

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING
TUESDAY, NOVEMBER 21, 2006, 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
6. Public Comment

#	Agenda Items:	Approximate Time of Discussion
	Public Hearings	8:30 p.m.
7.	Public Hearing on various proposed changes to the Residential Zoning Code in the Village of Pelham	Continued to Dec.5th and Dec. 19th
8.	Public Hearing on and adoption of proposed village code updates to various Code sections for licenses and enforcement.	Approved
9.	Public Hearing on and consideration of proposed Village of Pelham Annual Public Housing Agency Plan for Federal FY 4/1/2007 through 3/31/2008	Approved
	Housekeeping	9:00 p.m.
10	Authorizing the accounts payable.	Approved
11	Old Business/New Business:	Discussed
11A	Scheduling a Public hearing on a Proposed Amendment to the Village Zoning Code regarding Parking Requirements for Residential Zones (Not including "M" Zones) to be held on December 5, 2006.	Scheduled
11B	Scheduling a Public Hearing to increase the Village of Pelham's Water System Rates.	Scheduled
12	Minutes: October 17, 2006 and November 7, 2006	Approved
13	Adjournment.	Adjourned

Next Regular Board Meetings are Tuesdays December 5, 2006 and December 19, 2006

All meetings start at 7:30 p.m. unless otherwise noted.

* Agenda is subject to change until the night of the meeting.

VILLAGE OF PELHAM BOARD OF TRUSTEES REGULAR MEETING MINUTES
TUESDAY, NOVEMBER 21, 2006, 7:30 PM
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 Michael J. Clain at 7:35 p.m.

The following members of the Board of Trustees were present:

Mayor Michael Clain, Trustees Greco, Homan, Hotchkiss, Merrick, Mohan and Potocki.

Village staff in attendance:

Administrator Richard Slingerland and Administrative Aide Devron Wilson.

Item #2 – Pledge of Allegiance:

The Pledge of Allegiance was led by Mayor Michael J. Clain.

Item #3 – Mayor's Report:

Mayor Clain reported that the fire inspection ceremony and the parade were both wonderful. He thanked all of the organizers and volunteers who participated in making the event a success. He also reported that Westchester County decided that they cannot participate in the Senior Housing Project.

Item #4 – Trustees Reports:

Trustees Greco and Homan had nothing to report.

Trustee Potocki suggested the following additional permit areas for the BOE:

- 3-4 parking spots on the South side of Colonial Ave. bet. Wolfs and Stellar
- 5-7 parking spots on the South side of Colonial Ave. bet. Pelhamdale and Highbrook
- 2 parking spots on the North side of Colonial Avenue if the high school eliminates the maintenance gate.
- Offer the parking spots on the East side of Wolfs Lane to the school to use after 9am. Before 9am those spots are in a drop off zone.

He also informed everyone that the village cannot put a DO NOT ENTER RESIDENTS ONLY sign at the corner of Carol and Brookside Avenues. However, the village will put (2) NO THRU TRAFFIC signs and a larger ONE WAY sign at the entrance of Brookside Avenue.

Trustee Hotchkiss reported that he was unable to get in contact with the gentleman who is suppose to be performing the village website work. He also reported that Village Administrator Richard Slingerland and Administrative Aide Devron Wilson purged the website of all outdated material thereby making the website much more efficient.

He further mentioned that the village should consider having a consultant meet with village representatives to discuss how the village can become more energy efficient. If

the village were to consider this, the first step would be to contact Power Authority since this is the company that supplies the village with its power.

Trustee Merrick reported that Hank White has agreed to render his design services to the village for the Wolfs Lane Park project. He submitted a proposal to the village for review.

Trustee Mohan reported that the fire inspection, 5th Avenue parade, and the award ceremony at the firehouse all went well.

Item #5 – Village Administrator’s Report:

Village Administrator Rich Slingerland reported that Con Edison is still doing work along Lincoln Avenue. At their current rate of construction, it is scheduled that they will complete their construction work in Pelham within the next two to three weeks. The entire Cedar Street Project is scheduled to be completed by the end of March, 2007.

He also reported that the garbage and architectural services contracts are out to bid. The village facilitated a tour of the Village Yard/DPW on Tuesday November 21, 2006 at 10am for the architectural firms that are bidding on the Architectural/Engineering Services Project.

Item #6 – Public Comment:

John Cassone of 7th Avenue mentioned that the Pelham police did a good job at directing traffic along Lincoln Avenue while Con Edison is working on the street.

Item #7 – Public Hearing on various proposed changes to the Residential Zoning Code in the Village of Pelham:

Paul Osmolskis suggested that the village get outside counsel from a planning firm about the residential zoning code changes. He mentioned that Section 4.-1B regarding an addition to a residential building, was not specific enough. He also mentioned that Section 5 regarding floor area, was not defined well either.

Anna Relebrio of 201 Highbrook Avenue suggested that most of the homeowners in Pelham and the general public do not know what the policies of the code mean. (i.e. site plan and F.A.R.). She also asked the village Board of Trustees if they researched other municipality codes before making changes. Planning Board Chairman Gwen Tapogna responded by letting everyone know that the committee responsible for the residential zoning code changes did plenty research before arriving at the current changes.

A motion was made by Trustee Homan, with a second by Trustee Merrick to adopt Sections 1-3 of the Residential Zoning Code and replace references of Building Committee with Building Inspector. The motion passed unanimously by vote of seven in favor, none opposed.

PUBLIC HEARING ON A PROPOSED
AMENDMENT TO THE VILLAGE CODE REGARDING
THE BUILDING COMMITTEE, SITE PLAN AND ZONING CODE
TO BE HELD ON NOVEMBER 21, 2006

RESOLVED, that the Board of Trustees of the Village of Pelham hereby schedule a public hearing to be held at 7:30 p.m. on November 21, 2006 in Village Hall at 195 Sparks Avenue, Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, to accomplish the following:

A local law that amends various sections of the Code including Chapters 34, 75, 77, 79 – the Site Plan Code, replacing references to Building Committee with Building Inspector, and various sections of Chapter 79 regarding limits of construction requiring a site plan, enlargement of a building, amendment of an approved site plan, notification, and sections of the Zoning Code, Chapter 98, applicable to residential uses and zones, including permitted uses, swimming pools, home professional offices, required parking spaces, non-conforming uses, curb-cuts and Floor Area Ratios.

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

LOCAL LAW NUMBER OF 2006

A local law that amends various sections of the Code including Chapters 34, 75, 77, 79 – the Site Plan Code, replacing references to Building Committee with Building Inspector, and various sections of Chapter 79 regarding limits of construction requiring a site plan, enlargement of a building, amendment of an approved site plan, notification, and sections of the Zoning Code, Chapter 98, applicable to residential uses and zones, including permitted uses, swimming pools, home professional offices, required parking spaces, non-conforming uses, curb-cuts and Floor Area Ratios.

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

SECTION 1.

The following changes are made in Chapter 34 Building Construction of the Code of the Village of Pelham:

- 1) Section 34-4 is repealed and the following new Section 34-4 is enacted:

§ 34-4. Appointment of Building Inspector.

A Building Inspector shall be appointed by the Board of Trustees of the Village of Pelham.

- 2) The title of Section 34-5 is repealed and the following new title of Section 34-5 is enacted:

§ 34-5. Duties of Building Inspector.

- 3) Section 34-5A is repealed and the following new Section 34-5A is enacted:

A. The Building Inspector shall enforce all applicable laws relating to the construction, alteration, repair, removal, demolition, equipment use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for and shall have all the authorization and powers provided in § 383 of the Executive Law of the State of New York. Electrical inspections, however, shall be provided by an approved electrical inspection agency in cooperation with and at the request of the Building Inspector.

- 4) Section 34-6 is repealed and the following new Section 34-6 is enacted:

§ 34-6. Right of entry.

In the discharge his duties, the Building Inspector shall have authority to enter any building, structure or premises at any reasonable hour.

- 5) Section 34-7 is repealed and the following new Section 34-7 is enacted:

§ 34-7. Records.

The Building Inspector shall keep careful and comprehensive records of applications, of permits issued or certificates issued and of notices or orders issued. The Building Inspector shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence.

- 6) Section 34-8 is repealed and the following new Section 34-8 is adopted:

§ 34-8. Cooperation of other officials.

In the discharge his duties the Building Inspector may request and shall receive so far as may be necessary, the assistance and cooperation of the Chief of Police in enforcing orders and of other village officials.

- 7) Section 34-10 is repealed and the following new Section 34-10 is adopted:

§ 34-10. Application.

Application for a permit shall be made in writing on forms supplied by the Building Inspector. Such application shall be made by the owner or lessee or agent of either or the architect, engineer or builder employed in connection with the proposed work. The application shall contain the address of the owner or authorized agent. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee or of the person making the application. The affidavit will state that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application.

- 8) The introductory lines of Section 34-11 preceding Subsections A-C is repealed and the following new lines are enacted:

The application shall briefly describe the proposed work, shall give such information as may be necessary for an intelligent understanding of the proposed work and as part thereof, there shall be filed with the Building Inspector the following:

- 9) Section 34-14 is repealed and the following new Section 34-14 is adopted:

§ 34-14. Affidavit required.

Whenever the plans accompanying an application are for a structure which, in the opinion of the Building Inspector, is of complex design, the Building Inspector shall require the applicant to file an affidavit signed by an architect or engineer licensed by the State of New York and certifying that the plans and specifications comply with the provisions of this chapter in effect on the date of the application.

- 10) Section 34-17 is repealed and the following new Section 34-17 is adopted:

§ 34-17. Action on application.

It shall be the duty of the Building Inspector to examine and pass upon applications for permits within a reasonable time after filing.

- 11) Section 34-18B is repealed and the following new Section 34-18B is adopted:

B. Every approval of plans, every certification or endorsement of a variation or modification of a statutory provision and every duly issued order by a properly constituted state authority shall be presumptive evidence of the validity of such approval, certification, endorsement or order and, insofar as the jurisdiction of such authority extends, shall be binding on the Building Inspector, and a permit shall be issued in accordance therewith.

- 12) Section 34-19 is repealed and the following new Section 34-19 is adopted:

§ 34-19. Compliance with fire prevention regulations required.

Each permit for the construction or alteration of a multiple-family dwelling, commercial or office building or structure must comply with the provisions of applicable village, county and state fire prevention laws and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code.

- 13) Section 34-20 is repealed and the following new Section 34-20 is adopted:

§ 34-20. Approval in part.

Pending the approval of an application for a permit, the Building Inspector may issue a temporary permit for any portion of the work, provided that that portion of the work conforms to the requirements of this chapter.

- 14) Section 34-25 is repealed and the following new Section 34-25 is adopted:

§ 34-25. Disapproved plans to be retained.

The Building Inspector shall retain on file plans or sketches which have been disapproved.

- 15) Section 34-26E is repealed and the following new Section 34-26E is adopted:

E. The Building Inspector shall have the right to reject an application if prevailing distances and conditions are a danger to village streets, trees or public safety.

- 16) Section 34-27 is repealed and the following new Section 34-27 is adopted:

§ 34-27. Signs.

Applications for sign permits shall comply with Chapter 77 Signs, Awning, Canopies, Marquees and Barber Poles.

- 17) Section 34-42 is repealed and the following new Section 34-42 is enacted:

§ 34-42. Contents of certificate.

The certificate of occupancy shall be in such form as the State Building Council shall prescribe. In the absence of such prescription, the certificate of

occupancy shall certify that such building conforms to the requirements of the building regulations of the New York State Uniform Fire Prevention and Building Code applicable to it and shall state the compliance with approved plans and specifications, the purpose for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons that may be accommodated in the several stories in case such numbers are limited by any provisions of this chapter or any other statute and other special stipulations of the permit, if any. The Building Inspector shall establish rules and regulations requiring written applications and such other requirements for the issuance of the certificate of occupancy as he may deem necessary. A certificate of occupancy may be temporary or for a term or permanent, but subject to cancellation for cause.

- 18) Section 34-45 is repealed and the following new Section 34-45 is enacted:

§ 34-45. Compliance with fire prevention regulations required.

No certificate of occupancy for multiple-family dwelling, commercial or office building shall be issued until the owner or his duly authorized agent files with the Building Inspector certifications stating that the work complies with the provisions of applicable village, county and state fire prevention laws and regulations. If such work deviates from original plans submitted, resubmission of plans and approval must be secured from the Building Inspector.

- 19) Section 34-53 is repealed and the following new Section 34-53 is adopted:

§ 34-53. Watchman.

When deemed necessary by the Building Inspector, a competent watchman shall be kept on duty at all times while work of construction, alteration or repair is not actually going on.

- 20) Section 34-54B is repealed and the following new Section 34-54B is enacted:

B. Outside building. Materials and equipment shall not be stored in a street except by special permit issued by the Building Inspector. When deemed necessary by the Building Inspector, materials stored outside of the building may be required to be secured and covered.

- 21) Section 34-56 is repealed and the following new Section 34-56 is adopted:

§ 34-56. Warning lights.

All pits, excavations, fences, barriers, builder's equipment, building materials or rubbish in or upon a street shall have placed upon or by them, after dark, illuminated lamps with red globes or appropriate fire torches, as may be

necessary for the protection of the public, in such manner as approved by the Building Inspector.

- 22) Section 34-60 is repealed and the following new Section 34-60 is adopted:

§ 34-60. Permit required.

Every person, firm or corporation, before doing any electrical work in the Village of Pelham, shall file with the Building Inspector, on blanks furnished for that purpose, an application for a permit. This written filing shall be supplemented by any description or plans or diagrams that the Building Inspector deems necessary. (See Article XII of this chapter for fee.)

- 23) Section 34-67 is repealed and the following new Section 34-67 is adopted:

§ 34-67. Permit required.

Every person, firm or corporation, before doing any plumbing work in the Village of Pelham, shall file with the Building Inspector, on blanks furnished for that purpose, an application for a permit, including such information and description of work and diagrams as the Building Inspector deems necessary. (See Article XII of this chapter for fee.)

- 24) Section 34-68 is repealed and the following new Section 34-68 is adopted:

§ 34-68. Approval of specifications, plans and drawings required.

Where the building plans and specifications do not contain sufficient details, the Building Inspector may require the plumber to file a drawing on tracing cloth or a print of the system of plumbing showing the location of the various fixtures, lines, valves and other items required by the code. This must be approved by the Building Inspector before work is commenced.

- 25) Section 34-71 is repealed and the following new Section 34-71 is adopted:

§ 34-71. Work to conform to approved plans.

It shall not be lawful to do plumbing and drainage work except pursuant to approved drawings and descriptions or approved amendments thereof where same are required by the Building Inspector.

- 26) Section 34-72 is repealed and the following new Section 34-71 is adopted:

§ 34-72. Acting for unlicensed plumber prohibited.

No registered and licensed plumber shall sign the specifications, drawings or plans and act as an agent for a plumber who is not duly registered and licensed.

- 27) Section 34-74 is repealed and the following new Section 34-74 is adopted:

§ 34-74. Repairs or alterations required for occupancy.

Repairs or alterations of plumbing systems required for occupancy or that cause structural changes in the building shall require approval of plans and application by the Building Inspector before work is commenced.

- 28) Section 34-75 is repealed and the following new Section 34-75 is adopted:

§ 34-75. Notice to Building Inspector required.

Notice of any repairs or alterations of plumbing systems shall be given to the Building Inspector before the same are commenced in all cases except for the repair and clearance of obstructions in piping.

- 29) Section 34-78 is repealed and the following new Section 34-78 is adopted:

§ 34-78. Notice of commencement of work.

Written notice shall be given to the Building Inspector by the plumber when any work is begun and from time to time when any work is ready for inspection. No part of the work shall be covered until it has been examined, tested and approved by the Building Inspector.

- 30) Section 34-79 is repealed and the following new Section 34-79 is enacted:

§ 34-79. Testing.

The entire plumbing system within the building shall be subjected to tests as prescribed in the New York State Uniform Fire Prevention and Building Code. Such tests shall be performed by the plumber in the presence of the Plumbing Inspector. All pipes must remain uncovered in every part until they have successfully passed the test. The plumber must securely close all openings as directed by the Building Inspector. The use of wooden plugs for this purpose is prohibited.

- 31) Section 34-82 is repealed and the following new Section 34-82 is adopted:

§ 34-82. Routing of pipes.

Such routing of pipes must be approved by the Building Inspector, and if the village sidewalk, curb or drain are involved, such work must satisfy provisions of the village ordinance governing street openings.

SECTION 2.

The following changes are made in Chapter 75 Sidewalk Cafes of the Code of the Village of Pelham:

- 1) Section 75-3E is repealed and the following new Section 75-3E is enacted:

The specific location of tables, chairs and any other structures related to the sidewalk cafe shall be approved by the Building Inspector. The Inspector shall have authority to determine that tables, chairs or other structures associated with the sidewalk cafe shall not be placed in **certain locations, notwithstanding that other locational criteria set forth in this chapter may be satisfied.**

- 2) Section 75-4A is repealed and the following new Section 75-4A is adopted:

All furniture shall be of metal or wood construction and shall be white or of a dark color, shall be uniform and shall be reviewed by the Architectural Review Board prior to approval by the Building Inspector. In the event that the Building Inspector does not adopt the recommendation of the Architectural Review Board, the matter shall be brought before the Village Board of Trustees for a final decision.

- 3) Section 75-4D is repealed and the following new Section 75-4D is adopted:

Furnishings or structures shall not be attached, temporarily or permanently, to the sidewalk or any other public property, provided that railings may be secured by means of flush-mounted anchors in a manner approved by the Building Inspector. The permittee shall be responsible for any sidewalk damage incurred.

- 4) Section 75-6B is repealed and the following new Section 75-6B is adopted:

An annual permit, secured from the Building Inspector, shall be required for all sidewalk cafe operations. The Board of Trustees shall, by general resolution, establish the permit fee for sidewalk cafes. In the event that the Building Inspector shall deny any application for a sidewalk cafe, it shall provide the applicant with the reasons for the denial in writing. An applicant may appeal such denial to the Village Board of Trustees, which shall have the power to affirm, reverse or modify the decision of the Building Inspector. Any such appeal must be taken within 30 days of the date of the Building Inspector denial. All decisions of Board of Trustees shall be final.

- 5) Section 75-6E is repealed and the following Section 75-6E is adopted:

A letter of application for a permit to operate a sidewalk cafe shall be submitted to the Building Inspector and shall include, at a minimum, the following information:

- (1) The name, address and title of the applicant.
- (2) The name and address of the property owner, if different from the applicant.
- (3) Consent of the owner of the property to submit the application, in the event that the applicant is not the owner.
- (4) An agreement to indemnify, defend and save harmless the village, its Board of Trustees, officers, employees and agents from and against any claim, loss, liability or damage, including reasonable attorneys' fees, resulting from bodily injury, including death and property damage, sustained by any person as a result of a permittee's operation of a sidewalk cafe on public property.
- (5) A certificate of insurance, acceptable to the village, stating that an applicant for a permit has, in full force and effect, public liability and property damage insurance. The certificate shall name the village, its Board of Trustees, officers, employees and agents as additional insureds. The certificate of insurance shall state that such insurance shall not be canceled or revoked prior to 30 days' written notice to the village.
- (6) A drawing or rendering of the placement of tables, chairs, barriers, planters and any other structures or furnishings which will form a part of the sidewalk cafe.

SECTION 3.

The following changes are made in Chapter 77 Signs, Awnings, Canopies, Marquees and Barber Poles:

- 1) Section 77-3A is repealed and the following new Section 77-3A is adopted:

No sign, awning, canopy, marquee or barber pole nor any illumination thereof shall be erected, relocated or altered without a permit issued by the Building Inspector unless the item falls within the exceptions set forth in § 77-4.
- 2) Section 77-5C(2)(h) is repealed and the following new Section 77-5C(2)(h) is adopted:

Such other information that the Architectural Review Board and the Building Inspector may require to show compliance with the provisions of this chapter.

- 3) Section 77-5E is repealed and the following new Section 77-5E is adopted:

The Architectural Review Board shall examine every application made pursuant to § 77-3. Once the Architectural Review Board has concluded that the proposed item conforms to this chapter, it shall approve the application and forward it to the Building Inspector.

- 4) Section 77-5F is repealed and the following new Section 77-5F is adopted:

After the Architectural Review Board has approved an application pursuant to § 77-3 and the Building Inspector has determined that a proposed structure meets the structural standards of all applicable codes, the Building Inspector must issue a permit once the applicant has provided:

- (1) Payment of the permit fee established by resolution of the Village Board of Trustees;
- (2) Satisfactory evidence of compliance with the provisions of the State Worker's Compensation Law;
- (3) When required by § 77-6, satisfactory proof of insurance; and
- (4) When required by § 77-9(F)(1), proof of approval by the Zoning Board of Appeals.

- 5) Section 77-7B(1) is repealed and the following new Section 77-7B(1) is enacted:

Both the Architectural Review Board and the Building Inspector have verified that the applicant has complied with the permit; and

- 6) Section 77-8C(1) is repealed and the following new Section 77-8C(1) is adopted:

The Architectural Review Board and the Building Inspector have verified that the subject item still complies with this Code.

SECTION 4.

The following changes are made in Chapter 79 Site Plan Approval of the Code of the Village of Pelham:

- 1) Sections 79-4 A and 79-4B are repealed, and the following new Sections 79-4A and 79-4B are enacted:

-
- A. The erection of any building in any district, other than a permitted accessory building in a residential zone with a building area of less than two hundred and seventy-five square feet (275 s.f.).
 - B. The enlargement of any residential building that
 - 1) Consists of an addition of one half story or more; and/or
 - 2) The expansion the living space (as defined by the NYS Building Code) by more than forty percent (40%) or one thousand square feet (1,000 s.f.).
 - 2) The following new section 79-4F is adopted:
 - F. The amendment of any previously approved site plan.
 - 3) Section 79-6A(3) is repealed and the following new Section 79-6A(3) is adopted:

The Planning Board, subject to the approval of the Board of Trustees may revise or waive the provisions of any of the required information listed in § 79-8 hereof, but only where it finds such requirement to be inappropriate or unnecessary due to the limited nature of the proposed development or special conditions particular to the site or upon a determination that strict compliance with such requirement will cause such unnecessary work, expense or hardship. The Planning Board shall ensure that the granting of such revisions or waiver will not interfere with the accomplishment of the purposes and intent of this chapter nor have detrimental effect on the public health, safety or general welfare. The Planning Board or the Building Inspector may require the applicant to submit a preliminary design to the Architectural Review Board prior to submission of the primary site plan.

- 4) Sections 79-6B through 79-6H are repealed and the following new Sections 79-6B through 79-6H are adopted:
 - B. Submission. Following the presubmission conference, the applicant shall submit 15 copies of the site plan and any related information to the Village Administrator. The site plan shall be accompanied by a fee in accordance with the schedule of fees of the Village of Pelham. If the site plan is not submitted within six months following the presubmission conference, another such conference may be required, at the discretion of the Board of Trustees.
 - C. The Building Inspector shall review and certify on each original or amended site plan that the application complies with all applicable local laws and ordinances and with all requirements of all other

village commissions, boards, departments and agencies. The Building Inspector shall certify further that the application contains all the elements required in § 79-8 hereof which were not specifically waived by the Planning Board. Upon certification that the application is complete and compliant with all applicable laws and requirements of all other village land-use boards, the applicant shall provide notice by Certified Mail, return receipt requested, to all property-owners contiguous to the applicant's property, including those separated by a street, mailed out at least ten (10) days prior to the date of the scheduled consideration by the Board of Trustees. Such proof of receipt of mailing shall be presented to the Village prior to the scheduled consideration by the Board of Trustees. If the Building Inspector finds that the application is not complete or that it fails to comply with all applicable requirements, it shall, within fifteen (15) working days of its receipt, return the same to the applicant pointing out the specific deficiencies to be remedied.

- D. Following certification, the Building Inspector shall forward the application to the Board of Trustees within five working days. The date of submission to the Board shall be considered the official submission date.
- E. Simultaneously with its submission to the Board of Trustees, the certified application shall be forwarded to the Planning Board and any other agency that the Building Inspector deems appropriate with a request that the Planning Board or other agency submit its written recommendations and findings, taking into consideration the standard set forth in § 79-5 hereof, to the Board of Trustees not later than 15 working days prior to any public hearing thereon or 60 working days following referral of the application if no public hearing shall be held thereon.
- F. The Board of Trustees and/or Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If held, such a hearing shall be held within 60 days of the official submission date. Notice of such hearing shall be given by the applicant to the owners of the adjacent or surrounding properties within 200 feet and proof of such notice shall be filed with both Boards. Notice of such hearing shall also be published at least five days prior to the date of such hearing in the official newspaper of the village by the Village Clerk, and the cost of such application shall be paid by the applicant prior to the hearing.
- G. The Building Inspector shall make his own separate report on the application to the Board of Trustees not later than five working days prior to the date of the public hearing thereon or 10 working days

following receipt by the Board of Trustees of the recommendations and findings of the Planning Board or other agency.

- H. The Board of Trustees shall act to approve, approve with conditions or disapprove any such site plan within 30 days following the public hearing or if no hearing is held, within 60 days of the official submission date, unless this period is extended with the consent of the applicant. In reviewing the application, the Board shall request that the applicant make any revisions which the Board may deem to be required to assure that the proposed development will conform to the intent and requirements of this chapter. In the event that the Board disapproves the application, it shall communicate its reasons for such disapproval, in writing, to the applicant within 10 working days following the date of the decision, with a copy to the Building Inspector for the permanent building file and an additional copy to the Planning Board. If, after its review, the Planning Board unanimously disapproves the submitted plan, the Board of Trustees must vote a majority, plus one, to approve.

- 5) Section 79-6J is repealed and the following new Section 79-6J is adopted:

Performance bond.

- (1) Following approval of the site plan by the Board of Trustees, in addition to any other fees required by the Village of Pelham, the applicant shall file with the Village Clerk a performance bond in which the village is named as obligee in an amount set by the Building Inspector sufficient to cover the full cost of all required work planting and improvements. If the value of the required work, planting and improvements, the general nature of which is described in the following subsection, required in the final site plan approved by the Board of Trustees, is less than \$10,000, the Building Inspector, with the concurrence of the Board of Trustees, may waive the bonding requirements.
- (2) A performance bond shall be in a form satisfactory to the Village Attorney and may be in the form of surety company bonds. The performance bond may cover any of the following, among others: proposed screening and landscaping, including planting and maintenance thereof for a minimum of one year and a maximum of three years, at the discretion of the Board of Trustees; storm water drainage systems; streets and lighting; off-street parking and loading areas; means of vehicular access and egress to and from the site onto public streets; recreation areas, including playgrounds; garbage collection stations; and fire alarm systems (if any). Said bonds shall be conditioned upon completion by the property owner or developer of all the applicable work, as set forth on the approved site plan, in a matter satisfactory to the Building Inspector and upon

the proper functioning of said system for a period of one year following its completion.

- (3) In case of default, the performance bond shall be forfeited to the village and the proceeds shall be used by the village to complete any incomplete portions of the required work, planting and improvements or to make such repairs or corrections as may be necessary to assure proper functioning of the work and improvements and maintenance of the required planting; provided, however, that any moneys in excess of that necessary for correcting, completing and maintaining said work, planting and improvements will be returned to the surety. Said surety bond may be reduced by resolution of the Building Inspector upon certification to the Board of Trustees that one or more of the particular items required by the Board has been satisfactorily completed, is functioning properly and the bond, in its reduced amount, is sufficient to cover the full cost of the remainder of the required planting, work and improvements.
- (4) The installation of all required improvements shall be under the direct supervision of a registered architect or licensed engineer, unless this requirement is waived in writing by the Building Inspector.

SECTION 5.

The following changes are made in Chapter 98 Zoning of the Code of the Village of Pelham:

- 1) The following definitions are added to Section 98-6:

GROSS RESIDENTIAL FLOOR AREA -- The sum of the gross area of all floors of all principal and all accessory structures on the lot of a residence, measured to the exterior of the outside walls.

RESIDENTIAL FLOOR AREA RATIO (R-FAR) --The gross residential floor area excluding all space in unroofed structures such as decks and patios, unenclosed porches and porticoes, basements, cellars, basement garages, and non-living space in attics, divided by the square footage of all lots that make up a property.

- 2) Section 98-10B(1) is repealed and the following new Section 98-10B(1) is adopted:

A private garage for not more than two cars, provided that no garage which is connected to or a part of a dwelling shall be built nearer than 45 feet to the front street line unless the entrance of such garage faces the rear lot line.

- 3) Section 98-11A(2) is repealed.
- 4) Section 98-31B(1) is repealed and the following Section 98-31B(1) is adopted:

A private garage for each dwelling on the lot for not more than two cars. No garage which is connected to or a part of a dwelling shall be built nearer than 35 feet to the front street line unless the entrance of such garage faces the rear lot line.

- 5) Section 98-39 is repealed and the following Section 98-39 is adopted:

§ 98-39. Uses requiring special permit.

A. The following uses require a special permit by the Board of Appeals:

- (1) Any special permit use allowed in a Residence B-1 District, as listed in § 98-32.
- (2) Parochial or other religious school.

- 6) Section 98-101E is repealed and the following new Section 98-101E is adopted:

In any residence district, accessory buildings may occupy, in the aggregate, not more than 10% of the area of the lot or not more than 35% of the area of the rear yard, whichever is the more restrictive. In any case, the total lot area of the sum of all accessory buildings shall not be larger than five hundred and fifty square feet (550 s.f.).

- 7) Section 98-106B(3) is repealed and the following new Section 98-106B(3) is adopted:

The edges of related pools, aprons or other related construction shall not be installed within the required front yard or within five feet of the side or rear lot lines if the lot width is less than 75 feet nor, except as specified hereinafter, within 10 feet of the side or rear lot lines if the lot width is 75 feet or more. On lots with a width of 75 feet or more, the ten-foot minimum dimension to the edge of a pool or related construction may be reduced to five feet if written consent is obtained from all known property owners within 200 feet from the lot lines of the property on which the pool is located and if such written consents are properly filed with the Building Inspector as a permanent record.

- 8) Section 98-106D(2) is repealed.

- 9) The title of Article XVI Minimum Residential Floor Area of Chapter 98 is repealed, and the new following new title of Article XVI of Chapter 98 is adopted:

Minimum and Maximum Residential Floor Areas

- 10) Section 98-107 is repealed and the following new Section 98-107 is enacted:

§ 98 -107. Statement of purpose.

The requirements contained in this Article are designed to promote and protect the public health, to prevent overcrowded living conditions, to guard against the development of substandard neighborhoods, to conserve established property values and to contribute to the general welfare. **The character, layout and density of Pelham's neighborhoods rely on its diversity and quality of architectural styles, without homes exceeding certain limits in general scale of lot coverage or overall mass.**

- 11) **Section 98-108 Minimum Schedule** is renumbered: Section 98-108.1.
- 12) The following new Section 98-108.2 is adopted:

Section 98-108.2 Maximum schedule.

A.

Residential District	Maximum R-FAR Ratio/Percentage
A 1	35 %
A 2	40 %
A 3	45 %
B 1	45 %
B 2	50 %

- 13) Sections 98-112C and 98-112D are repealed and the following new Section 98-112C is adopted:

Single- and Two-family dwellings: at least two parking spaces are required on site for each dwelling unit.

- 14) Section 98-115D is repealed and the following new Section 98-115D is enacted:

In any residence district, not more than 600 square feet or 30% of the area of a minimum required rear yard shall be used as a parking area, whichever is more restrictive.

- 15) Section 98-115F is repealed and is "Reserved".
- 16) Section 98-115K is repealed and the following new Section 98-115K is enacted:

Required parking areas for all uses or buildings in a Residence A-1, A-2, A-3, B-1 or B-2 District and for all dwellings or multifamily houses in all districts shall be upon the same lot with the main building, except that off-street parking space required for structures and uses on two adjoining lots may be provided in a single common facility on one or both of such lots in accordance with an agreement between the owners of such adjoining lots, which agreement is to be filed with the Building Inspector. In all business districts, required parking areas for all uses other than dwellings or multifamily houses shall be either upon the same lot or, if on a nonadjoining lot, in the same or another business district or Residence M or M-1 District within 300 feet of the property to which they are accessory, measured in a straight line between the nearest point of the parking area and the nearest point of the property to be served. Any accessory parking area which is not upon the same lot as the main building or use, and its necessary accessways, shall be reserved for off-street parking use, under conditions and safeguards approved by the Village Board of Trustees and designed to assure the continuing availability of such parking area to serve the use to which it is accessory for as long as such use continues in existence, unless the Board of Trustees finds that adequate substitute public parking facilities have been provided.

- 17) Section 98-115L is repealed and the following new Section 98-115L is adopted:

In all districts, required parking areas and truck loading spaces shall have safe and adequate access to a public street either by a driveway on the same lot or by means of a permanent easement across an adjoining lot, such driveway or easement to have a minimum width of 10 feet. No such easement to a nonresidential use shall be permitted across a lot in a Residence A-1, A-2, A-3, B-1 or B-2 District. **Driveways and curb-cuts in residential districts shall be limited to a maximum of twelve feet (12') in width.**

- 18) Section 98-122 is repealed and the following new Section 98-122 is adopted:

Discontinuation of nonconforming use.

A nonconforming use, if changed to a conforming use, shall not thereafter be changed back to a nonconforming use. Whenever a nonconforming use has been discontinued for a period of six (6) months, such nonconforming use shall not thereafter be resumed. A nonconforming use shall be deemed to have been discontinued after it ceases operations for six (6) consecutive months if such use occupies a structure or six (6) consecutive months if such use occupies land whereon there is no consequential structure devoted to such use. For purposes of this chapter, it shall make no difference whether cessation of operations is voluntary or involuntary.

- 19) Section 98-133A is repealed and the following new Section 98-133A is enacted:

Interpretation. Upon appeal from a decision by the Building Inspector, to hear and decide any matter wherein an appellant alleges or claims that the Building Inspector or any other administrative official, committee or board charged with the enforcement of this chapter was in error in issuing or refusing or failing to issue a building permit or certificate of occupancy or use or any other permit or license as a result of misinterpreting the meaning, intent or application of any Article or part of this chapter, including the exact location of a district boundary line on the Zoning Map.

- 20) Section 98-133B(1) is repealed and the following new 98-133B(1) is enacted:

To grant, upon an appeal from a denial of a permit by the Building Inspector, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are practical difficulties or unnecessary hardships in the way of carrying out of the strict letter of this chapter; provided, however, that no such variance shall be granted unless the Board finds and documents fully in its findings:

- (a) That there are special physical conditions, such as exceptional narrowness, shallowness, shape or topographic conditions, or other extraordinary or exceptional situation or condition, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant or any predecessor in title whether in violation of the provisions hereof or not.
- (b) That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building and that

the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

- 21) Section 98-133C(1)(d) is repealed and the following new Section 98-133C(1)(d) is enacted:

The Board is authorized to revoke a special permit previously granted, following due public notice and hearing, upon a determination that one or more of the requirements for the special permit set forth in this chapter or any additional conditions prescribed by the Board in conjunction with the issuance of the special permit have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted to the special permit holder for full compliance prior to the revocation of said permit. An application for the revocation of a special permit may be brought by the Building Inspector or any other Village authority charged with enforcing the Village Code.

- 22) Section 98-133C(2) is repealed and the following new Section 98-133C(2) is enacted:

Application. Every application for a special permit shall be submitted in 10 copies and shall contain all the data required in connection with an application for site plan approval unless, following a meeting in person with the Planning Board or a duly authorized representative thereof, some of the required information is deemed by the said Board to be superfluous. The Secretary of the Board of Appeals shall file three copies of the application with the Building Inspector, who shall provide to the Board, within 14 working days, a full report on any objections it may have with respect to the proposed development and any mitigating measures it may feel to be desirable for the protection of the public interest.

- 23) Section 98-135B is repealed and the following new Section 98-135B is enacted:

This chapter shall be administered and enforced by the Building Inspector, Police Department, code enforcement officers or any other agency or officer of the Village duly authorized by the Board of Trustees of the Village of Pelham. No building permit, change of use permit, certificate of occupancy, temporary certificate of occupancy or other authorization for any construction, reconstruction, alteration or enlargement of a building or structure or for the moving of a building or structure from one site to another or for the establishment of use of any land or for the moving of a use from one site to another shall be issued by the Building Inspector except in full compliance with the provisions of this chapter, including any conditions that may have been attached to the approval of a variance by the Board of Appeals or a site plan or special permit by the Board of

Appeals, and with all other statutes, laws, ordinances, rules and regulations applicable to the affected property. The Building Inspector shall maintain a complete record of all applications for building permits and change of use permits, together with all plans submitted therewith, and for certificates of occupancy and certificates of conformity and all permits and certificates issued by it. In the performance of its duties, the Building Inspector or any duly authorized representative thereof shall have the right to perform any act necessary for the enforcement of this chapter, including the right, during daylight hours, to enter and inspect any building, structure or land within the Village with the consent of the owner or without such consent where an emergency exists or where the Building Inspector has reason to believe that a violation exists.

- 24) Section 98-135C is repealed and the following new Section 98-135C is enacted:

If the Building Inspector shall find that any of the provisions of this chapter are being violated, or when any purported violation shall be brought to his attention, the Building Inspector must conduct an investigation. In the event that the Building Inspector determines that a violation of this chapter does in fact exist, the Building Inspector must serve written notice of said violation by registered mail or personal service upon the owner, indicating the nature of the violation and ordering the necessary corrective action, and copies of such notice shall be delivered to the Village Clerk. The Building Inspector shall order the discontinuance of any illegal use of land, buildings or structures; removal of illegal buildings or structures or additions, alterations or structural changes; or any illegal work in progress. In the event that the owner shall fail to abate said violation within 10 days of the service of such notice, the Building Inspector must report such fact in writing to the Village Clerk and furnish a copy of such report to the Village Board of Trustees.

- 25) Section 98-136 is repealed, and the following new Section 98-136 is enacted:

§ 98-136. Building permits.

- A. No building in any district shall be erected, reconstructed or restored or structurally altered, used or moved in whole or in part to another site without a building permit. A building permit shall be duly issued upon application to the Building Inspector and upon payment of the required fee in accordance with the Schedule of Fees of the Village of Pelham. A building permit shall be issued only if the proposed construction or use is in full conformity with all provisions of this chapter and all other applicable regulations of the Village of Pelham. Any such permit issued in violation of the provisions of this chapter shall be null and void and of no effect without the necessity for any proceedings for revocation or

nullification thereof, and any work undertaken or use established pursuant to any such permit shall be unlawful.

- B. Every application for a building permit shall contain the following information and be accompanied by a plot plan in duplicate drawn to scale and signed by the person responsible for such drawing. If no such plot plan is available, a survey, prepared by a licensed engineer or land surveyor, is required. In the case of accessory buildings, the Building Inspector may waive such of the requirements set forth in Subsection B(1) through (5) below as it may deem to be superfluous.
- (1) The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected or, if any existing building, of the lot on which it is situated.
 - (2) The exact size and locations on the lot of the building or buildings proposed to be erected or altered and of all other existing buildings on the same lot, if any.
 - (3) The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.
 - (4) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units, if any, the building is designed to accommodate.
 - (5) Such other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- C. No building permit shall be issued for any building that is subject to site plan approval by the Board of Trustees **pursuant to Local Law No. 2, 1983**, or a special permit by the Board of Appeals, except in conformity with the requirements of the said boards. No permit shall be issued for a building that is permitted subject to a variance granted by the Board of Appeals except in accordance with all conditions which may have been prescribed by the said Board.
- D. The Building Inspector shall, within 30 days after the filing of a complete and properly prepared application incorporating all required approvals, including site plan, special permit and/or variances, either issue or deny a building permit. If a permit is denied, the Building Inspector shall state the reason for such denial on two copies of the application and shall return one copy to the

applicant. Failure on the part of the Building Inspector to act within the time specified shall not be deemed approval of the application.

- E. If any construction, alteration, enlargement or other work authorized under a building permit is not begun within 120 days from the date of its issuance, such permit shall expire. The Building Inspector may authorize in writing not more than two consecutive one hundred-twenty-day extensions because of the occurrence of conditions unforeseen at the time of issuance of such permit.

- 26) Section 98-137 is repealed and the following new Section 98-137 is enacted:

§ 98-137. Certificate of occupancy.

- A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector:
 - (1) Occupancy and use of all or any part of a building erected, reconstructed, restored, expanded, altered or moved or any change in use of an existing building.
 - (2) Occupancy, use or any change in use of vacant land.
 - (3) Any change in use of a nonconforming use.
- B. A certificate of occupancy shall be deemed to authorize and is required for both initial occupancy and the continued occupancy and use of the building or land to which it applies. The certificate of occupancy shall become null and void if conditions are found to be in violation of any provision of this chapter, and a new certificate of occupancy shall be required following correction of all violations.
- C. A temporary certificate of occupancy for the use of all or a part of a building or the use of land for which approval has been granted may be issued if authorized by the Board of Appeals and only in full compliance with such conditions as the Board may prescribe.
- D. It shall be the duty of the Building Inspector to issue a certificate of occupancy only when:
 - (1) The structure or part(s) thereof and the proposed use of the structure(s) and land conform to this chapter and all other applicable codes and ordinances of the Village of Pelham;

- (2) Prior site plan, special permit and variance approvals, as may be necessary, have been granted by the Board of Trustees or the Board of Appeals, as the case may be, in accordance with the provisions of this chapter;
 - (3) All local taxes and assessments on the property have been paid; and
 - (4) A letter from each utility company has been received by the Village stating that the utility has been inspected, has been installed in accordance with the approved plan and is ready for use.
- E. Application for a certificate of occupancy shall be made on forms furnished by the Building Inspector after erection of such building or part thereof has been completed in conformity with the provisions of this chapter and all other applicable regulations. Every application for a certificate of occupancy or a temporary certificate of occupancy shall be accompanied by the required fee, in accordance with the Schedule of Fees of the Village of Pelham. In the case of a new building, said application shall be accompanied by an accurate plot plan or, if not available, by a survey prepared by a licensed land surveyor or engineer, drawn at the same scale as the site plan, showing the location of all buildings, structures, utilities, roads or other site features, as built.
- F. A certificate of occupancy shall be granted or denied in writing within 20 days from the date that a written notification is filed with the Building Inspector that the action which is subject to such a certificate is completed, unless additional time is agreed upon by the applicant in writing. If the application is denied, the Building Inspector shall state the reason for such denial on two copies of the application and return one copy to the applicant. Failure on the part of the Building Inspector to act within the period specified shall not be deemed approval of the application.
- G. A copy of the applicable certificate of occupancy shall be kept on file at the premises affected and shall be shown upon request to any member of the Building Inspector or his duly authorized representative.
- H. The Building Inspector shall file a monthly report of the certificates of occupancy issued during the preceding month.

- 27) Section 98-138 is repealed and the following new Section 98-138 is enacted:

§ 98-138. Certificate of legal nonconformity.

The owner or lessee of any building, structure or use that does not conform to the provisions of this chapter but that did conform with the applicable zoning regulations of the Village of Pelham, the Village of Pelham Heights or the Village of North Pelham at the time when it was first established or at any time thereafter may apply to the Building Inspector for a certificate of legal nonconformity. The application shall contain proof of prior compliance and shall state in detail the precise nature of the present nonconformity of all or any part of the building, structure or use, including the extent of the floor or land area, as the case may be, and the location within the building or on the lot which is occupied by any nonconforming use.

- 28) Section 98-139 is repealed and the following new Section 98-139 is enacted:

§ 98-139. Penalties for offenses.

- A. Any person or corporation, whether as owner, lessee, architect, contractor or builder, or the agent or employee of any of them, who violates or is accessory to the violation of any provision of this chapter or any rule or regulation made under the authority conferred by this chapter or who shall erect, construct, alter, enlarge, convert or move any building or structure or any part thereof without a building permit or in violation of any statement or plans submitted and approved under the provisions of this chapter or who shall use any building, structure or land in violation of this chapter or any rule or regulation made under the authority conferred by this Chapter without or in violation of the provisions of any building permit, change of use permit or certificate of occupancy, where such a permit is required by this chapter, or in violation of any conditions attached to the approval of a site plan by the Board of Trustees or special permit or a variance by the Board of Appeals and who fails to abate said violation within 30 days after written notice has been served upon him either by mail or personal service shall be liable to a penalty of \$250 and, in addition, shall pay all the costs and expenses incurred by the Village in determining such violation. Each day that a violation continues shall constitute a separate offense.

- B. In case any building or structure is erected, constructed, reconditioned, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the Trustees of the Village of Pelham or the Building Inspector or any other official of the Village, in addition to other remedies, may institute any appropriate action or proceeding through the Village Attorney in order to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate such violation or to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such building, structure or land.
- C. Any person may file a complaint whenever a violation of this chapter occurs. All such complaints must be in writing and shall be filed with the Building Inspector, who shall properly record each such complaint and immediately investigate and report thereon to the Board of Trustees of the Village of Pelham.
- D. The Building Inspector shall maintain and make available for public inspection a cumulative file of each violation of this chapter, arranged by volume, sheet, block and lot numbers, so that the full case history of each such violation may be easily determined.

SECTION 6. This Local Law shall take effect upon adoption and filing in the office of the Secretary State of the State of New York.

Item #8 – Public Hearing on and adoption of proposed village code updates to various Code sections for licenses and enforcement:

A motion was made by Trustee Homan, with a second by Trustee Mohan to adopt the Local Law. The motion passed unanimously by vote of seven in favor, none opposed.

Draft 5/25/06; revised 8/8/2006; revised 10/3/2006; revised 10/17/06 final

LOCAL LAW NUMBER OF 2006

A local law that amends Chapter 35, repeals licensing laws preempted by Westchester County law, adopts new sections to require vendor licenses, and adopts new sections and amends others to set higher minimum fines for certain violations of Village law.

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

SECTION 1

The following changes are made in Section 35-7 of the Code of the Village of Pelham:

- 1) In Section 35-7B the words "Chief of the Fire Department" are replaced by "Building Inspector."
- 2) In Section 35-7C the words "Chief of the Fire Department" are replaced by "Building Inspector."

SECTION 2

Section 35-20 of the Code of the Village of Pelham is repealed and the following new Section 35-20 is adopted:

§ 35-20. Prohibitions.

A. Unless authorized by the Board of Trustees in conjunction with Final Site Plan Approval, it is prohibited to:

1. Manufacture, possess, store, sell or otherwise dispose of explosives or blasting agents.
2. Transport explosives or blasting agents.
3. Use explosives or blasting agents.
4. Operate a terminal for handling explosives or blasting agents.
5. Deliver to or receive explosives or blasting agents from a carrier a terminal between the hours of sunset and sunrise.
6. Transport blasting caps or electric blasting caps on the same vehicle with explosives.

SECTION 3

The following changes are made in Section 35-24 of the Code of the Village of Pelham:

1. In Section 35-24 (A) the words "Chief of the Fire Department" are changed to "Building Inspector."

2. Section 35-24(B) of the Code of the Village of Pelham is repealed and the following new Section 35-24(B) is adopted:

Wherever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph or steam utilities, the blaster shall notify the appropriate representatives of such utilities at least twenty-four (24) hours in advance of blasting in compliance with the provisions of this Code and all applicable law and specify the location and intended time of such blasting. In an emergency this time limit may be waived by the Building Inspector.

SECTION 4

Article III Licenses for the Trades of Chapter 34 of the Code of the Village of Pelham, including Sections 34-31 through Section 34-40, is repealed.

SECTION 5

Sections 34-30 and 34-105 of the Code of the Village of Pelham are repealed and the following new Section 34-105 is adopted.

§ 34-105. Penalties for offenses.

- A. With the exception of the violations set forth in Subsection B of this section, for violations of the provisions of this chapter, the owner, general agent or contractor of a building or premises where such a violation has been committed or shall exist, the owner, general agent or contractor, lessee or tenant of any part of a building or premises in which such violation has been committed or shall exist and the general agent, architect, builder, contractor or any other person who commits, takes part or assists in such violation or maintains any building or premises in which such violation shall exist, for each and every day such violation shall exist, shall be subject to a fine of two hundred fifty dollars (\$250) and shall pay all costs and expenses incurred by the Village in determining such violation. Each and every day that such violation continues shall constitute a separate offense.
- B. It shall be the responsibility of the contractor and/or subcontractor to secure the necessary permits required by this chapter before beginning any work. Failure to obtain required permits will subject the contractor and/or subcontractor to a fine of \$1,000. Each and every day that such violation continues shall constitute a separate offense.
- C. Nothing in this chapter shall be construed as depriving the Village of Pelham or the Board of Trustees of any other available remedy.

SECTION 6

Article IV Regulation of Arborists of Chapter 93 of the Code of the Village of Pelham, consisting of only Section 93-16, is repealed.

SECTION 7

Section 98-98A (17) is amended by adding before the period at the end of the section "unless it is an ice cream truck with a permit issued pursuant to Section 68-32 of the Code of the Village of Pelham."

SECTION 8

A new Article VIII Vendor Licenses of Chapter 68 of the Code of the Village of Pelham is enacted as follows:

ARTICLE VIII Vendor Licenses

§68-32. On-Street Food and Ice cream vendors

- A. All on street vending of food is prohibited with the following exceptions:
1. Food sold at a fair authorized by the Board of Trustees;
 2. Food sold by charitable organizations; and
 3. Food sold from licensed ice cream trucks.
- B. No one can sell ice cream from a truck without first obtaining a license from the Village of Pelham. To obtain the license the applicant must:
- a. Complete an application for an ice cream vendor license;
 - b. Supply a copy of a valid New York State driver's license for every person driving the truck as well as proof of current registration and current inspection of the truck to be used. Ice Cream vendors shall be fingerprinted and shall submit to a criminal background check.
 - c. Provide the Village with a certificate of insurance in the amount fixed by resolution of the Board of Trustees; and
 - d. Pay the license ~~permit~~ fee set by resolution of the Board of Trustees.

§68-22. Christmas tree vendor permit

Christmas trees cannot be sold within the Village of Pelham without first satisfactorily completing a Christmas tree vendor permit and paying the permit fee as set by

resolution of the Board of Trustees. Not-for-profit charitable organizations are not required to obtain a permit under this section.

SECTION 9

Section 42-7 of the Code of the Village of Pelham is repealed and the following new Section 42-7 is adopted:

§42-7 Penalties for violations of this Chapter.

- A. Any neglect, failure or refusal to comply with any provision of this chapter shall be deemed a violation thereof.
- B. Anyone who commits or is an accessory to the commission of a violation of this chapter shall be subject to a fine of no less than \$40 and no more than \$250.

SECTION 10

A new Section 54-78 C of the Code of the Village of Pelham is adopted as follows:

§54-78 C Penalties for violations of this section

- (1) Any neglect, failure or refusal to comply with any provision of this section shall be deemed a violation thereof.
- (2) Anyone who commits or is an accessory to the commission of a violation of this chapter shall be subject to a fine of no less than \$40 and no more than \$250.

SECTION 11

A new Section 81-10 of the Code of the Village of Pelham is adopted as follows:

§81-10. Penalties for violations of Chapter 81

- A. Any neglect, failure or refusal to comply with any provision of this chapter shall be deemed a violation thereof.
- B. Anyone who commits or is an accessory to the commission of a violation of this chapter shall be subject to a fine of no less than \$40 and no more than \$250.
- C. Nothing in this chapter shall be construed as depriving the Village of Pelham or its Board of Trustees of any other available remedy.

SECTION 12

Section 90-14B of the Code of the Village of Pelham is repealed, and a new Section 90-14 B is adopted as follows:

Except where angle parking is authorized and approved by the Village Board, every vehicle stopped, standing or parked upon a roadway shall be stopped, standing or parked:

- (1) Parallel with the edge of the roadway,
- (2) Headed in the direction of lawful traffic, and
- (3) Within 12 inches of the edge of the roadway.

SECTION 13

This Local Law shall take effect upon adoption and filing in the office of the Secretary of State of the State of New York.

Item #9 – Public Hearing on and consideration of proposed Village of Pelham Annual Public Housing Agency Plan for Federal FY 4/1/2007 through 3/31/2008:

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

RESOLUTION TO ADOPT
THE VILLAGE OF PELHAM YEAR 4/1/2007 THROUGH 3/31/2008
ANNUAL PUBLIC HOUSING AGENCY PLAN

WHEREAS, upon notice of public hearing, and upon holding the public hearing on the Village of Pelham Year 4/1/07 through 3/31/08 Annual Public Housing Agency Plan; and

WHEREAS, there was no public comment to amend the plan as proposed.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Village of Pelham hereby adopts the Year 4/1/07 through 3/31/08 Annual Public Housing Agency Plan, as proposed in draft; and

BE IT FURTHER RESOLVED, that the Mayor, the Village Administrator and the New Rochelle Neighborhood Revitalization Corporation (NRNRC) are authorized to take the necessary and appropriate actions to effect and administer this Annual Public Housing Agency Plan, including filing it with the United States Housing and Urban Development (HUD) Agency.

Item #10 – Authorizing the accounts payable:

A motion was made by Trustee Hotchkiss, with a second by Trustee Homan to adopt the resolution. The motion passed unanimously by vote of seven in favor, none opposed.

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/Treasurer:

<u>Fund Name:</u>	<u>Amount</u>
General Fund	\$202,976.08
Water Fund	\$2,405.50
Capital Projects Fund	\$0.00
Trust and Agency Fund	\$11,571.00
H3 Fund	\$0.00
Grand Total	\$216,952.58

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

BE IT FURTHER RESOLVED, that the Mayor, the Village Administrator and the New Rochelle Neighborhood Revitalization Corporation (NRNRC) are authorized to take the necessary and appropriate actions to effect and administer this Annual Public Housing Agency Plan, including filing it with the United States Housing and Urban Development (HUD) Agency.

Item #11 – Old Business/New Business:

Trustee Potocki asked, where the village stands with widening the double yellow line on Boulevard near Colonial School. The village decided that it will hire Pete Rizzillo or a different traffic engineer to mark out the dimensions of the line.

Item #11A – Call for a Public hearing on a Proposed Amendment to the Village Zoning Code regarding Parking Requirements for Residential Zones (Not including “M” Zones) to be held on December 5, 2006:

A motion was made by Trustee Homan, with a second by Trustee Merrick to adopt the resolution. The motion passed unanimously by vote of seven in favor, none opposed.

PUBLIC HEARING ON A PROPOSED
AMENDMENT TO THE VILLAGE ZONING CODE REGARDING
PARKING REQUIREMENTS FOR RESIDENTIAL ZONES
(NOT INCLUDING “M” ZONES)
TO BE HELD ON DECEMBER 5, 2006

RESOLVED, that the Board of Trustees of the Village of Pelham hereby schedule a public hearing to be held at 7:30 p.m. on December 5, 2006 in Village Hall at 195 Sparks Avenue, Pelham, NY, on a draft proposed Local Law that would amend the Code of the Village of Pelham, to accomplish the following:

Consider a local law that amends the Zoning Code, Section 98-112 Parking for residential uses, to require 1.5 parking spaces for every multi-family dwelling unit (Note: this eliminates an exception for Business-2 zones.)

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

Text of the Local Law

LOCAL LAW NUMBER OF 2006

A local law that amends the Zoning Code, Section 98-112 Parking for residential uses, to require 1.5 parking spaces for every multi-family dwelling (Note: this eliminates the exception for B-2 zones.)

SECTION 1. Section 98-112 Part B is repealed and the following new Section 98-112 Part B is enacted:

(Old Language)

- B. Multifamily house: three parking spaces for each two dwelling units, except in a Business-2 District, where one parking space for each dwelling unit shall be required.

(New Language)

- B. Multifamily dwelling: one and a half (1.5) parking spaces for each dwelling unit.

SECTION 2. This Local Law shall take effect upon adoption and filing in the office of the Secretary State of the State of New York.

Item #11B – Call for a Public Hearing to increase the Village of Pelham’s Water System Rates:

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

The Mayor explained the need for the change in the water rates.

* Note: The Village’s last water rate change was enacted May 2, 2006, to mirror United Water’s rates. Prior to that, the last increase was in 2003. Subsequent to the May 2, 2006 Rate Adoption, revenue from the Village’s water bills to our customers did not match expenses for the water bills paid to United Water by the Water System. This resulted in a substantial loss of revenue. A 12.98% increase at this time would address a 10% rate disparity last Fiscal Year, and an additional 2.98% increase by United Water made effective August, 2006. It does not attempt to re-coup the amount of the revenue lost this Fiscal Year.

RESOLUTION
SCHEDULING A HEARING ON A LOCAL LAW
ON PROPOSED WATER RATE INCREASES
PROPOSED AT 12.98% ON FORMER VILLAGE CONSUMPTION RATES
FOR THE VILLAGE OF PELHAM PUBLIC WATER SUPPLY #5911901

The Board of Trustees of the Village of Pelham hereby gives notice that there will be a Public Hearing on Tuesday, December 5, 2006, at 7:30 p.m., on a proposed Local Law that will enact Proposed Water Rate Increases for the Pelham Public Water Supply; and said hearing shall be held at 7:30 p.m. in Village Hall, 195 Sparks Avenue, Pelham, New York, on the Proposed Water Rate Increases of the Village of Pelham effective immediately for the next Water Billing Cycle.

The former rates in effect before the rate change adopting United Water’s Rates resulted in a shortfall of revenues to expenses of

A copy of these Water Rates are available at the office of the Village Clerk and may be inspected there by any interested person during office hours of 8 a.m. to 5 p.m.

Section 1.

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

	Rate at time of last proposal	Meter size	Proposed rate of incr. of 10% 4/18	Addl. % to cover United Water Incr.	Proposed Rates to be adopted 12/5/2006

Base Rate	36.01	1/2" and 5/8"	\$39.61	2.98%	\$40.79
New Base Rates for Quarterly Usage of Larger Meters					
New	commercial	3/4"	\$45	New rate	\$45
New	commercial	1" - 1 1/4"	\$80	New rate	\$80
New	commercial	1 1/2"	\$150	New rate	\$150
New	commercial	2"	\$245	New rate	\$245
New	commercial	3"	\$467	New rate	\$467
Consumption Rates -- cost per 100 cubic feet)					
First 1200 CCF	2.9964		3.296	2.98%	\$ 3.39
next 36000 CCF	2.8204		3.1024		\$ 3.19
next 60000 CCF	2.3048		2.5353		\$ 2.61
above 97,200 CCF	1.4876		Abolish rate		Abolish rate

Section 2. This local law shall take effect upon its adoption and filing with the Secretary of State.

Item #12 – Minutes: October 17, 2006 and November 7, 2006:

A motion was made by Trustee Mohan, with a second by Trustee Homan to approve the minutes from October 17, 2006 and November 7, 2006. The minutes were approved unanimously by vote of seven in favor, none opposed.

Item #13 – Adjournment - Executive Session to discuss pending litigation and personnel matters:

The Mayor asked for a motion to go into Executive Session to discuss pending litigation and personnel matters. On the motion of Trustee Homan, seconded by Trustee Greco, the Board voted to go into Executive Session to discuss the stated matters. The motion passed unanimously by vote of seven in favor, none opposed.

On the motion of Trustee Greco, seconded by Trustee Potocki, the Board voted to adjourn the public portion of the board meeting and go into Executive Session at 9:45p.m. The motion passed unanimously by vote of seven in favor, none opposed.

Respectfully submitted,

Devron Wilson, Administrative Aide