

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, DECEMBER 4, 2007 – 7:30 PM
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 | | Approximate |
| 6. | Public Comment | | Starting Time |
| # | Agenda Items: | | of Discussion |

	Committee Reports		7:45 p.m.
7.	Pelham Post Office.		Discussed
8.	Flooding initiatives.		Discussed
9.	Streetscape Clean-up & Improvements.		Discussed
10.	Cliff Remediation for Pelham Medical Group.		Discussed
11.	Comprehensive Plan update.		Discussed
12.	Website and Telecommunications initiatives.		Discussed
	Comprehensive Plan Presentation		8:00 p.m.
13.	A. Opening a Public Hearing on the plan for December 4, 2007. B. Presentation: Pelham's Comprehensive Plan, Saratoga Associates; C. Adoption of Lead Agency and SEQRA Neg. Dec.: SEQRA Adopted.		Hearing opened, continued.
	Site Plans and Land Use		8:45 p.m.
14.	Considering Site Plan Approval for 130 5 th Ave., Lola's Tea House		Approved
15.	Considering Site Plan Appvl for 236 Ancon addition, appl. by McCooley.		Approved
16.	Considering Site Plan Approval for 414 9 th Avenue garage and driveway, application by Ferrer.		Approved
17.	Considering Site Plan Approval for 130A-132 5 th Ave. for Trustco Bank		Approved
18.	Considering Site Plan Approval for 236 Nyac Garage, appl. by Wallace.		Approved
19.	Considering authorizing a reduction in the Marbury Corners Completion Bond for Ginsburg Development Corporation from \$396,401 to \$50,000		Authorized
	General Business		9:45 p.m.
20.	Adopting a SEQRA Negative Declaration compliance resolution for the Sewer Bond adopted on November 13, 2007.		Approved
21.	Scheduling a Public Hearing for December 18, 2007, on a draft proposed Code Change regarding Storm Water Management and Control, including Detection and Elimination of Illegal Connections.		Hearing Scheduled
22.	Scheduling a Public Hearing for December 18, 2007, on a draft proposed Code Change regarding changes to the Alarm Code.		Hearing Scheduled
	Contracts – Village Yard Design		10:00 p.m.
23.	Authorizing Change Orders to the Design contract with PCI for the Village Yard, and the Village's inter-modal parking Lot 1 on First Street		Tabled
	Human Resources		10:10 p.m.
24.	Authorizing the successful completion of probation for Fire Lieutenants Brennan, DiNapoli and Keiser.		Approved
25.	Authorizing the Village to enter into an agreement with the CSEA for the time period of June 1, 2007 through May 31, 2010; and adoption of 41-j for ERS employees in the New York State Retirement System.		Tabled
	Housekeeping		10:20 p.m.
26.	Authorizing the Accounts Payable, including an outstanding check.		Approved
27.	Old Business/New Business		Discussed
28.	Minutes – November 13, 2007		Tabled
29.	Executive Session		Authorized
30.	Adjournment		Adjourned

Next Regular Board Meetings are Tuesdays December 18th and January 8, 2008.

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

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

Item #1 – Meeting called to order: The meeting of the Board of Trustees was called to order by Mayor Edward Hotchkiss at 7:40 p.m.

The following members of the Board of Trustees were present:

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

Village staff in attendance:

Administrator/Treasurer Richard Slingerland and Administrative Aide Devron Wilson,

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Edward Hotchkiss.

Item #3 – Mayor’s Report:

Mayor Hotchkiss had nothing to report that was not included in the agenda.

Item #4 – Trustees’ Report:

Trustee Greco had nothing to report.

Trustee Potocki mentioned that he would wait until the “flooding initiatives” section of the agenda to report on the meeting the village had with Senator Klein and the Department of Environmental Conservation (DEC).

Trustee Lewis had nothing to report.

Trustee Morris had nothing to report.

Item #5 – Village Administrator’s Report:

Village Administrator Richard Slingerland reported that the village has started its second phase of the Safe Routes to School Program. Administrator Slingerland, Police Chief Benefico, Fire Chief Carfora, Trustee Potocki, and Administrative Aide Devron Wilson met on November 15, 2007 to discuss recommendations for parking and traffic around Hutchinson Elementary School. Approximately twenty (20) different suggestions were discussed and considered. The Village will put together a proposal to introduce to the Hutchinson Elementary School Principal and PTA. In addition, the village is researching Safe Routes to School grant opportunities.

Administrator Slingerland also reported that the village has begun to coordinate with the U.S. Census Bureau in regards to the 2010 Census. Registration forms have been submitted to the U.S. Census Bureau. The village is waiting for the U.S. Census Bureau to send the materials to begin working with the process. He stressed the importance of the community to cooperate with the Village, because many funding

streams and allocations to the Village and the Pelham community are based on population totals.

Item #6 – Public Comment:

Thomas and Mary Ciccotelli of 24 Second Avenue were present to complain that their next door neighbor's driveway apron impedes across their property line, as a result of the sidewalk and curb work done on 2nd Avenue by Acocella Contracting under the CDBG program.

Administrator Slingerland responded by informing everyone that he had informed Acocella several times to correct this issue. Acocella Contracting will have to saw-cut the area of the driveway apron that is obstructing the lawn. He promised it would be done as soon as possible.

Item #7 – Pelham Post Office:

Mayor Hotchkiss reported that the Planning Board and Architectural Review Board met with representatives from the Post Office to discuss the overall aesthetic of the Post Office. The Post Office had revised their proposal to try and meet the recommendations of the Planning Board and Architectural Review Board. The village is in the process of reviewing the revised plans and drawings. He announced that the Village has requested a follow-up meeting with the village and the Post Office once the revised plans have been reviewed.

Item #8 – Flooding initiatives:

Mayor Hotchkiss reported that the village is in the process of finalizing the contract with the contractor to video the storm drain lines from Glenwood Lake to 4th Avenue, 4th Avenue to First Street, and Highbrook Avenue. Mayor Hotchkiss also reported that the village met with Senator Jeff Klein and representatives from the Dept. of Environmental Conservation (DEC) to discuss the flood issues in Pelham. Administrator Slingerland mentioned that he explained the issues to them and also gave them a tour of the flood prone areas in the village. Administrator Slingerland further mentioned that the DEC was pleased to hear that the village is exploring retention and detention alternatives combined with plans to upsize storm water sewer mains.

Trustee Potocki mentioned that the DEC is glad to hear that the village is looking at fixing the flood problems segment by segment. Trustee Morris mentioned that Mr. William Janeway of the DEC stated in the meeting that there are alternatives such as porous pavement that the village can use to absorb water in the village. Mr. Janeway said that the cost would be approximate 20% more than standard pavement.

John Cassone of 7th Avenue asked about the status of the work at 6th Street and 5th Avenue to remove the water main from the storm drain. Administrator Slingerland advised that United Water's contractor had ordered a very large manhole to be reinstalled over the storm water main, and as soon as the manhole was delivered, the construction project would be complete, the obstruction of the storm drain would be removed, and the street would be restored to normal function and traffic capacity.

Item #9 – Streetscape Clean-up & Improvements: None at this time.

Item #10 – Cliff Remediation for Pelham Medical Group:

Administrator Slingerland reported that the village, village's engineers, and Village Building Inspector Len Russo are working with Pelham Medical Group to review the

submissions from the property owner's team to close out Phase 1 of the rock remediation. The Village is waiting for proposals from Pelham Medical Group for Phase 2 (construction of retaining wall) of the rock remediation. Before Lordae Realty can proceed with any plans for their property, Building Inspector Len Russo requires engineering determinations on the condition of the rock cliff near Lordae Realty's property.

Item #11 – Comprehensive Plan update:

This topic was discussed during topic #13 of the agenda.

Item #12 – Website and Telecommunications initiatives:

Mayor Hotchkiss announced the Village's plans to begin cable television franchise negotiations with Verizon for their Verizon Fios product to be offered in Pelham. He explained that Verizon has already begun installing fiber optic cables in the village.

Next the Mayor announced the Village's plans to have a more functional website by improving the layout and functionality of the Village's website frontpage. Administrator Slingerland contacted Superintendent of Schools Dr. Wilson, to have students from Pelham Memorial High School work on the village website as a school project.

Item #13 –

- A. Opening a Public Hearing on the plan for December 4, 2007.
- B. Presentation: Pelham's Comprehensive Plan, Saratoga Associates;
- C. Adoption of Lead Agency and SEQRA Neg. Dec:

Trustee Weinstein gave a brief overview of the Comprehensive Plan. He informed the village that the Comprehensive Plan is meant to serve as a vision and a blueprint for the village for future development and re-development. The comprehensive plan committee is made up of planners, other professionals, and residents from the village. Mayor Hotchkiss thanked the Comprehensive Plan Committee on their efforts in steering and molding the comprehensive plan.

Nicolette Wagner and Tonya Saltzman from Saratoga Associates gave a full presentation about the entire Comprehensive Plan and its goals. Nicolette Wagner highlighted several goals and objectives stated within the plan such as maintain village character and promote economic development in the downtown area of Pelham.

Once the presentation was done, residents had a chance to comment on the plan. The comments were as follows:

Patricia Maxwell Perrorazio of 18 Manning Circle mentioned that if the village plans to promote development in the downtown area that they take into account the scale of the road along Wolfs Lane and its impacts on residents of Manning Circle. She said that enforcement of the Zoning Code needs to be performed on the gas stations as soon as possible. She does not want to be negatively impacted by drainage from development on Wolfs Lane behind her property. Mrs. Perrorazio believes that the retaining wall on the Bencivengo property directly behind her home was built illegally, without a building permit, and that landfill was used to backfill the area behind the wall so that the gas

station could raise the grade and level its property. She questioned the stability of the wall. She mentioned that when it rains, because of the 100% impervious surface on the gas station property, water and mud run-off from the Bencivengo property directly behind her home are conveyed onto her property, resulting in inches of water and mud in her basement. Mrs. Perrorazio said that if the Board is considering increasing the building height limits under the Zoning Code, then the Board should take into account how the shadow lines of taller buildings would affect residents on Manning Circle. She said the Board should not allow construction and development of buildings that would cast shadows over her yard and home. Mrs. Perrorazio said that the Gas Stations' operating permits should be reviewed, and the illegal uses should be eliminated.

Mayor Hotchkiss explained that if the Village rezoned, it would not change the maximum building height from the current policy and code limit of four (4) stories in that section of Wolfs Lane. Trustee Weinstein advised Mrs. Perrorazio that she is taking things three, five, or more steps into the future. He said that any redevelopment would not eliminate businesses, that there would most likely be a mixed-use plan for retail and residential uses. He said that the Village could expect in the future varying levels of cooperation with property owners to develop and redevelop properties along Wolfs Lane. Trustees Potocki and Weinstein said that since the gas stations are a thriving business, the owners would be allowed to continue to use their properties as-is, unless the property owners chose to sell to a developer. The Board advised Mrs. Perrorazio and all present that any development/redevelopment of the Wolfs Lane properties would be subject to site plan review, giving the public full opportunity to review and comment on any proposals.

John Walsh of 110 Nyc Avenue asked the board if the height limits for existing buildings will be increased as a result of the comprehensive plan. Mr. Walsh asked if Wolfs Lane south of the train station would become like the 6-story buildings on 5th Avenue north of the train station. Mayor Hotchkiss advised him that it is very early on in the process, and that the Village has no proposals before it at this time. Trustee Weinstein responded by saying that there is a possibility that the height limits for existing buildings in Pelham will be increased, but that it is a contextual decision. He said that the buildings and streetscape in the Village have stayed the same for a very long time. He said construction/reconstruction would be taken on a case-by-case basis, not on a wholesale redevelopment of huge portions of the Downtown. Mr. Walsh asked about the Village's plans for blocks of Wolfs Lane from the Railroad to Boulevard. Trustee Weinstein explained that portions of those blocks, including certain properties between the Railroad and Boulevard, are currently underutilized, and in some cases eyesores. He said positive benefits to redevelopment would be eliminating those underutilization of those properties and increasing payments to the tax base. He said there would be some offsets that include increased traffic and the potential for school children being contributed to the schools, and other impacts on the community. Mr. Walsh asked if we are trying to position ourselves to be more attractive to developers? Trustee Weinstein said that seems an appropriate goal and use of the Comprehensive Plan. Mayor Hotchkiss stated that it is the Village's goal and objective to use the Comprehensive Plan as a marketing tool to attract developers to improve the underutilized properties in the Village. Trustee Lewis explained to Mr. Walsh that using

the Comprehensive Plan in such a way did not mean that the Village would be putting the cart before the horse. Mr. Walsh asked the Village to use caution in developing plans for the future of the Village.

Maggie Klein of The Pelham Weekly suggested that a section be included in the comprehensive plan stating the importance of the Metro North Train station to Pelham residents and commuters. She also mentioned that restaurants and the Downtown have been built up to serve Pelham as a commuting population. The commute from Pelham to New York City is approximate twenty five to thirty (25-30) minutes by train. The train station also acts as a parking facility for many residents. She said that there appear to be few recommendations in the plan for the broad residential areas of the Village. She said the comprehensive plan should include provisions to address garbage around the community, including exposed garbage on residential properties, piles of garbage in yards, and that exposed garbage brings health and safety problems with it. She said the Village should include these considerations while revising its Comprehensive Plan.

Mike Zisser of 2 Storer Avenue suggested that the Board and comprehensive plan committee discuss the implications that may arise as a result of the comprehensive plan with the public now, rather than wait until a situation arises. He said that the update to the Comprehensive Plan is long overdue. He had some suggestions about the plan and process, and that the suggested comment date is too soon, and should be extended. He said the Master Plan is suggesting a certain future for the Village, and that it is not hidden in the Plan. He said the Village through its Comprehensive Plan can and should encourage development of certain projects, with the rationale that it should prioritize underutilized and neglected sites, it should address the age-old traffic and parking problem and propose some solutions, and it should increase and sustain a diverse community. Mr. Zisser said he was concerned that the Village is losing its economic and age diversity, and that some of the suggestions for the plan do not derive from the normal Comprehensive Plan process. He asked, "In 2025, will only rich people live in Pelham?" He said that the Comprehensive Plan included a lot of good work, and he said the Village should encourage debate and discussion now, and not after the adoption of the plan. He asked what the Board thinks of economic and other issues, including diversity.

Mayor Hotchkiss said that the Village is talking about the future of the Village, and that it could focus more time on certain properties. Mr. Zisser said there are a number of potentially soft sites. It was discussed that the Village will continue to look at these around the Village for future zoning changes and development/redevelopment.

Trustee Weinstein explained that one of the chief goals of the Comprehensive Plan is to improve the Downtown, and that is not a question as to when, but how. He reminded everyone that former Mayors Scinta and Clain had both moved ahead with plans to improve the Village DPW yard, as an underutilized property. He said that in its review, the Village could consider what would work best there and encourage that kind of development.

Mr. Zisser asked if the comment time frame could be extended. The Mayor and Board announced that the deadline for additional verbal and written comments would be extended to January 22, 2008, to allow interested parties a substantial amount of time to submit their comments.

John Cassone of 312 7th Avenue said that he had served on two prior Comprehensive Plan committees. He suggested that the board consider some property tax reform for the Village residents. Senior citizens are having a difficult time staying in Pelham because the property taxes are too high. He submitted statistics that in the past the Village's population had been nearly 20% seniors. He submitted statistics which say that the senior portion of the population has dropped to 12.9% of the Village's population. He said that the village should assertively pursue senior housing in Pelham to accommodate the seniors who may not be able to afford the high taxes. He also recommended the Westchester 2000 plan recommended the consolidation of governments and services, and that Larchmont had recently consolidated its garbage collection with the Town of Mamaroneck. He said senior housing is very much needed. He said the garbage regulations should keep the storage of garbage off of the streets. He also said that there needs to be enforcement of all the laws and the zoning codes that are currently on the books.

Arthur Scinta of 123 Cliff Avenue said he had read the report, and that it is excellent. He was happy it had been undertaken, and had some lengthy comments which he submitted in writing. He thought it excellent that the Village was promoting a mixed-use Downtown. He said the Village should explore adding uses to its current list of permitted uses, broaden the tax base, and encourage other activities in the Downtown during the day. He said there should be more high-quality commercial office space. He mentioned the north-end office cluster, and said the whole Downtown should have some provisions for office space. He made comparisons with Greenwich, CT, and White Plains, and said there are benefits of having more office space and a more defined retail district. He made a comparison with the Village of Bronxville, and said there is nothing on Pondfield Road in Bronxville except for retail. He asked, in conjunction with that review, what is the ideal mix and parameters of office and retail. Mr. Scinta went on to say that a Downtown Historic District should be established to protect the more historic buildings in the Downtown. He claimed there would be no new restrictions, and said it would give property owners tax credits and other incentives to improve their properties. He said the Pelham Preservation and Garden Society encouraged the creation of a Historic District. He said the plan should address filling gaps in the Downtown business corridor, he suggested that a plan should be established to convert some of the ground-floor apartments in 17 and 21 5th Avenue into retail uses, he said there should be more parking and deck parking (he said the Master Plan of 1979 showed a deck parking on First Street), he said that in Pelham, only 67% of properties are owner-occupied, while townwide that number increases to 77%. He said the Comprehensive Plan should encourage more owner-occupied units.

Mr. Scinta continued on, stating his belief that the B2-district should prohibit two family houses, and conversions of one-family homes to two-family homes. He said that west of 5th Avenue there are many owner-absent rental properties, which property owners

buy as investments, but which are not as well cared for since the owners do not live there. Trustee Greco commented that the issue of eliminating two-family homes, and conversions of one-family to two-family zones, and when the numbers work right, those conversions will happen. Mr. Scinta said it is tough for realtors to sell two family houses in the B2-district. He also said there are potentially large impacts on the community, in particular with contributions of additional children to the school system.

The Mayor and Board continued with their discussion of the Comprehensive plan in broader terms. They discussed that the Comprehensive Plan is a map of the future for the Village. It was discussed that the report is ambiguous and needs clarification on the issue of height increase. The Board discussed that the Village had changed the Zoning Code to allow for four-story zoning in the Downtown during its review several years ago of the Marbury Corners development. It was mentioned that in some locations, the change to four stories above street level was a reduction in the maximum building height. Trustee Weinstein commented that based on the code limit on maximum building height, in feet, that in other locations in the Downtown the maximum building height was restricted to three stories. He said increasing the maximum building height for example from forty to forty five feet would allow a fourth story. He said he was not suggesting that an additional story was a small increase, but he said it was supportable.

Mr. Scinta said the Board should refine the section on upzoning, and not upzone to more than four stories. He used Marbury Corners as an example of a successful four-story development.

Mayor Hotchkiss thanked all of the members of the Comprehensive Plan Committee, under the leadership of Trustee Weinstein.

*The board decided to extend the public comment period for the Comprehensive Plan thru January 22, 2008.

A. First Action – Open the Public Hearing, and ask for Presentation by Saratoga Associates.

B. Presentation to be made by Saratoga Associates. Then Board comment, then open the floor to public comment.

See attached agenda; presentation form sets to be provided to the Mayor and Board.

C. Adoption of Lead Agency, and SEQRA Negative Declaration (no objections or comments received).

A motion was made by Trustee Greco, with a second by Trustee Morris to adopt the resolution declaring the Mayor and Board to be Lead Agency under SEQRA. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

DECLARING THE MAYOR AND BOARD OF TRUSTEES
AS LEAD AGENCY UNDER SEQRA, FOR A TYPE 1 ACTION AND
AUTHORIZING THE ADOPTION OF A LONG-FORM EAF
MAKING A NEGATIVE DECLARATION UNDER SEQRA
ON A DRAFT PROPOSED LOCAL LAW FOR THE VILLAGE OF PELHAM
ON THE REVIEW AND ADOPTION OF THE UPDATED COMPREHENSIVE PLAN
PREPARED BY SARATOGA ASSOCIATES
AND THE PELHAM COMPREHENSIVE PLAN COMMITTEE

BE IT RESOLVED, that the Mayor and Board of Trustees hereby declare themselves Lead Agency under SEQRA, noting that the Village has received no objections to it acting as Lead Agency; and

BE IT FURTHER RESOLVED, that the Mayor and Board acting as Lead Agency declare this a Type 1 Action, find that there is no impact on the environment and hereby adopt a Negative Declaration and the EAF making these findings regarding updating the Village of Pelham's Comprehensive Plan.

Item #14 – Considering Site Plan Approval for 130 5th Ave., Lola's Tea House:

Leslie Allicks of Lola's Tea at 130 Fifth Avenue gave a brief presentation about her shop. She mentioned that her shop will sell assorted teas and pastries from Tuesday to Sunday during the hours of 12 noon to 8pm. Coffee will be available upon request. Lola's Tea House will also provide a space for community meetings and book signings. There will be approximately 10 tables in the shop.

Trustee Potocki asked how the site plan review process had been. Ms. Allicks said it was a painful and arduous process, and that she had been to the Planning Board three times, and the Architectural Review Board twice. She said she would be submitting a letter recommending some changes.

Mayor Hotchkiss said the Village is reviewing amendments to the site plan review process, including having some boards like ARB and Planning meet at the same time on certain projects.

Ms. Allicks said she hoped to open in February, 2008.

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

RESOLUTION
AUTHORIZING THE SITE PLAN FOR PROPOSED LOLAS TEA HOUSE (LESLIE ALLICKS)
AT 130 FIFTH AVENUE

RESOLVED, that the application for a Site Plan for interior renovation and installation of HVAC for a commercial space is approved, based on the review and recommendations by the Planning Board; and

BE IT FURTHER RESOLVED, that conditions apply as follows:

1. That the commercial renovation must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated November 16, 2007;
2. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
3. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
4. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
5. At no time may construction commence and not strictly adhere to the construction timeline this will be considered a violation of the Planning Board approval;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by Leslie Alicks for 130 Fifth Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

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

Planning Board Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 16, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: Lola's Tea House 130 Fifth Avenue
Application to renovate interior and install HVAC

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application to alter the interior and install HVAC at the premises at

130 5th Avenue. The Planning Board requested that the HVAC unit on the roof be sited as to minimize the impact on the residential property to the rear and not be visible from the front of the building. Direction was left with the applicant as to how best to effectuate the Planning Board's request.

Work shall be performed as shown on Project Drawings A-01; A-02; A-03 and A-04 (dated 5/14/07 and Project Drawing A-05 (dated 10/29/07), prepared by DaSilva Architects.

* No ARB Memo, as no façade work involved.

Item #15 – Considering Site Plan Appvl for 236 Ancon addition, appl. by McCooey:

Aldo Devito (architect for 236 Ancon Avenue) spoke briefly about the proposed addition at 236 Ancon Avenue, with an increase to a third, larger bedroom. He said it complies with the floor area requirements, and drywells are included for stormwater management for the impervious surfaces created.

The Mayor and Board asked Mr. DeVito if he had any comments on Pelham's approval process. Mr. DeVito said he had been to the ARB and Planning Boards once each. He did say that Pelham is more difficult, but that he is happy for the strictness because of the better end result. He cited Scarsdale as a community with a very difficult site plan review process.

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

RESOLUTION
AUTHORIZING THE SITE PLAN FOR PROPOSED TWO STORY ADDITION (McCOOEY)
AT 236 ANCON AVENUE

RESOLVED, that the application for a Site Plan to construct a two story addition is approved, based on the review and recommendations by the Planning Board and the Architectural Review Board; and

BE IT FURTHER RESOLVED, that conditions apply as follows:

1. That the two story addition must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated November 26, 2007;
2. That the two story addition must be built in accordance with plans received by the Village and approved by the Architectural Review Board in their memo dated November 27, 2007 ;
3. That Grading and Drainage on the sites as shown on the plans approved by the Planning Board and
4. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
5. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
6. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
7. At no time may construction commence and not strictly adhere to the construction timeline this will be considered a violation of the Planning Board approval;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by McCooey for 236 Ancon Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

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

Planning Board Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 26, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: 236 Ancon Avenue
Application for Addition to Residence

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application for an Addition to the existing residence at 236 Ancon Avenue. The Planning Board's approval was conditioned upon the receipt of:

- (i) A basement plan showing powder room that is to be added, with detail consistent with a single family residence.
- (ii) A landscaping plan, showing in particular the screening for the HVAC equipment on the side of the house; and
- (iii) A construction schedule.

All of the above-required items have been received as directed. Work shall be performed as shown on Projected Drawings A-1, A-4, A-5, A-6, A-7, A-8, A-9 and A-10 (all dated 9/12/07 except for A-1 which is dated 8/12/07) by Aldo DiVito Architect, P.C., and on the Proposed Drainage Plan dated 10/08/07 by Michael Mastrogiacomo, P.E.

ARB Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 27, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for rear two story addition at 236 Ancon Avenue

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by Aldo DeVitto, RA for a two story addition at 236 Ancon Avenue for Mary and Eamon McCooey.

Work shall be performed as shown on. A1, A6, A7, A8, A9 & A10 dated 8/12/07.

Item #16 – Considering Site Plan Approval for 414 9th Avenue garage and driveway, application by Ferrer:

Tom Abillama (architect for 414 9th Avenue) gave a brief presentation about the project. He said this project went to the ARB twice, and that there were some changes, including no gate, a simplified fence, a change in the rear façade of the garage, a dormer added to the garage. Ron Czajka of the ARB was in attendance, and mentioned that there never was a garage before at this residence.

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

RESOLUTION
AUTHORIZING THE SITE PLAN FOR PROPOSED DRIVEWAY AND GARAGE ((FERRAR)
AT 414 NINTH AVENUE

RESOLVED, that the application for a Site Plan to construct a driveway and garage is approved, based on the review and recommendations by the Planning Board and the Architectural Review Board; and

BE IT FURTHER RESOLVED, that conditions apply as follows:

1. That the Garage and Driveway must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated October 7, 2007;
2. That the Garage and Driveway must be built in accordance with plans received by the Village and approved by the Architectural Review Board in their memo dated November 27 ,2007 ;
3. That Grading and Drainage on the sites as shown on the plans approved by the Planning Board and
4. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
5. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
6. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
7. At no time may construction commence and not strictly adhere to the construction timeline this will be considered a violation of the Planning Board approval;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by Ferrer for 414 Ninth Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

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

Planning Board Memo follows, and becomes a part of this approval resolution:

MEMO

Date: October 7, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: 414 9th Avenue
Application to add a driveway and garage

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application to add the proposed driveway and garage at 414 9th Avenue.

Work shall be performed as shown on Project Drawings A.1 and A.2 (dated 10/02/07 Rev. #3), prepared by Tom F. Abillama, RA.

ARB Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 27, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for new garage, driveway and stone retaining walls

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by Tom Abillama, RA for a new garage and driveway for 414 9th Avenue.

Work shall be performed as shown on Project Drawings A1 and A2, signed by the ARB on 11/27/07.

Note: * A key point to this project approval is that the stone of the new wall and other wall changes along the street front should match with the existing stone.

Item #17 – Considering Site Plan Approval for 130A-132 5th Ave. for Trustco Bank:

Dan Hollis, attorney for Lordae Realty, gave a brief presentation about the site plan application by Trustco. He explained that the matter had been before the Planning Board several times. He said the applicant wanted the project to look as nice as possible.

Mr. Hollis was asked for his comments on the process, and he had the following to submit. He said the process is cumbersome, and suggested the language of the ordinance needs to change. He said the Board does not need to review every change. He suggested the Building Inspector could authorize some changes, and other changes could be approved by the Planning board. He said that the Village's process pushes away other players. He cited Mount Kisco as a comparison, and said that Village's Zoning Code has much wider discretion. He mentioned that North Castle is currently performing a review to make changes to its site plan review process, in which the Building Inspector would have the discretion to determine whether a project involved a substantial or insubstantial change.

Ron Czajka of the ARB was in attendance, and said the ARB was pleased with the changes and final outcome of the project. He had one suggestion that was important to the ARB, that it makes sense to put the store in the bays of the property where the store-front is not divided. He suggested that either the bank could swap a bay of the property with the neighboring incoming tenant, or remove the masonry pillar. Mr. Hollis explained that at this time it was too late to change, and it structurally too difficult to remove the masonry pier dividing the windows.

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

RESOLUTION
AUTHORIZING THE SITE PLAN FOR PROPOSED BANK (TRUSTCO)
AT 130A-132 FIFTH AVENUE

RESOLVED, that the application for a Site Plan for interior renovation and façade change for a commercial space is approved, based on the review and recommendations by the Planning Board and the Architectural Review Board; and

BE IT FURTHER RESOLVED, that conditions apply as follows:

1. That the commercial renovation must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated November 28, 2007;
2. That the commercial renovation must be built in accordance with plans received by the Village and approved by the Architectural Review Board in their memo dated November 27, 2007 ;
3. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
4. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.

5. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
6. At no time may construction commence and not strictly adhere to the construction timeline this will be considered a violation of the Planning Board approval;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by Trustco for 130A-132 Fifth Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

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

Planning Board Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 28, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: 130-A – 132 5th Avenue, Trustco Bank
Application for Commercial Space Interior Renovation

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application for Interior Renovation of the Commercial Space in the Building located at 130-A – 132 5th Avenue, for Trustco Bank. The Planning Board's approval was conditioned upon the receipt of a construction schedule, which has been received.

All of the above-required items have been received as directed.

Work shall be performed as shown on Project Drawings A-3, A-3.1, and A-6 dated 9/26/07 by James Daly Tobin Architects.

RV

ARB Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 27, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for façade change at 130a-132 Fifth Avenue by Trustco Bank

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application submitted by James Daly Tobin, RA.

Work shall be performed as shown on Project Drawings A3, A3.1 and A6 dated 9/26/07.

Item #18 – Considering Site Plan Approval for 236 Nyac Garage, appl. by Wallace:

Jean Ippolito (architect for 236 Nyac Avenue) spoke briefly about the project. She mentioned that the applicant had a one car garage that they were expanding to be replaced with a two-car garage. Ron Czajka of the ARB reported that the ARB had approved the project and was happy with the changes.

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

RESOLUTION
AUTHORIZING THE SITE PLAN FOR PROPOSED GARAGE ENLARGEMENT (MARSHALL/WALLACE)
AT 236 NYAC AVENUE

RESOLVED, that the application for a Site Plan to construct garage enlargement is approved, based on the review and recommendations by the Planning Board and the Architectural Review Board; and

BE IT FURTHER RESOLVED, that conditions apply as follows:

1. That the Garage enlargement must be built in accordance with plans received by the Village and approved by the Planning Board in their memo dated November 30, 2007;
2. That the Garage enlargement must be built in accordance with plans received by the Village and approved by the Architectural Review Board in their memo dated November 27, 2007 ;
3. That Grading and Drainage on the sites as shown on the plans approved by the Planning Board and
4. All construction activity must comply with the Village Noise Ordinance and all construction activity must only take place on the days and times as per Village Noise Ordinance;
5. Any other actions deemed necessary by the Mayor, Village Administrator, Building Inspector, and other officials of the Village of Pelham.
6. That the application and permit shall remain subject to the continued jurisdiction of the Board of Trustees.
7. At no time may construction commence and not strictly adhere to the construction timeline this will be considered a violation of the Planning Board approval;

AND, BE IT FURTHER RESOLVED, that this application for a site plan by Marshall/Wallace for 236 Nyac Avenue, is subject to the procedures, regulations and requirements of the Pelham Village Code and Pelham Building Department; and

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

Planning Board Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 30, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Planning Board

Re: 236 Nyac Avenue
Application for Replacing One car garage with Two car garage

The Village of Pelham Planning Board (PB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application for demolition of the existing one car garage and erection of a two car garage to replace the one car garage in the same location. The Planning Board's approval was conditioned upon the receipt of a construction schedule, which has been received, and the provision of the elevation figures, which have been provided. The Planning Board approval was also conditioned upon having the lighting on the new structure match the existing fixtures on the north rear portion of the house, which the plans indicate.

Work shall be performed as shown on Project Drawings A1, A3, A10 and A11 as revised and dated 11/26/07 by Charles Ippolito, Architect.

RV

ARB Memo follows, and becomes a part of this approval resolution:

MEMO

Date: November 27, 2007

To: Village of Pelham Board of Trustees

From: Village of Pelham Architectural Review Board

Re: Application for garage enlargement at 236 NYAC Avenue

The Architectural Review Board (ARB) recommends that the Village of Pelham Board of Trustees (BOT) approve the application for an existing single car garage to be rebuilt and expanded to a two car garage as shown on plans submitted by Charles Ippolito, for the Marshall/Wallace residence.

Work shall be performed as shown on Plans dated 9/25/07.

Item #19 – Considering authorizing a reduction in the Marbury Corners Completion Bond for Ginsburg Development Corporation from \$396,401 to \$50,000:

Administrator Slingerland gave a brief explanation and history of the issue.

Upon approval of the Site Plan for Ginsburg Development Corporation's Marbury Corners Development, the Village of Pelham required a bond from the developer for the amount of all of the public improvements, e.g. the road, the lights, the sewers, the sidewalks, etc. The original amount of the bond was about \$1.5 million, reduced to about \$396,000. Now, a vast majority of those public improvements have been completed, except for an outstanding issue of the street paving at the intersection of 3rd Avenue and 1st Street. The bond of \$50,000 is sufficient to cover any additional required changes that may be necessary.

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

RESOLUTION

Authorizing a reduction in the Marbury Corners Completion Bond for Ginsburg Development Corporation from \$396,401 to \$50,000

RESOLVED, that the Board of Trustees of the Village of Pelham authorizes the reduction in the Marbury Corners Public Improvement Completion Bond provided by the Ginsburg Development Corporation from three hundred ninety six thousand, four hundred and one dollars (\$396,401) to fifty thousand dollars (\$50,000), and authorizes the Mayor, the Administrator, and the Building Inspector to take the necessary and appropriate actions to effect this reduction.

Item #20 – Adopting a SEQRA Negative Declaration compliance resolution for the Sewer Bond adopted on November 13, 2007:

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

RESOLUTION

ENVIRONMENTAL COMPLIANCE RESOLUTION TO MAKE FINDINGS AND DETERMINATIONS

WHEREAS, the Village Administrator prepared specifications and studies and an estimate of the cost of the acquisition, construction and reconstruction of sanitary sewer and storm sewer improvements and consulting studies in and for the Village authorized pursuant to a bond resolution, totaling \$180,000, including rights-in-land, original furnishings, equipment, machinery, apparatus required for such purpose, and preliminary and incidental costs related thereto (the "Project") and said engineering and architectural plans and studies have been filed in the office of the Village Clerk and are on file for public inspection; and

WHEREAS, the Board of Trustees has determined that upon the examination of an environmental assessment form (“EAF”) prepared by the Village, each component of the Project is an “unlisted action”, as that term is defined in 6 NYCRR §617.2(ak), or a “Type II action”, as that term is defined in 6 NYCRR §617.2(aj), and therefore the Village has caused the EAF to be prepared and promptly filed with the Village Clerk; and

WHEREAS, it is proposed that the maximum amount estimated to be expended for the Project is \$180,000 and that the costs of the Project are to be financed by the issuance of serial bonds of the Village in the aggregate principal amount of \$180,000 pursuant to the Local Finance Law of New York (the “LFL”) and if deemed advisable by the issuance of bond anticipation notes in anticipation of the issuance of said bonds; and

WHEREAS, it is proposed that the costs of the Project are to be paid from a tax levied upon all the taxable property in the Village in annual installments determined by the Board of Trustees in amounts sufficient to pay the principal of and interest on said bonds to be authorized in a bond resolution to be adopted by the Board of Trustees; and

WHEREAS, the evidence contained in such engineering and architectural plans and studies and in the EAF with respect to the Project permits the Board of Trustees to make the determinations hereinafter in connection with actions to be made for the purpose of authorizing the financing of the Project;

NOW THEREFORE, pursuant to proceedings prescribed in 6 NYCRR at §617 of the State Environmental Quality Review Act (“SEQRA”) regulations, BE IT RESOLVED, BY THE BOARD OF TRUSTEES OF THE VILLAGE OF PELHAM, NEW YORK, as follows:

Section 1. The Village, by and through its Board of Trustees, hereby declares and designates itself to be the “lead agency” as that term is defined in 6 NYCRR §617.2(u), with respect to the environmental review of the Project.

Section 1. Upon receipt and examination of the EAF it is hereby determined that the Project is an unlisted action or a Type II action, as those terms are defined in 6 NYCRR §617.2(ak) and §617.2(aj), respectively.

Section 3. No other agency other than the Village is involved in said environmental review and no coordinated review or segmentation of such review is necessary or required with respect to the Project.

Section 4. No hearing as set forth in 6 NYCRR §617.10(e) is required in making the determinations contained herein with respect to the Project.

Section 5. Taking into account the criteria set forth in 6 NYCRR §617.7 for determining significance of actions, upon review of all pertinent information, including taking a hard look at all the facts and circumstances, it is determined that the Project will not have a significant effect on the environment and no unidentified adverse effects are anticipated with respect thereto.

Section 7. The Village shall maintain a file, readily accessible to the public, in the office of the Village Clerk, containing this resolution, and the EAF.

Section 8. This resolution shall take effect immediately upon its adoption.

Item #21 – Scheduling a Public Hearing for December 18, 2007, on a draft proposed Code Change regarding Storm Water Management and Control, including Detection and Elimination of Illegal Connections:

History:

EPA's Phase 2 Stormwater Regulations were adopted in relation to the Clean Water Act. 1972, the National Pollutant Discharge Elimination System was enacted
1990, the EPA adopted Phase I stormwater regulations for cities and towns with over 100,000 population
1999, the EPA adopted Phase II stormwater regulations for smaller municipalities

The basic goals and objectives of these national requirements are for local municipalities to do 3 things:

1. Evaluate and map the entire systems for stormwater contributions to "impaired" waterways. This includes streams, rivers, coastal waterways and oceans. In our specific case, this relates to the Hutchinson River and the Long Island Sound.
2. Adopt laws to regulate stormwater management during and post construction, for properties under construction of an acre or more.
3. Adopt code enforcement regulations for Illegal Discharge Detection and Elimination (IDDE), which focuses mainly on detecting and eliminating connections that allow toxic materials (however common, such as fuel or vehicle oil), and more serious wastes, from entering these water bodies.

Chapter 83 accomplishes the regulations required for erosion and sediment control during construction, but at smaller square footages than the EPA requires, because these are mainly the only instances that would apply to the Village of Pelham.

Chapter 57 accomplishes the Federal and State goal of adopting requirements for the detection and elimination of illegal connections that cause pollutants to enter the natural stream, river and coastal/oceanic water systems.

To comply with the Federal requirements Phase II regulations, we have to consider and adopt changes that meet regulation, by mid-Spring, 2008.

If the proposed legislation needs to be amended, please review and advise.

A motion was made by Trustee Greco, with a second by Trustee Lewis to adopt the resolution and schedule the public hearing on December 18th. The motion was approved unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

RESOLUTION

SCHEDULING A PUBLIC HEARING

on a Proposed Local Law and Code change

as required by Federal Law for the Village of Pelham as a regulated Phase 2 MS-4

A: to enact a new Chapter 83, with new references in Chapters 34 and 79 in the Pelham Code regarding Storm Water Management and Control

and

B: to enact a new Chapter 57 in the Pelham Village Code, Regarding Detection and Elimination of Illegal Stormwater Connections.

The Board of Trustees of the Village of Pelham hereby schedules a public hearing to be held at 7:30 p.m. on Tuesday, December 4, 2007, in Village Hall at 195 Sparks Avenue, Pelham, NY, on draft proposed Local Laws that would amend the Code of the Village of Pelham, as follows:

- A. Enact A Draft Proposed Local Law to add a new Chapter 83, with new references in Chapters 34 and 79, regarding Storm Water Management and Control; and
- B. Enact a Draft Proposed Local Law to add a new Chapter 57, regarding Detection and Elimination of Illegal Stormwater Connections.

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

A. Stormwater Draft Proposed Local Law

LOCAL LAW NUMBER OF 2007

**A local law to adopt a
stormwater management
and soil erosion and
sediment control law**

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

SECTION 1

A new Chapter 83 Stormwater Management and Erosion and Sediment Control is adopted as follows:

Chapter 83

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

§ 83-1. Title

This chapter shall be known and may be cited as the "Stormwater Management and Erosion and Sediment Control Local Law of the Village of Pelham."

§ 83-2. Findings of fact.

The Village of Pelham finds that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitats for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitats;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff and thus increase streambank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil and in that way decrease groundwater recharge and stream base flow;

- F. Substantial economic losses can result from these adverse impacts on the waters of the Village;
- G. Stormwater runoff, soil erosion and nonpoint-source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint-source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 83-3. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 83-2 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, or as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities that would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution wherever possible through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 83-4. Applicability.

- A. All land development activities, including but not limited to land development activities subject to review and approval by the Planning Board, shall be reviewed subject to the standards contained in this chapter.
- B. It shall be unlawful for any person to engage in a land development activity other than an exempt activity as defined in §83-6 in the absence of a stormwater pollution prevention plan approved by the Stormwater Management Officer or other approving authority as specified in §83-4C.
- C. The Stormwater Management Officer shall be the approving authority for all stormwater pollution prevention plans except when the plan is for a property that is also the subject of a pending site plan. The Board of Trustees shall be the approving authority for any application for a property that pursuant to Chapter 79 is the subject of site plan review and approval.

§ 83-5. Exemptions.

For the purposes of this chapter, the following activities are exempt from review under this chapter:

- A. Routine maintenance activities to an existing stormwater management facility that disturb less than 500 square feet and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- B. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- C. Any part of a subdivision if a plat for the subdivision was approved by the Village on or before the effective date of this chapter
- D. Land development activities for which a building permit was approved on or before the effective date of this chapter.
- E. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- F. Emergency activity immediately necessary to protect life, property or natural resources, as determined by the Village Building Inspector.
- G. Activities of an individual engaging in home gardening, such as growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- H. Landscaping and horticultural activities in connection with an existing structure.

§ 83-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meanings set forth in this section.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version including applicable updates, which serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the "Blue Book."

GRADING — Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS SURFACES — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

LAND DEVELOPMENT ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of 1,500 square feet or more or that creates more than 500 square feet of new impervious area

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction and provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined and discrete conveyances, and shall include but not be limited to pollutants from agriculture, mining, construction, subsurface disposal and urban runoff sources.

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — A order issued which requires that all construction activity on a site to be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxic materials than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating in order to control stormwater runoff.

STORMWATER MANAGEMENT OFFICER — The Building Inspector or his representative

as designated by the Mayor and the Village Board of Trustees to accept and review stormwater pollution prevention plans to determine whether the plans comply with all applicable law, to approve plans or forward the plans to the appropriate village boards, and conduct inspections to ensure that stormwater pollution prevention plans are followed.

STORMWATER MANAGEMENT PRACTICES (SMPs) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint-source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons that also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which were neither originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or fabricated, which gathers or carries surface water.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 83-7. Stormwater pollution prevention plan requirement.

No application for approval of a land development activity shall be reviewed until the appropriate approving authority has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this chapter.

§ 83-8. Contents of stormwater pollution prevention plans.

- A. All SWPPPs shall provide the following background information and erosion and sediment controls:
- (1) Background information about the scope of the project, including location, type and size of the project;
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area, all improvements, areas of disturbance, areas that will not be disturbed, existing vegetation, on-site and adjacent off-site surface water(s), wetlands and drainage patterns that could be affected by the construction activity, existing and final slopes, locations of off-site material, waste, borrow or equipment storage areas, and the location(s) of stormwater discharges(s). The site map should be at a scale no smaller than one inch equals 100 feet;
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance .
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on site, with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project closeout;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control measure;
 - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10)] Temporary measures that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;

- (13) Name(s) of the receiving water(s);
 - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable;
 - (16) Any existing data that describes the stormwater runoff at the site; and
 - (17) An acknowledgement by the landowner granting the Village of Pelham and other agencies having jurisdiction the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.
- B. In addition to the information requirements of § 83-8A, SWPPP's for land development activities that disturb 1,500 square feet or more or that create more than 500 square feet of new impervious area,, whether or not those land developments activities involve discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or to a total maximum daily load (TDML) designated watershed for which pollutants in stormwater have been identified as a source of the impairment, must provide the following quantity and/or quality controls (post-stormwater construction controls):
- (1) Description of each postconstruction stormwater management practice;
 - (2) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
 - (3) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (4) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
 - (5) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
 - (6) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
 - (7) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall run with the land, remaining in effect with transfer of title to the property.
 - (8) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 83-14 of this chapter.

§ 83-9. Plan certification.

The SWPPP shall be prepared by a licensed landscape architect or certified professional in erosion and sedimentation control or in stormwater quality or professional engineer or other professional deemed qualified by the Department and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.

§ 83-10. Other environmental permits.

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

§ 83-11. Contractor certification.

- A. Each contractor and subcontractor identified in the SWPPP and/or successor or substituted contractor or subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- B. The certification must include the name and title of the person providing the signature, the address and telephone number of the contracting firm, the address (or other identifying description) of the site and the date the certification is made.
- C. The certification statement(s) shall become part of the SWPPP for the land development activity.

§ 83-12. Retention of the approved SWPPP.

A copy of the approved SWPPP shall be retained at the site of the land development activity during construction, from the date of initiation of construction activities to the date of final stabilization.

§ 83-13. Performance and design criteria

- A. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are

designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:

- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").
- (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, or most current version or its successor, hereafter referred to as the "Erosion Control Manual").

B. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 83-14. Maintenance, inspection, and repair of stormwater facilities.

- A. The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%, and placed in an acceptable location and properly stabilized.
- B. The applicant or developer or their representatives shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspections shall be conducted and reports of those inspections shall be completed by a professional engineer or certified professional in erosion and sediment control or in stormwater quality or other professional deemed qualified by the Department every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and copies shall be maintained in a site logbook.
- C. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall operate and maintain the practices to achieve the goals of this chapter. Proper operation and maintenance includes, at a minimum, the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this chapter.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria, or cause or contribute to water quality standard violations in accordance with § 83-13.

§ 83-15. Erosion and sediment control inspections.

A. The Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Stormwater Management Officer at least 48 hours before any of the following, as required by the Stormwater Management Officer:

- (1) Start of construction;
- (2) Installation of sediment and erosion control measures;
- (3) Installation of constructed stormwater improvements;

- (4) Completion of final grading;
- (5) Interruption of construction for more than thirty consecutive days;
- (6) Completion of final landscaping;
- (7) Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and required corrective actions. No further work shall be conducted except for site stabilization until violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a licensed professional engineer.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition

of drainage control facilities and other stormwater management practices.

- D. Submission of reports. The Stormwater Management Officer shall require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the Stormwater Management Officer shall have the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C above.

§ 83-16. Performance guarantee and record keeping.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Pelham in its approval of a stormwater pollution prevention plan, the Village may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Pelham as the beneficiary. The security shall be in an amount to be determined by the Village based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility or facilities have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facility or facilities have been found to be acceptable to the Village of Pelham. Per-annum interest, if any, on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Pelham with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village, upon written notice to the developer or landowner, may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. Entities subject to this chapter shall maintain records demonstrating compliance with this chapter.

§ 83-17. Enforcement and penalties.

- A. Notice of violation. When the Village of Pelham determines that a land development activity is violating the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a deadline for their completion;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the Village Board of Trustees by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Village may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Stormwater Management Officer confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction for a first offense; for conviction for a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Withholding a certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prohibit the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice,

the Village of Pelham may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 83- 18. Fees for services.

In accordance with Chapter 70, the Village of Pelham may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village or performed by a third party for the Village.

§83-19. Severability.

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

SECTION 2.

Sections 34-80 and 34-81 of the Code of the Village of Pelham are repealed, and a new Section 34-80 is adopted as follows:

§ 34-80. Flow of water from leaders, basements and cellars.

- A. In no case shall the water from any rain leader be allowed to flow upon the sidewalks, onto adjoining property or into the village sanitary sewer system. The water from said leaders shall be conducted by pipes laid below the surface of the sidewalk to the street gutter or to any dry well on the owner's property or to a village storm sewer drain.**
- B. Except in emergency situations, all water pumped from basements or cellars, including groundwater periodically pumped from sump pits located in such basements or cellars, shall be piped directly into any dry well on the owner's property or into a village storm sewer drain.**

SECTION 3. A new Section 34-81 of the Code of the Village of Pelham is adopted as follows;

§ 34-81. Increases in impervious surfaces

On-site improvements expanding impervious surfaces by five hundred square feet (500 s.f.) or more must include provisions for retention of storm water runoff created by a two inch rainfall.

SECTION 4.

Section 79-5G of the Code of the Village of Pelham is repealed , and the following new Section 79-5G is adopted:

That the stormwater and sanitary sewage systems are adequate to accommodate any expected loads, including all runoff from the tributary watershed at full development under the existing zoning law, that all connections to Village systems are in accordance with all applicable laws, and that pursuant to § 34-81 provisions are made for retention of storm water runoff.

SECTION 5. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

B. Illegal Discharge Detection and Elimination Draft Proposed Local Law

LOCAL LAW NUMBER OF 2007

**A local law to prohibit
illegal discharges and illicit
connections to the
municipal separate storm
sewer system**

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

SECTION 1

A new Chapter 57 Illegal Discharges and Illicit Connections is adopted as follows:

§ 57-1. Title.

This chapter shall be known and may be cited as the "Illegal Discharges and Illicit Connections Law of the Village of Pelham."

§ 57-2. Purpose; objectives.

A. The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Village of Pelham through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems.

B. The objectives of this chapter are:

- (1) To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- (2) To prohibit illegal discharges and illicit connections to the MS4;
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

§ 57-3. Definitions.

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs) -- Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT -- The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of 1,500 square feet or more.

HAZARDOUS MATERIALS -- Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE -- Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 57-6 of this chapter.

ILLICIT CONNECTIONS -- Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge, including but not limited to treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY -- Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-98-03, as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)– Facilities owned by the Village of Pelham through which stormwater is collected and/or conveyed, including but not limited to roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains:

NONSTORMWATER DISCHARGE -- Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON -- Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent or lessee.

POLLUTANT -- Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.



POLLUTANT OF CONCERN -- Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity.

PREMISES -- Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT -- A permit issued by the New York State Department of Environmental Conservation that authorizes the discharge of pollutants to waters of the state.

STORMWATER -- Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER -- The Building Inspector or his representative as designated by the Mayor and the Village Board of Trustees

WASTEWATER -- Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 57-4. Applicability.

This chapter shall apply to all water entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 57-5. Administration and enforcement.

The Stormwater Management Officer shall administer, implement, and enforce the provisions of this law. The Stormwater Management Officer may delegate any powers granted or duties imposed herein.

§ 57-6. Prohibition on illegal discharges and illicit connections.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in § 57-6A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, water from fire-fighting activities, and any other water source not containing pollutants.

(2) Discharges approved in writing by the Stormwater Management Officer to protect public health and safety.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the Stormwater Management Officer prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the The New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited.

(2) The prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Village's municipal separate storm sewer system or allows such a connection to continue.



§ 57-7. Suspension of access to MS4.

A. The Stormwater Management Officer may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The Stormwater Management Officer shall notify the person of such suspension within a reasonable time thereafter, in writing, of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the Stormwater Management Officer may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

B. Suspension due to the detection of illegal discharge. Any person discharging to the Village's MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illegal discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illegal discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illegal discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the SMO.

§ 57-8. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Village prior to the allowing of discharges to the MS4.

§ 57-9. Access to property; inspection; monitoring of discharges.

A. Applicability. This section applies to all facilities that the Stormwater Management Officer must inspect to enforce any provision of this chapter, or whenever he has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter.

B. Access to facilities.

(1) The Stormwater Management Officer shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Stormwater Management Officer.

(2) Facility operators shall allow the Stormwater Management Officer ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this chapter.

(3) The Village shall have the right to set up on any facility subject to this chapter such devices as are necessary in the opinion of the Stormwater Management Officer to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Village has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the Village access to a facility subject to this chapter is a violation of this chapter. A person who is the operator of a facility subject to this chapter commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.

(6) If the Stormwater Management Officer has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

§ 57-10. Notification of spills.

Notwithstanding other requirements of this chapter, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Village in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Village within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 57-11. Notice of violation; penalties for offenses.

A. Notice of violation. When the Village's SMO finds that a person has violated a prohibition or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- (1) The elimination of illicit connections or illegal discharges;
-  (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) Payment of a fine; and
- (6) The implementation of source control or treatment best management practices.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the Village or a contractor designated by the Village and the expense thereof shall be charged to the violator.

C. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$500 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$500 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$1,000 nor more than \$2,500 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose, only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 57-12. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the stormwater management officer to the Village Board of Trustees within 15 days of its issuance. The Village Board of Trustees shall hear the appeal within 30 days after its filing. Within five days of making its decision, the Village Board of Trustees shall file same in the office of the Village Clerk and mail a copy by certified mail to the charged party.

57-13. Corrective measures after appeal.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the Village Board of Trustees upholding the decision of the stormwater management officer (SMO), then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

C. Within 10 days after abatement of the violation by or under authorization of the SMO, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest with the Village Board of Trustees objecting to the amount of the charges within 10 days of receipt of said notice. If the amount due is not paid within 30 days after the disposition of any protest or the expiration of the time to file an appeal, whichever is earlier, the charges shall become a lien on the property to be collected in the same manner as real estate taxes.

§ 57-14. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the Stormwater Management Office may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**§ 57-15. Alternative remedies.**

A. In lieu of enforcement proceedings, penalties and remedies authorized by this chapter, when a person has violated a provision of this chapter, he/she may be eligible for alternative remedies, upon recommendation of the Village Counsel and concurrence of the Stormwater Management Officer, if

- (1) The violation was unintentional.
- (2) The violator has no history of previous violations of this chapter.
- (3) Environmental damage was minimal.
- (4) Violator acted quickly to remedy violation.
- (5) Violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops.
- (2) Storm drain stenciling or storm drain marking.
- (3) River, stream or creek cleanup activities.

§ 57-16. Violations deemed a public nuisance.

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

§ 57-17. Remedies not exclusive.

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

 **§ 57-18. Severability.**

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

SECTION 2. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Item #22 – Scheduling a Public Hearing for December 18, 2007, on a draft proposed Code Change regarding changes to the Alarm Code:

The basic purpose of this change to the Village's Alarm Code is to provide for proper registration to the Village of Pelham by people who have Alarms installed in their homes (either burglar, fire, or other alarms), and then new provisions for notice about contacts and alarm service providers, and then the provision that up to 3 false alarms incur no violation or charge by the Village, but 4th alarm and each alarm thereafter constitutes a violation and is subject to a fine.

Martha Conforti and Lt. DeGrosso reviewed the law, and also made other changes to improve the effectiveness of the Code.

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

RESOLUTION

SCHEDULING A PUBLIC HEARING
on a Proposed Local Law to amend the Alarm Code
Chapter 27 of the Village Code
With regard to registration for alarm systems, and
Allowing up to three (3) false alarms prior to the issuance of a violation

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

Enact amendments to amend Chapter 27 of the Pelham Code on Alarm Systems With regard to registration for alarm systems, and allowing up to three (3) false alarms prior to the issuance of a violation.

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

By Order of the Mayor and Board of Trustees

Terri Rouke, Village Clerk

Richard Slingerland, Village Administrator/Deputy Clerk

LOCAL LAW NUMBER OF 2007

A local law to repeal Chapter 27 and adopt a new Chapter 27 Alarm Systems

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

SECTION 1

The current Chapter 27 of the Code of the Village of Pelham is repealed and a new Chapter 27 ALARM SYSTEMS is adopted as follows:

Chapter 27 ALARM SYSTEMS

' 27-1. Findings; purpose.

The Village of Pelham finds that the frequency of false alarms from alarm systems to the Police and Fire Departments hinders the efficiency of those Departments, may expose the police, firefighters, and the general public to avoidable hazards and risks, waste taxpayer funds and may result in delays of emergency services to those who actually need them. The purpose of this chapter is to reduce the number of false alarms and promote the responsible use of alarm devices in the Village of Pelham.

' 27-2. Definitions.

As used in this chapter, unless the context otherwise requires, the following phrases, words and their derivations shall be defined as follows:

ALARM SYSTEMS

- A. Any system designed to call for Police or Fire Department response when activated by a criminal act, fire or other emergency which:
 - 1. Transmits a signal to police or fire headquarters.
 - 2. Transmits a signal to a person who relays information to police or fire headquarters.
 - 3. Produces an audible or visible signal to which the Police or Fire Departments are expected to respond.
- B. This definition does not include systems which:

1. Are designed to alert or signal only persons within the premises on which the system is installed.
2. Are installed in a motor vehicle or trailer.

ALARM USER The owner or tenant or any premises in which an alarm system is located.

DIAL ALARM A telephone-interfaced device that automatically connects to police or fire headquarters and transmits a pre-recorded voice message to report an emergency condition that requires a response by the Police Department or Fire Department.

FALSE ALARM Any activation of an alarm system to which the Police or Fire Departments respond and which is not caused by a criminal act, fire or other emergency.

VILLAGE The Incorporated Village of Pelham.

' 27-3. Registration requirement.

A. Every alarm user of an alarm system in the Village of Pelham and controlled by this chapter must register the alarm system by filing within the time limits set forth in ' 27-3B, C and D the following information with the Police Department:

- (1) The type of alarm system.
- (2) The street address and the nearest cross street of the building that houses the alarm.
- (3) In the case of commercial premises, the name, address and telephone number of an authorized representative and an alternate representative who when called by the police will be able to respond immediately to deactivate the alarm system.
- (4) In the case of a private residence, the name, address and telephone number of the person residing at the address and the name, address and telephone number of a person who is not a resident of the private residence in question and who when called by the police will be able to respond immediately to deactivate the alarm system.
- (5) In the case of a multi-dwelling building, a commercial building housing more than one business, a building with both residential and commercial uses, or a complex of more than one building, the registration of the alarm system must include a description of the location of the alarm system. This information shall

include the following information where applicable: building number, floor, and apartment, suite or office number.

- (6) The name, address and telephone number of the person, firm, business or corporation installing, servicing and/or maintaining the alarm system.
- B. Every alarm system must be registered with the Police Department within fifteen days of its installation.
- C. Whenever the alarm user at a premises changes, within two weeks of such change the new alarm user must file a new registration for the alarm system with the Police Department.
- D. Alarm systems installed prior to the effective date of this law must be registered with the Police Department within sixty days of the effective date of this law.

† **27-4. Confidential Information**

Information obtained by the Police Department under this chapter relating to particular alarm users and their alarm systems shall not be divulged without the written consent of the alarm user, except as necessary or appropriate to the enforcement or administration of this chapter or to assist the Police Department or Fire Department in responding to an alarm,

† **27-5. Requirements for alarm systems.**

- A. Every alarm system shall be equipped so that, upon the activation of a burglary alarm, there shall be a delay of at least thirty (30) seconds before the transmission of a signal to the Police Department so as to enable the user to abort the signal in the event that it was triggered inadvertently. This delay shall not be applicable to alarms activated in cases of criminal acts involving physical injury or the threat of physical injury or alarms activated in cases of medical emergencies.
- B. Every alarm system installed in the Village shall be designed and equipped to prevent activation by loss of electrical power.
- C. Every alarm system emitting an audible or visual signal outside the house, whether such system is connected to police headquarters or operates independently, must be equipped with a system which automatically shuts off the outside audible or visual signal within 15 minutes of its activation.

† **27-6. Dial alarms**

The use of dial alarms in the Village of Pelham is prohibited.

▸ **27-7. Additional rules and regulations.**

The Village Administrator is hereby authorized to make and publish supplemental rules and regulations concerning all matters regarding alarm systems. The Village Administrator is also authorized to change and modify same. All such rules and regulations and any changes and modifications thereto must not conflict with the provisions herein, shall be approved by and adopted by resolution of the Village Board of Trustees and shall only be effective after a copy thereof has been filed with the Village Clerk.

▸ **27-8. Village liability.**

The Village, its officers, employees or agents shall have no responsibility for equipment costs, installation charges or damages resulting from the failure of the alarm system to operate or the failure of the Village to respond to an alarm or for losses incurred as a result of damages to the alarm system in the event that it becomes necessary for the Village to disconnect the alarm pursuant to this chapter.

▸ **27-9. Intentional false alarms.**

Intentionally causing a false alarm is a violation of this chapter, and the violator shall be subject to the penalty provisions of ' 1-12 of Chapter 1 of the Code of the Village of Pelham.

▸ **27-10. Repeated false alarms.**

Alarm users shall be responsible for the maintenance , service, and proper use of their alarm systems. When an alarm user=s alarm system causes more than three false alarms within one year, the alarm user is in violation of this section and subject to the penalty provisions of ' 1-12 of Chapter 1 of the Code of the Village of Pelham.

▸ **27-11. Disconnection.**

In the event that an alarm system emitting an audible or visual signal shall fail to be deactivated within the time limitation specified herein, the Village shall have the right to take such action as may be necessary to disconnect the alarm.

▸ **27-12. Severability.**

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall be rendered.

SECTION 2. Effective Date

This local law shall take effect immediately upon the filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Draft dated 11/15/07

Item #23 – Authorizing Change Orders to the Design contract with PCI for the Village Yard, and the Village’s inter-modal parking Lot 1 on First Street:

This topic was tabled. Administrator Slingerland was directed to advise Professional Consulting Inc. (PCI) to recalculate their numbers for the proposed change orders, because they are too high.

RESOLUTION

Authorizing Change Orders
to the Design contract with PCI for the Village Yard
and the Village’s inter-modal parking Lot 1 on First Street

RESOLVED, that the Mayor and the Board of Trustees authorize Change Orders as detailed in the Change Order Letter from PCI dated November 5, 2007, received by the Village on November 13, 2007, as follows:

- Part 1 – Village Yard roofed vehicle and storage bays
- Part 2 – Alt. A. – Lot 1 Upper and Lower Lot construction, paving only
- Part 2 – Alt. B. – Lot 1 Upper and Lower Lot construction, including parking deck over Lower Lot 1

FURTHER RESOLVED, that the Mayor, the Village Administrator and other necessary and appropriate Village officials are authorized to take the necessary and appropriate actions to sign and authorize the change orders as approved.

Item #24 – Authorizing the successful completion of probation for Fire Lieutenants Brennan, DiNapoli and Keiser:

Trustee Greco and Administrator Slingerland gave a brief background of the establishment of lieutenants in the Pelham Fire Department. The said it has worked out well, and the first three lieutenants appointed have established a ranking system with accountability and responsibility within the fire department. It was also mentioned that the Lieutenants are to establish a program for regular, daily training for all firefighters, to improve training and preparedness for the department.

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

RESOLUTION

AUTHORIZING THE SUCCESSFUL COMPLETION OF PROBATION FOR FIRE LIEUTENANTS BRENNAN, DINAPOLI AND KEISER

BE IT RESOLVED, that the Mayor and Board of Trustees hereby authorize the successful completion of probation for Fire Lieutenants Kevin Brennan, James DiNapoli and Julian Keiser are hereby approved.

Item #25 – Authorizing the Village to enter into an agreement with the CSEA for the time period of June 1, 2007 through May 31, 2010; and adoption of 41-j for ERS employees in the New York State Retirement System:

* This topic was tabled. The board wanted to hear from Village Attorney Bob Tracy and Trustee Mia Homan about the negotiations before making their decision.

RESOLUTION

Authorizing the Village to enter into an agreement
with the CSEA bargaining unit of the Village of Pelham DPW
for the time period of June 1, 2007 through May 31, 2010
and adoption of 41-j for ERS employees in the
New York State Retirement System

Item #26 – Authorizing the Accounts Payable:

The first item is authorization for one previously held invoice, which was subject to request for further back-up, the invoice for emergency light and radio installations into a police vehicle that was held for additional detail from the vendor.

The second resolution is the normal, bi-weekly accounts payable authorization. * As a note – the largest amounts of payments to be authorized in these accounts payable are for the payments to the New York State Retirement Systems, for separate checks to the Police and Fire Retirement System (PFRS) for \$657,524 and Employee Retirement System (ERS) for \$125,622, totaling \$783,146.

A motion was made by Trustee Greco, with a second by Trustee Lewis to adopt both of the resolutions. The resolutions were approved unanimously by vote of six in favor, none opposed. Trustee Homan 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; and

WHEREAS, upon audit the Mayor and Board of Trustees had questions regarding certain bills and backup, which were investigated, additional information and departmental provided, and these bills and invoices are hereby submitted for Board consideration.

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	\$1,775.00
Water Fund	\$0.00
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$0.00
H3 Fund	\$0.00
Expendable Trust Fund	\$0.00
Grand Total	\$1,775.00

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

This resolution is for regular bi-weekly authorizations:

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	\$998,248.35
Water Fund	\$ 3,809.07

Capital Projects Fund	\$ 66,773.75
Trust and Agency Fund	\$ 3,480.00
H3 Fund	\$0.00
Expendable Trust Fund	\$0.00
Grand Total	\$1,072,311.17

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

Item #27 – Old Business/New Business:

Trustee Potocki mentioned that the village received a letter from the Pelham Rowing Association, thanking the village for allowing the rowing club to use the third floor of the firehouse to practice. The rowing club will be moving its future practices to the New Rochelle YMCA.

Item #28 – Minutes – November 13, 2007:

The minutes from November 13, 2007 were tabled until the next scheduled Board of Trustees meeting on Tuesday, December 18, 2007.

Item #29 – Executive Session:

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

Item #30 – Adjournment:

On the motion of Trustee Lewis, seconded by Trustee Morris, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 10:45p.m., to discuss personnel matters. The motion was passed unanimously by vote of six in favor, none opposed. Trustee Homan was absent.

Respectfully submitted,

Devron Wilson, Administrative Aide

Richard Slingerland, Administrator/Deputy Clerk