?	No BID.	No BID.	No BID	No BID.	No BID	No BID	No BID	No BID	No BID	No BID
	If not, what other groups?	Chamber, Beautifcath	Downtown Imp Comm.	Chmbr, Beau, Dwn Twn Comm	DPW most: also Btchtn Pks/Trees	Mainly the Chamber of commerce	Chamber, Committ,	Chamber	Chambr	special capital imp tax	Chamber & Beautific

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

Trustee Weinstein reported that the Comprehensive Plan Committee met recently to discuss the Village’s Comprehensive Plan. The Comprehensive Plan must meet all the requirements of the grant. The main focus of the plan will be downtown development. However, some focus will be directed towards open space. With the help of Saratoga Associates, the Comprehensive Plan committee hopes to have the plan complete by the end of December.

Item #11 – Update on Website and Telecommunications initiatives:

Village Administrator Richard Slingerland reported that he is coordinating with Westchester County regarding the “Reverse 911” system. Mr. Slingerland is also coordinating with Trustee

Geoff Lewis, and Administrative Aide Devron Wilson regarding the villages’ website email blast capability.

The Board reviewed the Pelham Work Order Request System, form and automated response. Trustee Lewis reported that he would be making final changes to it, in coordination with Administrator Slingerland and Administrative Aide Wilson.

Item #12 – Amending the Code to make permanent Stop Signs on First Street at Third Avenue, to make it an “all-way” stop intersection:

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

RESOLUTION

AMENDING THE CODE TO MAKE PERMANENT
STOP SIGNS ON FIRST STREET AT THIRD AVENUE
TO FORMALIZE IT AS AN “ALL-WAY” STOP INTERSECTION

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham amends the Code of the Village of Pelham as follows:

§ 90-44. Schedule V: Stop Intersections and Crosswalks is hereby amended to add the following stop signs:

Stop Sign on	Direction of Travel	At Intersection of
First Street	East/West	Third Avenue

Item #13 – Authorizing the completion of probation for a firefighter:

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

RESOLUTION

AUTHORIZING THE COMPLETION OF PROBATION
FOR FIREFIGHTER ANTHONY MARCIANO
EFFECTIVE AUGUST 12, 2007

BE IT RESOLVED, by the Board of Trustees of the Village of Pelham, that the Board authorizes the completion of Firefighter Anthony Marciano’s probation effective August 12, 2007 upon the six month anniversary of his employment, as agreed upon in his terms of employment, in compliance with the requirements of Civil Service.

Item #14 – Scheduling a Public Hearing on a mandated update to the Village Code, through a draft local law to update the Village Code to continue to participate in the National Flood Insurance Program:

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

RESOLUTION

SCHEDULING A PUBLIC HEARING

on a mandated update to the Village Code, through a draft local law to update the Village Code to continue to participate in the National Flood Insurance Program

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 4, 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 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

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

Draft 7/19/07

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 flood waters. 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 sub-grade 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 structur-

al 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.

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

Secretar

Attachment A

MODEL FLOODPLAIN

DEVELOPMENT

APPLICATION FORM

SEAL

ATTEST _____ CLERK

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 _____

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 #15 – Public hearing and consideration of a Local Law enacting Newspaper Rack Regulations:

This topic has been continued to the next Board of Trustees meeting scheduled for Tuesday September 4, 2007.

Note: Convene public hearing, summarize law, Board discussion, and then open the floor to public comment. Minor changes from Insurance-company appointed Counsel have been incorporated into the law on the agenda, making it less restrictive, which do not require the law to be delayed or postponed for further publication.

Draft proposed Local Law

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 solely by the following criteria:

- ~~(1) First priority shall be daily publications (published five or more days per week).~~
 - ~~(2) Second priority shall be publications published two to four days per week.~~
 - ~~(3) Third priority shall be publications published one day per week.~~
- (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.

Item #16 – Authorizing a Change Order to set the final contract amount for Acocella Contracting, Contract 2006-07 CDBG Sidewalks:

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 Greco was absent.

RESOLUTION

AUTHORIZING CHANGE ORDERS
TO SET THE FINAL CONTRACT AMOUNT
FOR ACOCELLA CONTRACTING,
CONTRACT 2006-07 CDBG SIDEWALKS

WHEREAS, the Budgeted amount for Contract 2006-07 for CDBG sidewalks, curbs and walls was \$200,000, including \$150,000 in capital funds and \$50,000 in CDBG funds; and

WHEREAS, the award amount for Contract 2006-07, based on initial unit prices, to Acocella Contracting, was \$115,210; and

WHEREAS, the Village was able to include additional maintenance work on its priority list to resolve major portions of damaged sidewalks, curbs and walls at numerous locations in the Village, including Village property.

NOW, THEREFORE, BE IT RESOLVED, that the final contract amount for Acocella Contracting is increased from the base award of \$115,210 to the final contract amount of \$170,158, based on unit prices for concrete sidewalks, curbs, and retaining walls, remaining within the budget for this planned work.

Item #17 – Acceptance of additional donations for the Police Tactical Team:

Trustee Potocki reported that the Police Tactical Team has received over \$9,000 in donations plus an armored van.

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

RESOLUTION

ACCEPTING ADDITIONAL DONATIONS FOR THE POLICE TACTICAL TEAM

RESOLVED, that the Mayor and Board of Trustees of the Village of Pelham authorize the acceptance of twelve donations, at a total value of \$5,735 from various residents and businesses, as funding towards the Police Tactical Team and thanks the various donors for their support of the Pelham Police Department towards this program, to improve policing and public safety in the Village of Pelham.

Item #18 – Authorizing the acceptance of a \$10,000 member item grant for cameras for the Police Department, and safety gear for the Fire Department:

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

RESOLUTION

AUTHORIZING A GRANT AGREEMENT
FOR A LEGISLATIVE MEMBER ITEM GRANT
TO FUND THE PURCHASE OF
CAMERAS FOR THE POLICE DEPARTMENT
AND SAFETY GEAR FOR THE FIRE DEPARTMENT

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby authorizes an agreement with the State of New York for a Legislative member Item Grant in the amount of \$10,000, authorizes the acceptance of the grant funds, and authorizes the Mayor, the Administrator and appropriate Village Officials to take the necessary and appropriate actions to effect such grant agreement and funds, with thanks to Assemblywoman Amy Paulin and the State of New York.

Item #19 – Authorizing a new rate and letter agreement for Conforti and Tarcher to act as the Village’s prosecuting attorney:

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 Greco was absent.

RESOLUTION

AUTHORIZING AN UPDATED RETAINER AGREEMENT
WITH CONFORTI AND TARCHER, ATTORNEY’S AT LAW

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham authorizes a retainer agreement with Conforti and Tarcher, Attorney’s at Law, for Code prosecution, legal advice on village matters, and legal cases or matters as assigned by the Mayor and Board of Trustees or the Village Administrator, at an hourly rate of \$175 (last rate established was July 2005, at \$155 an hour); and

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

Item #20 – Authorizing Tax Certiorari Judgements/Settlements with four Pelham Properties:

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

Item A.

RESOLUTION

AUTHORIZING A TAX CERTIORARI JUDGMENT FOR 124-128 Fifth Ave. AS
AUTHORIZED BY THE TOWN OF PELHAM FOR ASSESSMENT YEARS 2005
THROUGH 2006

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby the settlement and authorizes payment upon acceptance of the settlement by the Court of a draft Court Ordered Judgment on Consent for a refund of taxes and reduction in assessment pursuant to the Court Order and Judgment for 124-128 Fifth Avenue, known as tax lot Section 163.36, Block 2, Lot 16, for Tax Years 2006-07 through 2007/2008, in the total amount of four hundred eighty seven dollars and sixty three cents (\$487.63), and authorizes the Mayor, the Village Attorney and the Village Administrator/Treasurer to sign this agreement take the necessary and appropriate actions to effect this Court Order and refund these taxes.

Item B.

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

RESOLUTION
AUTHORIZING A TAX CERTIORARI JUDGMENT FOR 132-136 Fifth Avenue
AS AUTHORIZED BY THE TOWN OF PELHAM
FOR ASSESSMENT YEARS 2005 THROUGH 2006

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby the settlement and authorizes payment upon acceptance of the settlement by the Court of a draft Court Ordered Judgment on Consent for a refund of taxes and reduction in assessment pursuant to the Court Order and Judgment for 132-136 Fifth Avenue, known as tax lot Section 163.36, Block 2, Lot 15, for Tax Years 2006-07 through 2007/2008, in the total amount of one thousand four hundred ninety one dollars and ten cents (\$1,491.10), and authorizes the Mayor, the Village Attorney and the Village Administrator/Treasurer to sign this agreement take the necessary and appropriate actions to effect this Court Order and refund these taxes.

Item C.

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

RESOLUTION
AUTHORIZING A TAX CERTIORARI JUDGMENT FOR 138-144 Fifth Avenue
AS AUTHORIZED BY THE TOWN OF PELHAM
FOR ASSESSMENT YEARS 2005 THROUGH 2006

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby the settlement and authorizes payment upon acceptance of the settlement by the Court of a draft Court Ordered Judgment on Consent for a refund of taxes and reduction in assessment pursuant to the Court Order and Judgment for 138-144 Fifth Avenue, known as tax lot Section 163.36, Block 2, Lot 14, for Tax Years 2006-07 through 2007/2008, in the total amount of one thousand eight hundred ninety four dollars and ten cents (\$1,894.10), and authorizes the Mayor, the Village Attorney and the Village Administrator/Treasurer to sign this agreement take the necessary and appropriate actions to effect this Court Order and refund these taxes.

Item D.

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

RESOLUTION

AUTHORIZING A TAX CERTIORARI JUDGMENT FOR 411 Fifth Avenue AS
AUTHORIZED BY THE TOWN OF PELHAM FOR ASSESSMENT YEARS 2004-2006

BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby the settlement and authorizes payment upon acceptance of the settlement by the Court of a draft Court Ordered Judgment on Consent for a refund of taxes and reduction in assessment pursuant to the Court Order and Judgment for 411 Fifth Avenue, known as tax lot Section 163.28, Block 2, Lot 30, for Tax Years 2005-06 through 2007/2008, in the total amount of four hundred ten dollars and eleven cents (\$410.11), and authorizes the Mayor, the Village Attorney and the Village Administrator/Treasurer to sign this agreement take the necessary and appropriate actions to effect this Court Order and refund these taxes.

Item #21 – Authorizing the Accounts Payable:

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

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	\$429,925.31
Water Fund	\$1,791.00
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$450.00
H3 Fund	\$0.00
Grand Total	\$432,166.31

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

Item #22 – Old Business/New Business:

John Cassone of 312 7th Avenue mentioned that communities are now starting to give residents the option of choosing between Cablevision and Verizon.

Item #23 – Minutes – July 17, 2007:

This topic has been tabled until the next Board of Trustees meeting scheduled for Tuesday September 4, 2007.

Item #24 – Adjournment:

On the motion of Trustee Lewis, seconded by Trustee Morris, the Board voted to adjourn the board meeting at 11:10 p.m. The motion passed unanimously by vote of six in favor, none opposed.

Respectfully submitted,

Devron Wilson, Administrative Aide

Richard Slingerland, Administrator/Deputy Clerk