

Chapter 205

ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Lloyd NonHarbor 12-15-1966. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review — See Ch. 8, Art. V, and Ch. 106.

Application and hearing fees — See Ch. 8, Art. VII.

Plats — See Ch. 8, Art. VIII.

Board of Appeals — See Ch. 8, Art. X.

Freshwater wetlands — See Ch. 120.

Subdivision of land — See Ch. 175.

Trees — See Ch. 183.

ARTICLE I

Title

§ 205-1. Short title.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Incorporated Village of Lloyd Harbor."

ARTICLE II

Definitions

§ 205-2. Terms defined.

Unless otherwise expressly stated, the following words shall, for the purpose of this chapter, have the meanings herein indicated:

ACCESSORY BUILDING or ACCESSORY USE — A building or use subordinate to the main building or use on a lot and used for purposes customarily and clearly incidental to those of the main use or building, such as a private garage; private swimming pool and appurtenant bathhouse; private toolhouse; private children's playhouse; private tennis court and appurtenant tennis house; recreation court; terrace, deck or patio; private riding ring; private paddock, corral or other roofless, fenced enclosure for animals; private stable; private barn; private kennel; any roofed enclosure for animals; a noncommercial greenhouse; a freestanding dish-type communications antenna having a diameter, width, length or height of over three feet; a building used by an employee of the owner; a guesthouse; aboveground LPG or oil tank; or a generator. A guesthouse shall be used solely by the owner or occupant of the premises for the accommodation of his/her guests or members of his/her

family for a period not to exceed six months in any calendar year, for which no rental or other charge shall be made or received. In the case of a guesthouse or a building used by an employee, such accessory building, together with the principal building, shall be located on a lot of at least three acres in area. [Amended 2-20-1979 by L.L. No. 1-1979; 6-17-1985 by L.L. No. 2-1985; 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

ALTER — To change or rearrange the structural parts or the exit facilities of a building or structure, including extension on a side, or increase in height, or the moving from one location or position to another. [Added 10-21-2002 by L.L. No. 3-2002]

ATTIC — The space between the ceiling beams of the top story and the roof rafters. [Added 10-21-2002 by L.L. No. 3-2002]

BASEMENT — A space, partly underground, where the finished first-floor elevation is five feet or more above the mean level of the finished grade upon completion of construction. [Added 10-21-2002 by L.L. No. 3-2002]

BLUFF — A bank or cliff with a height at least 10 feet above mean high water and a precipitous or rounded face exceeding a one-to-one slope and adjoining a beach or a body of water. The seaward limit of a "bluff" is the landward limit of its contiguous beach. Where no beach is present, the seaward limit is mean low water. The landward limit is 25 feet landward of the "bluff's" receding edge. [Added 1-20-1986 by L.L. No. 1-1986]

BUFFER AREA — A vegetated area comprising the outer 40% of the required setback area for side and rear yards. [Added 10-21-2002 by L.L. No. 3-2002]

BUILDING — A principal building, accessory building or structure, including all appurtenances to and parts thereof. [Added 10-21-2002 by L.L. No. 3-2002]

BUILDING AREA — The computed area of the horizontal cross section of a building or buildings on a lot, excluding cornices, eaves, gutters or chimneys projecting not more than 18 inches, steps, driveways and walkways. [Added 6-28-1989 by L.L. No. 4-1989; amended 10-21-2002 by L.L. No. 3-2002]

BUILDING HEIGHT — For pitched roofs, the vertical distance measured from the mean level of the finished grade on which the building stands to a point midway between the highest and lowest points of the roof, provided that chimneys shall not be included in the building height. To be considered a pitched roof for the purposes of this definition, said roof shall have a slope of at least four on 12. For any other type of roof structure, the building height shall be measured to the uppermost portion of the roof surface. Elements such as cupolas, turrets and widow's walks shall be permitted to exceed the highest point of any roof, as deemed appropriate by the Site and Building Permit Review Board, and cover no more than 10% of the roof area measured along its widest horizontal planes. [Amended 11-21-1994 by L.L. No. 2-1994; 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

BUILDING LINE — The line established by this chapter beyond which a building shall not extend (e.g., setbacks, etc.). [Added 10-21-2002 by L.L. No. 3-2002]

DEBRIS BASIN — A barrier or dam built across a waterway or at other suitable locations to retain

rock, sand, gravel or silt or other material. [Added 9-16-1996 by L.L. No. 6-1996]

DECK — A structure consisting of one or more planes constructed of wood, metal or other materials, and located on or above the surface of the earth on or including a support system of footings or foundations, piers, pilasters, columns, posts, joists, stringers and beams or any of them and including any railings or open enclosure thereof and including any stairs, ramps or other devices connecting one level with another, with the ground and with any adjoining structure. [Added 10-21-2002 by L.L. No. 3-2002]

DOMESTIC ANIMAL — Any domesticated sheep, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the Department of Environmental Conservation, llama, goat, swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit or pheasant or other bird which is raised in confinement under license from the state Department of Environmental Conservation before release from captivity. Any other animal not specifically included in this definition is excluded from the definition. [Added 12-21-1992 by L.L. No. 2-1992]

EXISTING BUILDING SITE — That portion of a lot consisting of at least 20,000 contiguous square feet upon which the principal building is located, but excludes setbacks, freshwater wetlands, tidal wetlands, floodplains, steep slopes, very steep slopes and bluffs unless variances or approvals as required by the Village or any other governmental agency having jurisdiction of the property were previously obtained. [Added 10-21-2002 by L.L. No. 3-2002]

FLOODPLAIN — Lands within Floodplain District I. [Added 10-21-2002 by L.L. No. 3-2002]

FLOOR AREA RATIO — Gross floor area divided by gross lot area. [Added 10-21-2002 by L.L. No. 3-2002]

FRESHWATER WETLANDS — Lands which are seasonally or permanently submerged or which contain water-saturated soils and are commonly known as "marshes," "swamps," "bogs" and "flats," which host aquatic and semiaquatic vegetation, whether or not shown on any freshwater wetlands map as defined in Subdivision 1(a), (b), (c) and (d) of § 24-0107 of Article 24 of the Environmental Conservation Law of the State of New York. [Amended 4-18-1988 by L.L. No. 2-1988]

FRONT LOT LINE — The street line of a lot which is not a corner lot or, if such lot extends through a block, the street line from which the principal building sets back the lesser distance. In the case of a corner lot, the "front lot line" is the front street line as designated in an application for a permit to erect or alter a building on such lot or, if not so designated, the street line from which the principal building sets back the greatest distance or, if its setback is equidistant from two or more street lines, the street line which is nearest to the main entrance of the principal building.

FRONT YARD — An open unoccupied space on the same lot with a building, between the front line of the building and the front lot line of the lot measured on the shortest distance between the front wall and the front lot line.

GROSS FLOOR AREA — The sum of the horizontal areas of the floors of a building or buildings, measured from the exterior of the framed walls of such building or buildings, without exclusion of any interior spaces, and also including half stories, basements, attached garages, and detached garages located within 25 feet of the principal structure; except that for half stories, horizontal areas

where the vertical distance between the floor or floor beams and the ceiling or roof structure next above is less than 7 1/2 feet, and open porches (unenclosed in all respects) shall not be included in the computation of gross floor area. [Added 6-28-1989 by L.L. No. 4-1989; amended 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

HABITABLE AREA — Space in which people normally live, sleep, eat or cook, including bathrooms, but excluding storage rooms, garages, hallways, laundries, closets, cellars, and unfinished attic space. [Amended 10-21-2002 by L.L. No. 3-2002]

IMPROVED SURFACES — All buildings, as defined herein, as well as all areas on the ground or elevated above the ground which are comprised of materials such as asphalt, concrete, masonry, wood, gravel or partially open paving stone, and including elements such as swimming pools, courtyards, volleyball courts, tennis courts and other sports courts, decks, patios, terraces and driveways. [Added 10-21-2002 by L.L. No. 3-2002]

LOT — A parcel or plot of land occupied or designed to be occupied by one principal building and its accessory buildings, if any, including such yards or open spaces as are arranged or designed to be used in connection with such buildings, the area of such lot to be measured to the street line only. [Amended 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

LOT AREA, NET — The area, measured to the street line only, after deducting from the area of the lot the area for those portions of such lot which consist of water, freshwater wetlands, tidal wetlands, floodplains and reductions for slope lands as follows; provided, however, that overlapping regulated areas shall, for the purpose of calculating these deductions, be deemed a single regulated area. [Added 10-21-2002 by L.L. No. 3-2002]

- A. For bluffs and very steep slopes, the reduction factor shall be 0.75, i.e., 1.0 acre of very steep slope shall equal 0.25 acre of calculable land area.
- B. For steep slopes, the reduction factor shall be 0.50, i.e., 1.0 acre of steep slope shall equal 0.5 acre of calculable land area.

LOT DEPTH — The average distance between the front and rear lot lines measured in the general direction of the side lot lines. [Added 6-28-1989 by L.L. No. 4-1989]

LOT WIDTH — The distance between the side lot lines measured at the principal building line and measured at right angles to the lot depth. [Added 6-28-1989 by L.L. No. 4-1989]

NONCONFORMING BUILDING, STRUCTURE, OR USE OF LAND — A building, structure or use lawfully existing at the time of enactment of this chapter or any amendment thereto, but not now in conformity with one or more requirements of this chapter or subsequent amendments. [Added 10-21-2002 by L.L. No. 3-2002]

NONCONFORMING LOT — A lot lawfully existing in single and separate ownership at the effective date of this chapter, or any amendment thereto, which lot does not now conform to the regulations of this chapter for the district in which it is situated. However, if such lot is, or comes to be, in the same ownership as an adjoining lot, and either lot does not contain a principal building, the two lots shall merge and become one lot for building purposes. [Added 10-21-2002 by L.L. No. 3-2002]

PATIO — Terrace. [Added 10-21-2002 by L.L. No. 3-2002¹]

PERSONAL WIRELESS FACILITIES — A facility for the provision of personal wireless services as defined in Title 47 of the United States Code, including any building, antenna or other structure which is part of the facility. [Added 12-21-1998 by L.L. No. 5-1998]

POTENTIAL BUILDING SITE — That portion of a lot consisting of at least 20,000 contiguous square feet upon which construction of the principal building is intended, but which area excludes setbacks, freshwater wetlands, tidal wetlands, floodplains, steep slopes, very steep slopes and bluffs. [Added 10-21-2002 by L.L. No. 3-2002]

PRINCIPAL BUILDING — A building designed to be used as the main dwelling or building on a lot, including all attached garages, and detached garages located within 25 feet of the main dwelling or building. [Amended 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

PRIVATE GARAGE — A building used for the housing of one or more motor vehicles or conveyances owned and used by the owner or occupant of the lot on which it is erected for a purpose accessory to the use of the lot.

PRIVATE STABLE — A building used for the housing of one or more horses owned and used by the owner or occupant of the lot on which it is erected for a purpose accessory to the use of the lot, such horses not to be let for commercial livery.

REAR YARD — An open unoccupied space on the same lot with a building, between the rear line of the building and the rear line of the lot measured on the shortest distance between the rear wall and the rear line.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion. [Added 9-16-1996 by L.L. No. 6-1996]

SEDIMENT POOL — The reservoir space allotted to the accumulation of submerged sediment during the life of the structure. [Added 9-16-1996 by L.L. No. 6-1996]

SETBACK — A setback of a building or of a story thereof from a particular lot line is the horizontal distance from such lot line to the part of the building or of the story, respectively, which is nearest to such lot line, and includes, but is not limited to, air-conditioning units, generators or LPG tanks, chimneys, stoops, steps, bay windows, cellar entry foundation walls (but excluding, at grade, cellar window/light wells less than 40 square feet in area, out-to-out dimension). Roof projections (eaves) may extend a maximum of 18 inches into a required setback. [Amended 10-21-2002 by L.L. No. 3-2002]

SIDE YARD — An open unoccupied space on the same lot with a building, situated between the building and the side line of the lot and extending through from the street or from the front yard to the rear yard or to the rear line of the lot measured on the shortest distance between the side wall and the side line. Any lot line not a rear line or a front line shall be deemed a side line.

¹. Editor's Note: This local law also repealed the former definition of "pool."

SIGN — Includes the word "billboard" and shall mean any advertising structure, sign, picture, word or device for the advertisement thereon or thereby of any commodity, service or thing or for the furtherance of any political purpose.

SINGLE-FAMILY DWELLING — A building designed for and occupied exclusively as a home or residence for not more than one family. A "family" means one or more persons related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons, but not exceeding two, living and cooking together as a single housekeeping unit, though not related by blood, adoption or marriage, shall be deemed to constitute a "family." [Amended 6-17-1974]

STEEP SLOPE — An area of land with a gradient of or greater than 15%, but less than 25%, over a horizontal length of at least 25 feet and extending for a horizontal width of at least 25 feet. [Added 1-20-1986 by L.L. No. 1-1986]

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the surface of the floor and the top of the ceiling beams next above it. A basement shall be counted as a story. [Added 6-28-1989 by L.L. No. 4-1989; amended 10-21-2002 by L.L. No. 3-2002]

STORY, HALF — An uppermost story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the surface of the floor of such story. [Added 6-28-1989 by L.L. No. 4-1989]

STREET — A way which is an existing state, county or Village highway or a private road which appears on the Official Map of the Village or upon a subdivision plat approved by the Village Planning Board and which, in all cases, affords the legal and principal means of access to abutting property. [Amended 6-20-1977 by L.L. No. 2-1977]

STRUCTURE — Any combination of materials constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TERRACE — An uncovered flat platform of earth with a surface material. A terrace which has a roof and which is attached to a building shall be considered a porch. [Added 10-21-2002 by L.L. No. 3-2002]

TIDAL WETLANDS [Added 4-18-1988 by L.L. No. 2-1988] — Coastal lands located in bays, sounds and deltas which are controlled by the ebbs of tide, including areas where soil is saturated with saline water and water level rises up to six feet during the growing season. Vegetation known to these areas includes:

- A. Cordgrass (*Spartina alterniflora*).
- B. Salt meadow grass (*Spartina patens*).
- C. Spike grass (*Distichlis spicata*).
- D. Seaside lavender (*Limonium carolinianum*).

E. Black grass (*Juncus Gerardi*).

F. Rush (*Scirpus* species).

TRAILER — A vehicle which is or can be mounted on wheels, moveable either by its own power or by being drawn by another vehicle and equipped to be used for living or sleeping quarters or so as to permit cooking. The term trailer shall include such vehicles if mounted on temporary or permanent foundations. [Added 10-21-2002 by L.L. No. 3-2002]

VERY STEEP SLOPE — An area of land with a gradient of or greater than 25% over a horizontal length of at least 25 feet and extending for a horizontal width of at least 25 feet. [Added 1-20-1986 by L.L. No. 1-1986]

VILLAGE — The Village of Lloyd Harbor.

VILLAGE LAW — The Village Law of the State of New York, as amended from time to time.

WATER POOL or POOL — Any receptacle for water or an artificial pool of water having a depth at any point of more than two feet and a plane surface of greater than 100 square feet, intended for the purpose of immersion or partial immersion therein of human beings together with all appurtenances, including, but not limited to pool filter, diving board, pool house, patios, terraces and other similar features used in connection with the pool. [Amended 5-15-1995 by L.L. No. 1-1995]

§ 205-3. Word usage.

A. Words used in the singular number include the plural and vice versa, and the word "building" includes the words "structure," "pools," "docks," "piers" and "jetties." The word "building" shall be construed as though followed by the words "or part thereof and its appurtenant structures," and the word "street" includes "highway," "road" and "lane." [Amended 10-21-2002 by L.L. No. 3-2002]

B. The word "shall" in this chapter is always mandatory.

ARTICLE III

Districts

§ 205-4. Enumeration of districts. [Amended 4-20-1992 by L.L. No. 1-1992; 9-16-1996 by L.L. No. 3-1996; 9-16-1996 by L.L. No. 4-1996; 9-16-1996 by L.L. No. 5-1996; 1-19-2010 by L.L. No. 1-2010]

For the purposes of this chapter, the Village of Lloyd Harbor is hereby divided into 10 districts designated as follows:

Residence A-1 District

Residence A-Z District

Public Beach District

Floodplain District I

Floodplain District II

Coastal Overlay District-1 (COD-1)

Coastal Overlay District-2 (COD-2)

Conservation Recreation District

Parkland Overlay District

Estuarine District

§ 205-5. District boundaries.

- A. The Residence A-1 District shall comprise all properties within the boundaries of the Village as shown on the map attached to and made part of this chapter, which map is entitled "Official Zoning District Map of the Incorporated Village of Lloyd Harbor, in the Town of Huntington, County of Suffolk, State of New York, as amended February 1992 and last amended August 17, 2009";² and all notations, references and other things on said map shall be as much a part of this chapter as if the matters and things shown on said map were all fully described herein, except that there shall be excluded from such Residence A-1 District the property particularly described in Subsection C of this section and all areas and properties in the Floodplain Districts defined in Article VII of this chapter. [Amended 4-20-1992 by L.L. No. 1-1992; 1-19-2010 by L.L. No. 1-2010]
- B. The Residence A-2 District shall comprise all properties within the boundaries of the Village as shown on the map attached to and made part of this chapter, which map is entitled "Official Zoning District Map of the Incorporated Village of Lloyd Harbor, in the Town of Huntington, County of Suffolk, State of New York, as amended August 17, 2009";³ and all notations, references and other things on said map shall be as much a part of this chapter as if the matters and things shown on said map were all fully described herein, except that there shall be excluded from such Residence A-2 District the property particularly described in Subsection C of this section and all areas and properties in the Floodplain Districts defined in Article VII of this chapter. [Added 1-19-2010 by L.L. No. 1-2010⁴]

². Editor's Note: Said map is included in a pocket at the end of the Code.

³. Editor's Note: Said map is included in a pocket at the end of the Code.

⁴. Editor's Note: This local law also provided for the redesignation of former Subsections B through G as Subsections C through H, respectively.

- C. The Floodplain Districts shall comprise the areas and properties described and defined in Article VII of this chapter. The Coastal Overlay Districts shall comprise the areas and properties described and defined in Article XVII of this chapter. [Amended 4-20-1992 by L.L. No. 1-1992]
- D. Conservation Recreation District shall comprise the areas and properties described and defined in Article XVIII of this chapter. [Amended 9-16-1996 by L.L. No. 3-1996; 9-16-1996 by L.L. No. 4-1996; 9-16-1996 by L.L. No. 5-1996]
- E. Parkland Overlay District shall comprise the areas and properties described and defined in Article XIX of this chapter. [Amended 9-16-1996 by L.L. No. 3-1996; 9-16-1996 by L.L. No. 4-1996; 9-16-1996 by L.L. No. 5-1996]
- F. Estuarine District shall comprise the areas and properties described and defined in Article XX of this chapter. [Added 9-16-1996 by L.L. No. 4-1996; amended 9-16-1996 by L.L. No. 5-1996]
- G. Any question concerning the exact boundary of a district established pursuant to this chapter shall be determined by the Board of Trustees. [Added 9-16-1996 by L.L. No. 5-1996]

ARTICLE IV

Lot and Building Requirements

§ 205-6. Residence A-1 District. [Amended 4-19-1971; 2-20-1979 by L.L. No. 1-1979; 7-7-1980 by L.L. No. 3-1980; 8-17-1981 by L.L. No. 1-1981; 6-17-1985 by L.L. No. 2-1985; 4-18-1988 by L.L. No. 2-1988; 6-28-1989 by L.L. No. 4-1989; 4-20-1992 by L.L. No. 1-1992; 5-15-1995 by L.L. No. 1-1995; 10-21-2002 by L.L. No. 3-2002]

- A. Lot requirements. Subject to the exceptions specified in § 205-64 of this chapter, no building shall hereafter be erected, altered or enlarged in the Residence A-1 District, except on a lot for which each principal building, together with its accessory buildings, complies with the following:
 - (1) If the lot is vacant, contains a net lot area of at least two acres, but shall not be required to be more than five gross acres, and contains a potential building site; or
 - (2) If the lot is improved, contains a net lot area of at least two acres, but shall not be required to be more than five gross acres, and contains an existing building site; or
 - (3) If the lot contains neither a potential nor existing building site of 20,000 square feet, and contains at least five gross acres.
 - (4) The building area for the principal building shall not exceed 7 1/2% of the area of the gross lot area, and the aggregate building area (including the principal and every accessory building) shall not exceed 15% of the gross lot area, except that, in the case of a guesthouse or a building used as a dwelling by an employee, such accessory building, together with the principal building, shall be located on a lot of at least three acres of gross lot area, and the aggregate building area (including the principal and every accessory building) shall not exceed 15% of the gross lot area.

- (5) Further, no single accessory building, except for an accessory building without a roof or enclosing walls, shall have a gross floor area which exceeds 1,000 square feet, or a height which exceeds 1 1/2 stories, and shall have no habitable area within the half stories of the structure.
- (6) A perimeter not in excess of 800 linear feet for each one acre of area; and the width of such lot shall at no point be less than 20 feet.
- (7) A front lot line frontage of at least 175 feet, except that where such frontage coincides with the circumference of a turnaround at the extremity of a dead-end road, such front lot line frontage shall be at least 90 feet.
- (8) A lot width of at least 200 feet and a lot depth of at least 200 feet.

B. Gross floor area and setbacks. Subject to the exceptions specified in § 205-64 of this chapter, and subject to review in accordance with § 205-34 of this chapter, no building shall hereafter be erected, altered or enlarged in the Residence A-1 District unless:

- (1) If it is a principal building where the gross floor area does not exceed 6,000 square feet, it shall then be set back at least 60 feet from the front lot line and at least 40 feet from every other boundary line of the lot. However, if it is a principal building where the gross floor area exceeds 6,000 square feet, it shall then be set back at least an additional 3% of 60 feet from every street line and at least an additional 3% of 40 feet from every other boundary line of the lot for every 1% which such gross floor area exceeds 6,000 square feet. In addition, if the lot on which such building is located has a bluff which is adjacent to tidal water and which has an elevation of over 10 feet above mean high water, then such building shall be set back from the top edge of the bluff at least a distance equal to twice the elevation of the bluff above mean sea level; provided, however, that the Building Inspector may permit a setback of less than twice the elevation if the face of the bluff is covered with well-established, dense vegetation and the toe of the bluff is protected from wave erosion by an artificial or natural barrier, and further provided that no building shall be located any closer than 50 feet to the top edge of the bluff.
- (2) If it is a principal building, its maximum gross floor area shall be calculated as follows: Maximum gross floor area = 6,000 square feet + [(gross lot area - 87,120 square feet) x 0.0229569]. Notwithstanding the gross lot area of an existing legal lot, no principal building shall be required to be less than 6,000 square feet by the application of this section. For the purposes of this Subsection B(2), the first 800 square feet of that part of the principal building that is a garage shall not be counted in the computation of maximum gross floor area.
- (3) If it is an accessory building, it shall be set back at least 100 feet from every street line and at least 40 feet from every other boundary line of the lot, except that:
 - (a) A garage may be set back at the same distance as the principal building from the street line, but not less than 60 feet.
 - (b) A riding ring, paddock, corral or other roofless, fenced enclosure for animals may be

set back no less than 20 feet from every street line and from any other boundary line.

- (c) A swimming pool and its appurtenant structures shall be set back at least 100 feet from every street line and 50 feet from every other boundary line.
 - (d) A tennis court and its appurtenant structures shall be set back not less than 100 feet from every street line and not less than 50 feet from any other boundary line. No outdoor tennis court shall be illuminated by artificial lighting.
 - (e) If the lot on which such building is located has a bluff which is adjacent to tidal water and which has an elevation of over 10 feet above mean high water, then such building shall be set back from the top edge of the bluff a distance equal to twice the elevation of the bluff above mean sea level; provided, however, that the Building Inspector may permit a setback of less than twice the elevation if the face of the bluff is covered with well-established, dense vegetation and the toe of the bluff is protected from wave erosion by an artificial or natural barrier and further provided that no building shall be located any closer than 50 feet from the top edge of the bluff.
 - (f) LPG tanks, oil tanks, generators or air-conditioning units located within five feet of the building they serve may extend into the required setbacks if the building such structure serves is located at or greater than the setbacks required by the § 205-6.
- (4) If it is a dish-type communications antenna, the Building Inspector shall require that such antenna be concealed from neighboring properties by an enclosure in harmony with the architectural and aesthetic design of the structure on which it is located or to which it is attached or, if it is a freestanding antenna, that it be concealed with appropriate screen planting so as not to be visible from neighboring properties.
- C. Roofs. No principal building having a pitched roof shall have a building height exceeding 35 feet or be more than 2 1/2 stories. No principal building having any other type of roof structure shall exceed 25 feet and two stories in building height. No accessory building having a pitched roof shall exceed 25 feet or 1 1/2 stories in building height. No accessory building having any other type of roof structure shall exceed 12 feet and one story in building height.
- D. Habitable area.
- (1) Every principal residence building hereafter erected, moved into the Village limits or altered shall have a habitable area of not less than the following:
 - (a) One story: 1,250 square feet.
 - (b) One and one-half stories: 1,500 square feet.
 - (c) Two stories: 1,800 square feet.

- (2) In no case shall the habitable area of the first floor of one-and-one-half- or two-story houses be less than 1,000 square feet.
 - (3) No room, except bathrooms and closets, shall be less than 80 square feet in area.
- E. Drainage. Subject to the exceptions specified in § 205-64 of this chapter, and subject to review in accordance with § 205-34 of this chapter, no building permit shall be issued for the erection, alteration or enlargement of a building or structure unless the application for the same is accompanied by a drainage plan showing the installation of on-site drainage facilities as determined necessary by the Building Inspector or Village Engineer to properly drain the new impervious surfaces relating to the new construction (including but not limited to roofs, terraces, patios and driveways, athletic courts and the like). The drainage plan shall be approved by the Building Inspector or the Village Engineer so as to handle a minimum of a two-inch rainfall in 24 hours, subject to additional capacity being required due to individual site conditions. All drainage facilities shall be installed in accordance with the approved plan before a certificate of occupancy is issued for the new structure.
- F. Buffer areas. In order to protect the privacy of adjoining property owners and the bucolic nature of the Village, existing buffer areas exceeding three feet in height shall be preserved on all lots with the following exceptions:
- (1) Existing vegetation may be removed if replaced with alternative plantings as approved by the Site and Building Permit Review Board.
 - (2) Existing vegetation may be removed to provide for a driveway to the premises if determined to be appropriate by the Site and Building Permit Review Board in consideration of the construction site, lot shape and topography, and adjacent lots and their structures.
 - (3) Nothing in this section shall require an owner of an existing improved lot to plant or maintain buffer areas where none now exist.
 - (4) The requirements of this section shall be in addition to any other planting, buffering or screening which may be required by the Board of Trustees, Planning Board, Zoning Board or Site and Building Permit Review Board as a condition of approval for any application before such Board.
- G. A sports or recreation court and its appurtenant structures shall be set back not less than 100 feet from every street line and not less than 50 feet from any other boundary line. A sports or recreation court may not be illuminated by artificial lighting and shall be screen planted in accordance with § 205-34B. [Added 9-20-2004 by L.L. No. 2-2004]

§ 205-6.1. Residence A-2 District. [Added 1-19-2010 by L.L. No. 1-2010]

- A. Lot requirements. Subject to the exceptions specified in § 205-64 of this chapter, no building shall hereafter be erected, altered or enlarged in the Residence A-2 District, except on a lot for which each principal building, together with its accessory buildings, complies with the following:

- (1) If the lot is vacant, contains a net lot area of at least four acres, but shall not be required to be more than seven gross acres, and contains a potential building site; or
- (2) If the lot is improved, contains a net lot area of at least four acres, but shall not be required to be more than seven gross acres, and contains an existing building site; or
- (3) If the lot contains neither a potential nor existing building site of 20,000 square feet, and contains at least seven gross acres.
- (4) The building area for the principal building shall not exceed 5% of the area of the gross lot area, and the aggregate building area (including the principal and every accessory building) shall not exceed 10% of the gross lot area, except that, in the case of a guesthouse or a building used as a dwelling by an employee, such accessory building, together with the principal building, shall be located on a lot of at least five acres of gross lot area, and the aggregate building area (including the principal and every accessory building) shall not exceed 10% of the gross lot area.
- (5) Further, no single accessory building, except for an accessory building without a roof or enclosing walls, shall have a gross floor area which exceeds 1,000 square feet, or a height which exceeds 1 1/2 stories, and shall have no habitable area within the half stories of the structure.
- (6) A perimeter not in excess of 800 linear feet for each one acre of area; and the width of such lot shall at no point be less than 40 feet.
- (7) A front lot line frontage of at least 265 feet, except that where such frontage coincides with the circumference of a turnaround at the extremity of a dead-end road, such front lot line frontage shall be at least 135 feet.
- (8) A lot width of at least 300 feet and a lot depth of at least 300 feet.

B. Gross floor area and setbacks. Subject to the exceptions specified in § 205-64 of this chapter, and subject to review in accordance with § 205-34 of this chapter, no building shall hereafter be erected, altered or enlarged in the Residence A-2 District unless:

- (1) If it is a principal building where the gross floor area does not exceed 8,000 square feet, it shall then be set back at least 120 feet from the front lot line and at least 80 feet from every other boundary line of the lot. However, if it is a principal building where the gross floor area exceeds 8,000 square feet, it shall then be set back at least an additional 3% of 120 feet from every street line and at least an additional 3% of 80 feet from every other boundary line of the lot for every 1% which such gross floor area exceeds 8,000 square feet. In addition, if the lot on which such building is located has a bluff which is adjacent to tidal water and which has an elevation of over 10 feet above mean high water, then such building shall be set back from the top edge of the bluff at least a distance equal to twice the elevation of the bluff above mean sea level; provided, however, that the Building Inspector may permit a setback of less than twice the elevation if the face of the bluff is covered with well-established, dense vegetation and the toe of the bluff is protected from wave erosion by an artificial or natural barrier, and further provided that

- no building shall be located any closer than 50 feet to the top edge of the bluff.
- (2) If it is a principal building, its maximum gross floor area shall be calculated as follows: Maximum gross floor area equals 6,000 square feet plus [(gross lot area - 87,120 square feet) by 0.0229569]. Notwithstanding the gross lot area of an existing legal lot, no principal building shall be required to be less than 6,000 square feet by the application of this section. For the purposes of this Subsection B(2), the first 800 square feet of that part of the principal building that is a garage shall not be counted in the computation of maximum gross floor area.
 - (3) If it is an accessory building, it shall be set back at least 160 feet from every street line and at least 80 feet from every other boundary line of the lot, except that:
 - (a) A garage may be set back at the same distance as the principal building from the street line, but not less than 120 feet.
 - (b) A riding ring, paddock, corral or other roofless, fenced enclosure for animals may be set back no less than 40 feet from every street line and from any other boundary line.
 - (c) A swimming pool and its appurtenant structures shall be set back at least 160 feet from every street line and 80 feet from every other boundary line.
 - (d) A tennis court and its appurtenant structures shall be set back not less than 160 feet from every street line and not less than 80 feet from any other boundary line. No outdoor tennis court shall be illuminated by artificial lighting.
 - (e) If the lot on which such building is located has a bluff which is adjacent to tidal water and which has an elevation of over 10 feet above mean high water, then such building shall be set back from the top edge of the bluff a distance equal to twice the elevation of the bluff above mean sea level; provided, however, that the Building Inspector may permit a setback of less than twice the elevation if the face of the bluff is covered with well-established, dense vegetation and the toe of the bluff is protected from wave erosion by an artificial or natural barrier and further provided that no building shall be located any closer than 50 feet from the top edge of the bluff.
 - (f) LPG tanks, oil tanks, generators or air-conditioning units located within five feet of the building they serve may extend into the required setbacks if the building such structure serves is located at or greater than the setbacks required by § 205-6.1.
 - (4) If it is a dish-type communications antenna, the Building Inspector shall require that such antenna be concealed from neighboring properties by an enclosure in harmony with the architectural and aesthetic design of the structure on which it is located or to which it is attached or, if it is a freestanding antenna, that it be concealed with appropriate screen planting so as not to be visible from neighboring properties.

- C. Roofs. No principal building having a pitched roof shall have a building height exceeding 35 feet or be more than 2 1/2 stories. No principal building having any other type of roof structure shall exceed 25 feet and two stories in building height. No accessory building having a pitched roof shall exceed 25 feet or 1 1/2 stories in building height. No accessory building having any other type of roof structure shall exceed 12 feet and one story in building height.
- D. Habitable area.
- (1) Every principal residence building hereafter erected, moved into the Village limits or altered shall have a habitable area of not less than the following:
 - (a) One story: 1,250 square feet.
 - (b) One-and-one-half stories: 1,500 square feet.
 - (c) Two stories: 1,800 square feet.
 - (2) In no case shall the habitable area of the first floor of one-and-one-half- or two-story houses be less than 1,000 square feet.
 - (3) No room, except bathrooms and closets, shall be less than 80 square feet in area.
- E. Drainage. Subject to the exceptions specified in § 205-64 of this chapter, and subject to review in accordance with § 205-34 of this chapter, no building permit shall be issued for the erection, alteration or enlargement of a building or structure unless the application for the same is accompanied by a drainage plan showing the installation of on-site drainage facilities as determined necessary by the Building Inspector or Village Engineer to properly drain the new impervious surfaces relating to the new construction (including but not limited to roofs, terraces, patios and driveways, athletic courts and the like). The drainage plan shall be approved by the Building Inspector or the Village Engineer so as to handle a minimum of a two-inch rainfall in 24 hours, subject to additional capacity being required due to individual site conditions. All drainage facilities shall be installed in accordance with the approved plan before a certificate of occupancy is issued for the new structure.
- F. Buffer areas. In order to protect the privacy of adjoining property owners and the bucolic nature of the Village, existing buffer areas exceeding three feet in height shall be preserved on all lots with the following exceptions:
- (1) Existing vegetation may be removed if replaced with alternative plantings as approved by the Site and Building Permit Review Board.
 - (2) Existing vegetation may be removed to provide for a driveway to the premises if determined to be appropriate by the Site and Building Permit Review Board in consideration of the construction site, lot shape and topography, and adjacent lots and their structures.
 - (3) Nothing in this section shall require an owner of an existing improved lot to plant or maintain buffer areas where none now exist.

(4) The requirements of this section shall be in addition to any other planting, buffering or screening which may be required by the Board of Trustees, Planning Board, Zoning Board or Site and Building Permit Review Board as a condition of approval for any application before such Board.

G. A sports or recreation court and its appurtenant structures shall be set back not less than 160 feet from every street line and not less than 80 feet from any other boundary line. A sports or recreation court may not be illuminated by artificial lighting and shall be screen-planted in accordance with § 205-34B.

§ 205-7. Slope lands. [Added 1-20-1986 by L.L. No. 1-1986]

A. Purpose. The Board of Trustees hereby finds that the maintenance and protection of slope lands in the Village, as recommended in the Village Master Plan, is essential to the public health, safety and welfare of both present and future residents of the Village and is specifically necessary to prevent soil erosion, sedimentation, the loss of protective vegetation and resultant flooding and drainage hazards as well as to provide safe building sites with proper access thereto for pedestrian, vehicular and emergency traffic and to preserve wildlife habitat and to protect important scenic resources, all in furtherance of state and county development policies and objectives as well as the Village Master Plan.

B. Slope lands. For the purpose of this section, slope lands shall consist of all bluffs, very steep slopes and steep slopes.

C. Construction within slope lands. No building development or the construction of other site improvements nor the excavation, filling or grading, or removal or substantial alteration of any tree or shrub, shall be permitted within a slope land unless a slope land use permit (slope land permit) for the activity shall have been issued by the Site and Building Permit Review Board. [Amended 7-19-1993 by L.L. No. 1-1993; 11-21-1994 by L.L. No. 2-1994; 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002⁵]

(1) Prior to taking such action, the Site and Building Permit Review Board shall determine that:

(a) For very steep slopes, the proposed location for the use, improvement or development is the only suitable location on the site. However, for steep slopes, the Site and Building Permit Review Board need only determine that the proposed location for the use, improvement or development is an appropriate location on the lot in the consideration of the lot's shape, topography or other features, and in relation to the neighborhood;

(b) The activity proposed is the minimum activity necessary to make reasonable use of said land;

(c) All feasible construction standards and precautions are or will be taken to assure that

⁵. Editor's Note: This local law also repealed former Subsection C, Minimum lot area requirements, and renumbered former Subsection D as C.

the resulting environmental hazard will be minimized;

- (d) Such proposed action is otherwise in full compliance with all applicable requirements of the Village, town, county, state and federal agencies; and
 - (e) The purpose and intent of this section are satisfied to the maximum feasible degree as determined by said Site and Building Permit Review Board.
- (2) Application. In order to provide the Site and Building Permit Review Board with adequate time to review the application, an application for such slope land permit shall be submitted to the Village Clerk in eight copies, not less than 45 days prior to the meeting at which it is to be officially received by the Site and Building Permit Review Board, and shall include the following:
- (a) A topographical survey of the property showing existing contours with vertical intervals of no more than two feet; the location and extent of any slope lands as set forth in Subsection B; the location of any existing buildings, structures, driveways and utilities of the site; existing easements and rights-of-way; the present use of land and structures; the specific type, size and location of trees with a diameter of 12 or more inches at a height four feet above ground level; and any other existing features or characteristics of the site which may be of environmental, historical, archaeological or other significance.
 - (b) A plan for the proposed site development, indicating building and driveway locations, parking areas, landscaping, grading, drainage, utilities and other planned site uses and improvements.
 - (c) Specific design measures proposed to mitigate the potential impact of the proposed site development upon the environmentally sensitive features of the property both during and after construction.
 - (d) An application fee in an amount as established by resolution of the Board of Trustees.
- (3) Procedure.
- (a) Upon receipt of a properly completed application, the Site and Building Permit Review Board may refer it for review and report to the Village Engineer and other such experts as may be determined necessary or appropriate by the Site and Building Permit Review Board to assist it in its review of the proposed application, which cost shall be borne by the applicant. A copy of the application shall also be referred to appropriate town, county and state agencies whose approval may be required or whose recommendations may be sought.
 - (b) Within 60 days of the date of the Site and Building Permit Review Board meeting at which the properly completed application is officially received and the Site and Building Permit Review Board's proceeding are completed, the Site and Building Permit Review Board shall act either to approve, approve with modifications or

disapprove the slope land permit application.

(4) Determination.

(a) Prior to making a determination to approve, either with or without modifications, any such application, the Site and Building Permit Review Board shall first find that the proposed site development has been designed in such a way as to minimize any potential adverse environmental impacts to the maximum degree reasonably feasible, either through redesign, reduction in the size of the proposed project, the implementation of special environmental protection measures, permanent restrictions on the use and development of the property which may be established by deed restrictions or a combination of the above. In so finding, the Site and Building Permit Review Board shall further determine that the slope lands shall not be significantly impaired, that the proposed site design will provide safe building locations with proper access thereto, that important scenic and visual resources will be protected to the maximum extent feasible and that there will be no significant adverse impact upon any rare or endangered species of flora or fauna. The Site and Building Permit Review Board shall attach such conditions to its approval as it may determine necessary to assure compliance with these standards and requirements.

(b) In the event that the applicant fails to establish that the proposed use and development of the site and the conditions which the applicant proposes in relation thereto comply with these essential environmental standards, the Site and Building Permit Review Board shall disapprove said application and the Building Inspector shall deny the issuance of any permits in relation thereto.

(5) In addition to the above, the requirements of the State Environmental Quality Review Act⁶ shall also be applicable.

§ 205-8. Wetlands and floodplains. [Added 4-18-1988 by L.L. No. 2-1988]

A. Purpose. The Board of Trustees hereby finds that the maintenance and protection of wetlands and the prevention of new building development within and the filling of floodplains are essential to the public health, safety and welfare of both present and future residents of the Village and are specifically necessary for the purpose of preserving wildlife habitat, protecting important scenic resources, protecting the safety of life and property, preserving vegetative cover and for such other purposes as set forth in Article VII hereof and in the laws of the State of New York and the Village related to coastal zone management and the protection of both freshwater and tidal wetlands.

B. Wetlands and floodplains. For the purpose of this chapter, "wetlands" shall include both freshwater and tidal wetlands, and "floodplains" shall mean any land within the Village which is less than 12 feet above mean sea level, specifically including all lands within Floodplain District I.

⁶. Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

C. Minimum lot area requirements. The following minimum lot requirements shall apply to properties which consist in whole or in part of wetlands and/or floodplains. [Amended 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]

- (1) No building permit shall be issued for the construction of a new principal building on any existing lot within the Village unless said lot contains at least two acres of land area in the Residence A-1 District or at least four acres in the Residence A-2 District, exclusive of wetlands and floodplains, and meets all other requirements of this chapter. [Amended 1-19-2010 by L.L. No. 1-2010]
- (2) Where the requirements of Subsection C(1) above cannot be met and where there is no present principal use or structure located on a legally created lot, a special permit may be issued by the Planning Board for the construction of a principal building and establishment of a permitted use on such lot, provided that the following standards and conditions are met:
 - (a) There shall be available a potential building site with vehicular access from a street directly to such area.
 - (b) A minimum distance for said building site of not less than 100 feet shall be provided from any wetlands.
 - (c) All other required zoning setbacks shall be complied with.
- (3) Where there is an existing principal building located on a legally created lot, which lot contains or is immediately adjacent to a freshwater or tidal wetland or floodplain, no building permit shall be issued for the enlargement of such building or for the construction of an accessory building on such lot if it is to be located within a floodplain or within 100 feet of a wetland unless a special permit therefor shall have been issued by the Planning Board. In reviewing an application for such special permit, the Planning Board shall be guided by the following standards and conditions:
 - (a) Building construction shall not be permitted within the actual limits of any wetland.
 - (b) Wherever possible, the proposed building construction shall be relocated out of any floodplain or redesigned so as to provide a minimum setback of not less than 100 feet from any wetland.
 - (c) All other required zoning setbacks shall be complied with.
 - (d) Where the Planning Board determines that due to the configuration of the lot and/or the nature and location of existing building development on it, there is no reasonable alternative to the construction of the proposed building addition or accessory building other than within 100 feet of a wetland and where the Planning Board determines that such construction would not have a significant adverse impact on such wetland, the Board may permit such construction conditioned upon the implementation of appropriate mitigating measures designed to minimize

whatever adverse impact may occur as a result of the proposed construction. These mitigating measures may include, without limitation, the reduction in the size of the proposed construction, the relocation of the proposed construction, the redesign of the proposed construction and/or the design or redesign of such site improvements as may be determined necessary or appropriate by the Planning Board.

- (e) Where the Planning Board determines that a safety hazard or adverse impact cannot be satisfactorily mitigated or when the applicant does not agree to the mitigating requirements, as determined by the Planning Board, said Board shall deny the issuance of the special permit. The reasons for such action shall be clearly and fully stated on the record in writing.
- (4) The application requirements, procedures and required determinations with respect to the issuance of such a special permit by the Planning Board shall be the same as set forth in § 205-7C with respect to slope lands, except that the required determinations shall be made with respect to wetlands and floodplains rather than slope lands.
- (5) Where a lot two acres or larger in the Residence A-1 District or four acres or larger in the Residence A-2 District does not meet the standards, as set forth above, and is not eligible for a special permit, as described above, or where a special permit application is disapproved by the Planning Board, the owner of such lot shall be permitted, subject to approval by the Board of Trustees, to transfer, by sale or otherwise, to the owner of a larger parcel of land located elsewhere in the Village the development right to create one single-family dwelling lot in addition to the maximum number which the Planning Board determines could otherwise be accommodated as a result of the subdivision of such larger parcel in conformance with all applicable regulations and requirements. In such subdivision, the additional permitted building lot will be accommodated by allowing a reduction of the otherwise applicable minimum net land area requirements; provided, however, that the minimum gross land area requirement shall remain at two acres per lot in the Residence A-1 District and four acres per lot in the Residence A-2 District. Notwithstanding the foregoing, if the Board of Trustees approves such a transfer and the Planning Board determines, for purposes of proper subdivision design or for other appropriate reason, that it is either not practical or not possible for each lot in such subdivision to contain a minimum gross area of two acres in the Residence A-1 District and four acres lot in the Residence A-2 District, the Planning Board may be specifically authorized by the Board of Trustees to approve one lot with a gross area of less than two but not less than one acre in the Residence A-1 District and less than four but not less than two acres in the Residence A-2 District, and to modify the otherwise applicable lot dimensional requirements within such subdivision as said Planning Board may determine appropriate in accordance with the purposes and pursuant to the authority of § 7-738 of the Village Law. [Amended 1-19-2010 by L.L. No. 1-2010]
- (6) As a part of any application to the Board of Trustees for permission to transfer the right to create one additional single-family dwelling lot pursuant to Subsection C(5) above, the applicant shall be required to prepare and submit to the Board of Trustees a

plan for the proposed future ownership and use of the lot from which the development right will be transferred. Such plan, provided that it is otherwise consistent with the environmental protection purposes and requirements of all other applicable laws and regulations, may allow the use of the lot for waterfront access, passive recreation, environmental education and protection and other such similar purposes and including the subdivision of such lot into parcels of less than two acres in the Residence A-1 District or less than four acres in the Residence A-2 District, but not less than 20,000 square feet each for such purpose. If the Board of Trustees approves the application, it shall require the filing of appropriate covenants and restrictions as are determined necessary to permanently limit the use of the land in accordance with such proposed plan, including any modification thereof as may be agreed upon by the Board and the applicant. [Amended 1-19-2010 by L.L. No. 1-2010]

ARTICLE V

Residence A-1 and A-2 District Uses

§ 205-9. Permitted uses. [Amended 4-19-1971; 4-9-1980 by L.L. No. 1-1980; 12-21-1992 by L.L. No. 2-1992; 6-21-2010 by L.L. No. 3-2010; 1-19-2010 by L.L. No. 1-2010]

Except as provided in Article IX of this chapter, no building, structure or premises in the Residence A-1 and A-2 Districts shall be used or maintained for any purpose other than the purposes authorized in this Article V. No building or structure shall thereafter be erected, enlarged or altered if, as so erected or as a result of such enlargement or alteration, such building or structure or any part thereof is arranged, designed or intended to be used for any except the purposes set forth below. Such uses shall not include any uses customarily carried on as a business or any advertising sign, except as hereinafter permitted in Article XI of this chapter. This provision shall not be deemed to permit any driveway or walk giving access to premises used for business purposes or used for purposes not permitted in Residence A-1 and A-2 Districts. Permitted uses are as follows:

- A. A single-family detached principal dwelling.
- B. Private and noncommercial uses or buildings customarily incidental or accessory to the uses herein specifically permitted in said district and located on the same lot, as follows:
 - (1) Farming which is confined to the raising or production of crops.
 - (2) The keeping of bees, and birds kept within the residential building occupied by the owner or occupant of the premises.
 - (3) The keeping of dogs, cats or other small animals ordinarily kept as pets which sleep and eat within the residential building occupied by the owner or occupant of the premises.
 - (4) The private stabling of horses and the breeding of dogs or cats, subject to the following additional standards and conditions:
 - (a) The animals shall be kept securely penned within an enclosure so as to prevent them from straying off the premises. Newly erected or relocated enclosures shall be

subject to the setback requirement of Article IV and permit review pursuant to Article VIII.

- (b) All grain, feed or other food stock for the animals, if not kept within a building, shall be kept in rodent-proof containers located at least 100 feet from any boundary line of the property.
 - (c) All manure shall be stored or treated in a manner so as not to attract or harbor vermin, flies or other pests nor create any obnoxious or offensive odors detectable on adjacent property.
 - (d) All stormwater runoff and other surface water or drainage shall be contained on the premises.
 - (e) No horse may be kept or maintained on any premises in the Village unless it shall have been previously registered with the Village.
 - (f) No animal shall be kept in a manner which is proscribed by § 205-10 of this article.
 - (g) The combined number of horses and domestic animals as defined in this chapter shall not exceed two animals per acre.
 - (h) Notwithstanding the provisions of Article XII of the chapter, if, on any lot in the Village at the time of the enactment of this subsection, there are any horses or dogs or cats for the purpose of breeding which are not kept in the manner prescribed by this subsection, the resident occupant or owner of the premises on which the animals are kept shall, within six months of the date of the enactment of this subsection, bring the keeping of such animals into compliance with this chapter.
- (5) The keeping of domestic animals, as specifically defined and enumerated in this chapter, subject to the owner of the premises first obtaining a special use permit pursuant to the standards and conditions of Article IX and upon the following additional standards and conditions: [Amended 1-19-2010 by L.L. No. 1-2010]
- (a) No such use shall be permitted on lots having less than two acres of land in the Residence A-1 District and four acres of land in the Residence A-2 District.
 - (b) The animals shall be kept securely penned within an enclosure so as to prevent them from straying off the owner's premises. Newly erected or relocated enclosures shall be subject to the setback requirements of Article IV or any greater setback as may be determined necessary by the Planning Board after it review pursuant to Article IX of this chapter.
 - (c) The combined number of domestic animals permitted on each lot shall not exceed one animal for each full acre of lot area. If, on any lot, there shall be kept domestic animals and horses, then, for the purpose of computing the permitted number of animals pursuant to this Subsection B(5)(c), the horses shall be considered

domestic animals.

- (d) The permitted number of facilities or structures for the shelter of the animals shall be limited to the minimum number of facilities or structures necessary to accomplish that purpose.
 - (e) No domestic animal may be kept or maintained on any premises in the Village unless it shall have been previously registered with the Village.
 - (f) All grain, feed or other food stocks for the animals, if not kept within a building, shall be kept in rodent-proof containers located at least 100 feet from every boundary line of the property in the Residence A-1 District and at least 160 feet from every boundary line of the property in the A-2 District. [Amended 1-19-2010 by L.L. No. 1-2010]
 - (g) All manure shall be stored or treated in such a manner so as not to attract or harbor vermin, flies or other pests nor create any obnoxious or offensive odors detectable on surrounding properties.
 - (h) All stormwater runoff and other surface water or drainage shall be contained on the premises.
 - (i) Any violation of the above standards or conditions or other conditions which may be imposed by the Board of Trustees as a condition for the issuance of a special use permit may result, in addition to any other penalty provided in this chapter, in revocation of the permit by the Board upon a showing that the holder of the permit has been notified of the violation and has refused or neglected to correct the violation.
 - (j) No animals shall be kept in a manner which is proscribed by § 205-10 of this article.
 - (k) If, on any lot in the Village at the time of the enactment of this subsection, there are kept any number of other domestic animals, except horses, which exceed the number permitted by Subsection B(5)(c), the resident occupant or owner of the premises on which the animals are kept shall, within six months of the date of the enactment of this subsection, reduce the number of other domestic animals on the premises so as to be in compliance with Subsection B(5)(c). If any person is aggrieved by this requirement, said person may apply to the Board of Zoning Appeals for additional time to reduce the number of other domestic animals at the premises, which appeal may be granted only upon a showing, by competent evidence, that to reduce the number of such animals would create an unnecessary hardship or that the subject animals do not constitute a present detriment to the health, safety or general welfare of the surrounding community in terms of visual impacts, noise, odors or other nuisance.
- (6) Nursery and horticulture, including noncommercial greenhouses, provided that no organic fertilizer shall be stored within 100 feet of any boundary line of a lot in the

Residence A-1 District and within 160 feet of any boundary line of a lot in the Residence A-2 District unless kept in airtight storage; provided, however, that with respect to the uses above enumerated under this Subsection B(6), there shall be no display of produce, stock or merchandise visible from any street nor any sale thereof unless the articles sold have been grown on the premises; and provided, further, that all buildings or structures shall be set back at least 75 feet from each boundary line of the lot and at least 100 feet from each street line in the Residence A-1 District and at least 120 feet from each boundary line of the lot and at least 160 feet from each street line in the Residence A-2 District. [Amended 1-19-2010 by L.L. No. 1-2010]

- (7) The cultivation and harvesting of shellfish in the waters within the boundaries of the Village, but there shall be no selling of shellfish within such boundaries.
- (8) The carrying on of a customary home occupation, such as dressmaking, millinery or similar handicrafts, by a person residing in the dwelling unit in which such home occupation shall be carried on, provided that:
 - (a) No change in the exterior appearance of such dwelling unit shall be made as a result of such occupation.
 - (b) There shall be no display of goods or advertising visible from any street.
 - (c) No more than one assistant, whether paid or not, shall be employed.
 - (d) No mechanical or electrical equipment shall be used, except ordinary household equipment.
 - (e) The space so used shall not occupy more than 1/4 of the total floor area of the dwelling unit.
 - (f) Such home occupation shall not be carried on in any accessory building.
- (9) Real estate activities of an owner or of his duly authorized agent, only in connection with such owner's property within the Village.
- (10) The office or studio of a physician, surgeon, dentist, osteopath, chiropractor, psychologist, architect, painter, sculptor, teacher, musician, lawyer or engineer residing in the dwelling unit in which such office or studio shall be located, provided that:
 - (a) There shall be no display or advertising on the premises in connection with such use, except for a professional nameplate not over one square foot in area.
 - (b) Such nameplate shall comply with the provisions of Article XI of this chapter.
 - (c) Such studio or office shall not occupy more than the equivalent of 1/3 of the area of one floor of such dwelling unit.
 - (d) Such use shall be merely incidental to the use of such dwelling unit primarily for residential purposes.

- (e) Any such musician's studio shall be equipped and used in such a manner that sounds therefrom shall not be unduly annoying to other persons on nearby premises or public places.
 - (f) No assistants, whether paid or not, may participate in such use, except that one assistant may be employed if the nature of the profession is such as to require an assistant.
 - (g) No use shall be made of more than one building in connection with such professional use.
 - (h) Such professional use shall not be deemed to include the right to engage in wholesale or retail trade as such terms are ordinarily understood.⁷
- C. Pumping, storage, sale and distribution of water, including water towers, subject to such reasonable conditions as may be imposed by the Board of Trustees after written application thereto and issuance of a permit.
- D. Private docks, seawalls, retaining walls and jetties in Coastal Overlay District-1 (COD-1) and Coastal Overlay District-2 (COD-2) after approval by the Site and Building Permit Review Board and the issuance of a building permit from the Building Inspector. No dock, seawall, retaining wall or jetty shall utilize artificial illumination directed seaward. [Amended 10-21-2002 by L.L. No. 3-2002]
- E. Playgrounds or parks operated by the State of New York or by the Board of Education of the school district in which the Village is located.
- F. Playgrounds or parks and accessory buildings operated by a person, firm or nonprofit corporation, other than the state or said school district, only when authorized by the Board of Trustees in accordance with Article IX and provided that:
- (1) Such use shall be part of or incidental to a permitted educational institution or that such use shall serve the needs of the inhabitants of the Village.
 - (2) Such use shall not be for profit.
 - (3) At least 20% in number of the governing board of any such organization shall be comprised of persons residing in and owning at least two acres of real property located in the Village.
- G. Incorporated churches, only when authorized by the Board of Trustees in accordance with the provisions of Article IX of this chapter and provided that the membership of any such church shall be at least partially composed of Village inhabitants and that the buildings and property of such church shall be used only for purposes of worship and other church purposes.

⁷. Editor's Note: Former Subsection B(11), regarding heliports, which immediately followed this section, was repealed 1-19-2010 by L.L. No. 1-2010.

- H. Educational institutions, only when authorized by the Board of Trustees in accordance with the provisions of Article IX of this chapter and provided that the buildings and property of such institution shall be used only for bona fide educational purposes recognized by the Board of Regents of the State of New York.
- I. Incorporated clubs, only when authorized by the Board of Trustees in accordance with the provisions of Article IX of this chapter and provided that:
 - (1) Twenty-five per centum or more of the voting membership and 51% of the governing body of any such club shall be composed of resident property owners of this Village.
 - (2) The total membership of such club shall not exceed 250 persons.
- J. Personal wireless facilities, only when authorized by the Board of Trustees in accordance with the provision of Article IX of this chapter and provided that:
 - (1) Neither the radio frequency environment nor energy associated with the applicant's proposed installation shall violate the safety criteria adopted from time to time by the Federal Communications Commission.
 - (2) The facility and location shall be in harmony with the Village's Master Plan and Local Water Revitalization Plan, in compliance with the Village's zoning requirements and in character with the neighborhood in which it is located.
 - (3) The subject installation shall cause no interference with television and radio reception or other electronic devices in the Village.
 - (4) The applicant shall demonstrate a need for the facility in the Village.
 - (5) No less intrusive technology is available.
 - (6) A maintenance and demolition bond of sufficient amount is deliverable to the Village to insure the proper maintenance of the structure and its removal when the facility is no longer used or has become obsolete.
 - (7) Any approval obtained must be reviewed by the Village at intervals of five years.

§ 205-10. Prohibited uses. [Amended 12-21-1992 by L.L. No. 2-1992]

Notwithstanding any of the foregoing provisions of this Article V, no building or premises shall be used for any purpose which:

- A. Is obnoxious or offensive to the surrounding community by reason of causing or emitting unreasonable levels of odor, smoke, vapor, gas, dust, garbage, refuse matter, glare of lights, radiation, noise or vibrations, interference with radio or television reception or other physical or electronic disturbance beyond the premises on which such use is conducted.
- B. Is dangerous or harmful to the health, peace, comfort or safety of the community.

- C. Tends to disturb or annoy the residents of the Village.
- D. Involves any radiation or explosive menace or any serious fire hazard.

ARTICLE VI

Public Beach District

§ 205-11. Permitted uses.

No building or premises in the Public Beach District shall be used or maintained for any except the purposes enumerated below and for no other, and no building shall hereafter be erected, enlarged or altered if, as so erected or as a result of such enlargement or alteration, such building or any part thereof is arranged, designed or intended to be used for any purpose, except a bathing beach owned, operated and maintained by the Town of Huntington for the benefit of the inhabitants of said town and the inhabitants of the Village when authorized as a special exception by the Board of Zoning Appeals of the Village as set forth and provided for in the following sections of this article. If, at any time, the property included in said Public Beach District should cease to be used for the purposes described in this § 205-11, the provisions of Article VII of this chapter shall become applicable to such property.

§ 205-12. West Neck Beach.

- A. The Board of Zoning Appeals of the Village shall have the power, to the extent hereinafter set forth, after public notice and hearing and after giving consideration to the health, safety, morals and general welfare of the Village and of the property owners and residents thereof and subject to appropriate conditions and safeguards to be imposed by it, to determine and vary the application of the regulations herein established in harmony with the purposes enumerated in the Village Law and the general intent of this article, as follows: permit for a stated term of years in said Public Beach District the construction, operation and maintenance of a bathing beach by the Town of Huntington, which shall, if permitted, be designated "West Neck Beach," for the benefit of the inhabitants of said town and of the Village.
- B. Notwithstanding any of the foregoing provisions of this section or any other provisions of this chapter, the Board of Zoning Appeals, in acting upon any application for such permit, shall observe and comply with the following minimum mandatory provisions and requirements [Subsection B(1) to (17) inclusive] which, among such other conditions and safeguards as may be imposed by said Board, shall be set forth and contained in any such permit granted and issued by said Board.
 - (1) The use of such property as a beach shall be limited to bona fide residents of the Town of Huntington and the Village of Lloyd Harbor.
 - (2) An adequate entrance to such property shall be constructed by the town, which shall be properly policed by it and shall provide for turnarounds to eliminate any traffic congestion.
 - (3) A parking area shall be constructed and limited to 360 cars, of which 25% shall be reserved in a special area for the exclusive use of residents of the Village.

- (4) No public transportation buses to and from such property shall be permitted.
- (5) A control booth person and such assistants as shall be necessary shall be in attendance at all times to check permits, to police parking and to disperse unprivileged motor vehicles.
- (6) Each motor vehicle shall be properly identified with an appropriate windshield sticker. All applicants for such permit stickers shall register at the Town Hall or any other suitable public place, with full identification, and shall pay an annual fee per car prescribed by the town.
- (7) The beach and parking area shall be open from Memorial Day weekend through Labor Day weekend each year from 10:00 a.m. to 1/2 hour after sunset. Any use of the beach at other times shall be subject to the approval of the Joint Park Commission, hereinafter provided for.
- (8) A cyclone fence or equivalent with suitable gates and locks shall be installed along the boundary lines of such property down to the mean low-water mark.
- (9) No intoxicating liquors shall be sold or dispensed on the property, and no concessionaires of any kind shall be permitted thereon.
- (10) There shall be no rental, use or landing of any boats, except those required by lifeguards. No fishing shall be permitted nor shall any docks be installed.
- (11) No floodlights or search lights nor loudspeakers or similar structures shall be erected or used on such property in any manner that will cause hazard, annoyance or discomfort in any manner to the public generally or to the occupants of neighboring properties.
- (12) Any and all accessory uses shall be of the same character and nature as the use to which the same are accessory.
- (13) A Joint Park Commission shall be created, consisting of five members. Three of such members, one of whom shall be Chairperson, shall be appointed by the Mayor of Lloyd Harbor from residents of said Village and two by the Supervisor of the Town of Huntington from residents of said town. Each member shall serve for a term of five years, and once the Commission is established, provision shall be made for rotating membership. Any vacancy in the membership shall be filled by such Mayor or Supervisor, as the case may be. A majority of the whole number of the members of such Commission shall, at any meeting duly held by them, constitute a quorum; and not less than a majority of the whole number of such membership may perform and exercise any power, authority or duty herein provided for. The words "whole number" shall mean the total such Commission would have were there no vacancies in office.
- (14) The Joint Park Commission shall supervise the operation and maintenance of the beach and shall report promptly any violations of the terms, conditions or restrictions contained in said permit to the Board of Trustees of the Village of Lloyd Harbor and the Town Board of the Town of Huntington, and the Commission shall make

recommendations, from time to time, for the improvement of the operation of the beach.

- (15) The Town of Huntington shall, upon recommendation of the Joint Park Commission, hire and discharge all personnel, including lifeguards, matrons, etc., and if, in the opinion of the Joint Park Commission, a caretaker shall be required, the Town of Huntington shall employ the same on an annual basis.
- (16) In the event that the Joint Park Commission determines that a violation of any such terms, conditions or restrictions exists and that such violation is one for which the Town of Huntington is responsible and over which it has control, it shall immediately notify the Town Board, in writing, of such violation; and the Town Board shall have 30 days from the date of receipt of such notice to cure the same. Should the Town Board fail to cure such violation within the time specified, the Board of Zoning Appeals may, by a decision, in writing, after public notice and notice to said Town Board and a hearing, revoke, annul and terminate such permit; and such decision of the Board of Zoning Appeals shall be subject to court review as provided in § 7-712 of the Village Law.⁸
- (17) The Town of Huntington shall make appropriation in its annual budget to cover all costs and expenses which may be anticipated in connection with the maintenance and operation of said beach in each year.

§ 205-13. Site plans and building plans required.

No such permit shall be granted by the Board of Zoning Appeals for such uses, nor shall any such uses on such property be permitted or carried on until detailed site plans and building plans of such area and all buildings thereon showing dimensions, design, materials, elevation, location and areas of all buildings and structures, drainage, garbage and refuse removal, sewage and sanitary facilities, parking areas, roads, entrances, walks, landscaping, planting, screening, fences, entrance gates, booths and stands and such other relevant information as may be required by the Board of Zoning Appeals shall have been submitted to and approved by it.

ARTICLE VII

Floodplain Districts

[Amended 1-16-1978 by L.L. No. 1-1978; 3-21-1983 by L.L. No. 3-1983; 5-16-1983 by L.L. No. 4-1983]

§ 205-14. Findings of fact.

The flood hazard areas of the Village, Floodplain District I and Floodplain District II, are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

⁸ . Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 205-15. Purpose.

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

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
- E. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- F. Ensure that potential buyers are notified that property is in an area of special flood hazard.
- G. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 205-16. Methods for reducing flood losses. [Amended 4-18-1988 by L.L. No. 2-1988]

In order to accomplish its purposes, this article includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Preventing the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters.
- D. Preventing filling, grading, dredging and other development which may increase flood damage.
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.
- F. Qualifying for and maintaining participation in the National Flood Insurance Program. [Added 7-20-2009 by L.L. No. 2-2009]

§ 205-17. Definitions.

- A. Unless specifically defined below, words or phrases in this article shall be interpreted so as

to give them the meaning they have in common usage and to give this article its most reasonable application.

B. As used in this article, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the Building Inspector's interpretation of any provision of this article or a request for a variance. [Added 7-20-2009 by L.L. No. 2-2009]

AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on the Village's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. [Amended 7-20-2009 by L.L. No. 2-2009]

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within the Village subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this article, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard." [Amended 7-20-2009 by L.L. No. 2-2009]

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides. [Added 7-20-2009 by L.L. No. 2-2009]

BREAKAWAY WALLS — Any types of walls, whether solid or lattice and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material, which are not part of the structural support of the building and which are so designed as to break away under abnormally high tides or wave action without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters.

BUILDING — See "structure." [Added 7-20-2009 by L.L. No. 2-2009]

CELLAR — The same meaning as "basement." [Added 7-20-2009 by L.L. No. 2-2009]

COASTAL HIGH-HAZARD AREA — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V. [Amended 7-20-2009 by L.L. No. 2-2009]

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard. [Amended 7-20-2009 by L.L. No. 2-2009]

ELEVATED BUILDING[Added 7-20-2009 by L.L. No. 2-2009]

- (1) A non-basement building:
 - (a) Built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
 - (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.
- (2) In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.
- (3) In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program. [Added 7-20-2009 by L.L. No. 2-2009]

FLOOD or FLOODING [Amended 7-20-2009 by L.L. No. 2-2009]

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1)(a) above.

FLOOD INSURANCE RATE MAP (FIRM) — The official map for the Village, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. [Amended 7-20-2009 by L.L. No. 2-2009]

FLOOD INSURANCE STUDY — See "flood elevation study." [Amended 7-20-2009 by L.L. No. 2-2009]

FLOODPLAIN or FLOOD-PRONE AREA — any land area susceptible to being inundated by water from any source. (See definition of "flooding.") [Added 7-20-2009 by L.L. No. 2-2009]

FLOODPLAIN DISTRICT I — Consists of all land within the Village subject to possible flooding by tidewater rising to a height of 12 feet above mean sea level, and all land within the Village to which the principal means of access is over any private roadway which in whole or in part is subject to possible flooding by tidewater rising to a height of 12 feet above mean sea level. [Amended 2-24-1987 by L.L. No. 2-1987; 7-20-2009 by L.L. No. 2-2009]

FLOODPLAIN DISTRICT II — Consists of all land not within Floodplain District I but shown on the Federal Flood Insurance Rate Maps applicable to the Village. [Amended 2-24-1987 by L.L. No. 2-1987; 6-15-1998 by L.L. No. 2-1998; 7-20-2009 by L.L. No. 2-2009]

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. [Added 7-20-2009 by L.L. No. 2-2009]

FLOODWAY — The same meaning as "regulatory floodway." [Amended 7-20-2009 by L.L. No. 2-2009]

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers. The term does not include long-term storage, manufacturing, sales, or service facilities. [Added 7-20-2009 by L.L. No. 2-2009]

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure. [Added 7-20-2009 by L.L. No. 2-2009]

HISTORIC STRUCTURE — Any structure that is: [Added 7-20-2009 by L.L. No. 2-2009]

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

LOWEST FLOOR — A building's lowest floor (including basement) of the lowest enclosed area of the structure.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle." [Added 7-20-2009 by L.L. No. 2-2009]

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale, if permitted in the future. [Added 7-20-2009 by L.L. No. 2-2009]

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. [Added 7-20-2009 by L.L. No. 2-2009]

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this article.

PRIMARY FRONTAL DUNE — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope. [Added 7-20-2009 by L.L. No. 2-2009]

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground. [Added 7-20-2009 by L.L. No. 2-2009]

RECREATIONAL VEHICLE[Added 7-20-2009 by L.L. No. 2-2009] — A vehicle which is:

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

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as authorized in this article. [Added 7-20-2009 by L.L. No. 2-2009]

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to an existing structure, provided that actual start of construction, repair,

reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Amended 7-20-2009 by L.L. No. 2-2009]

STRUCTURE — A walled and roofed building or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. [Amended 7-20-2009 by L.L. No. 2-2009]

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. [Added 7-20-2009 by L.L. No. 2-2009]

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. Substantial improvement includes structures which have incurred substantial damage, regardless of the actual repair work performed, but does not include: [Amended 7-20-2009 by L.L. No. 2-2009]

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

VARIANCE — A grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article.

§ 205-18. Applicability. [Amended 2-24-1987 by L.L. No. 2-1987; 1-19-2010 by L.L. No. 1-2010]

The provisions contained in § 205-19 shall apply to land within Floodplain District I, including overlapping areas in Floodplain District II. All other provisions of this article shall apply to land included within Floodplain District II and to those areas included within Floodplain District I that are placed in the Residence A-1 or A-2 Districts by action of the Board of Trustees.

§ 205-19. Standards and procedures for Floodplain District I. [Amended 4-18-1988 by L.L. No. 2-1988; 11-21-1988 by L.L. No 4-1988; 4-20-1992 by L.L. No. 1-1992]

No person shall fill, dredge, disturb the natural ground cover, build, make a substantial improvement or cause to be placed a building, house, residence, dwelling or other structure on land lying within

Floodplain District I; provided, however, that this prohibition shall not prevent:

- A. The pitching of tents or the construction of nonresidential shelters of a temporary nature for the purposes of camping, fishing, swimming or hunting by the owner.
- B. Site and Building Permit Review Board approval. [Amended 11-21-1994 by L.L. No. 2-1994; 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]
 - (1) After obtaining Site and Building Permit Review Board approval:
 - (a) The construction, alteration or substantial repair of private docks, boat ramps, seawalls, retaining walls and jetties or dredging for navigation purposes in that portion of Floodplain District I within Coastal Overlay Districts-1 and -2, subject, however, to the provisions of Article XVI hereof regarding the coastal erosion hazard area.
 - (b) The substantial repair of legal preexisting but nonconforming private docks, boathouses, boat ramps, seawalls, retaining walls and jetties in that portion of Floodplain District I within Coastal Overlay Districts-1 and -2.
 - (2) Any application for Site and Building Permit Review Board approval shall comply with the requirements of § 175-50 of Chapter 175, Subdivisions of Land, and with the standards and procedures set forth in § 205-7C, except that the required determination shall be made by the Site and Building Permit Review Board with respect to the wetlands and floodplains rather than slope lands. No road traversing land lying within Floodplain District I shall be added to the Official Map of the Village. No uses prohibited in the Residence A-1 and A-2 Districts shall be permitted in Floodplain District I. [Amended 1-19-2010 by L.L. No. 1-2010]
- C. The routine maintenance and minor repairs to legally existing buildings or structures within Floodplain District I.

§ 205-20. Basis for establishing areas of special flood hazard; Floodplain District II. [Amended 6-15-1998 by L.L. No. 2-1998; 7-20-2009 by L.L. No. 2-2009]

- A. The areas of special flood hazard for the Village, Community Number 360799, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) Flood Insurance Rate Map Panel Numbers: 36103C0303H, 36103C0304H, 36103C0311H, 36103C0312H, 36103C0313H, 36103C0314H, 36103C0316H, 36103C0318H, 36103C0602H, whose effective date is September 25, 2009, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Suffolk County, New York, All Jurisdictions" dated September 25, 2009.
- B. The above documents are hereby adopted and declared to be a part of this Article. The Flood

Insurance Study and/or maps are on file at the Lloyd Harbor Village, 32 Middle Hollow Road, Huntington, New York 11743.

§ 205-21. Penalties for offenses. [Amended 2-24-1987 by L.L. No. 2-1987]

No structure shall hereafter be constructed, located, extended, converted or altered nor land developed without full compliance with the terms of this article and other applicable articles and regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with the conditions) shall constitute a violation and subject the violator to the penalties provided for in § 205-72 of this chapter.

§ 205-22. Abrogation and greater restrictions. [Amended 2-24-1987 by L.L. No. 2-1987]

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where sections of this article or this article and other local laws or ordinances conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 205-23. Interpretation; conflict with other laws. [Amended 7-20-2009 by L.L. No. 2-2009]

- A. This article includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In its interpretation and application, the provisions of this article shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this article are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 205-24. Warning and disclaimer of liability. [Amended 7-20-2009 by L.L. No. 2-2009]

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

§ 205-25. Development permit. [Amended 4-18-1988 by L.L. No. 2-1988; 7-20-2009 by L.L. No. 2-2009]

In addition to the issuance of a building permit, a development permit shall be obtained before construction or development of permitted structures begins within any area in a Floodplain District. Application for a development permit shall be made on forms furnished by the Building Inspector and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials and drainage facilities; and the location of the foregoing. Specifically, the

following information is required:

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Building Inspector the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Building Inspector the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zones V1-V30 or VE, or Zone V if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- D. Certification from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 205-30C, Utilities.
- E. Certification from a licensed professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 205-30.2, Nonresidential structures (except coastal high hazard areas).
- F. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 205-20, when notified by the Building Inspector, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- G. A technical analysis, by a licensed professional engineer, if required by the Building Inspector, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments including proposal for manufactured home and recreation vehicle parks and subdivisions, if permitted in the future, that are greater than either 50 lots or five acres.
- I. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, designs and

specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.

- J. In Zones V1-V30 and VE, and also Zone V if base flood elevation are available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect, and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this article.

§ 205-26. Designation of administrator.

The Building Inspector of the Village is hereby appointed to administer and implement this article by granting or denying development permit applications in accordance with its provisions.

§ 205-27. Duties and responsibilities of administrator. [Amended 4-18-1988 by L.L. No. 2-1988; 7-20-2009 by L.L. No. 2-2009]

Duties of the Building Inspector shall include, but not be limited to:

- A. Permit review. The Building Inspector shall conduct the following permit application review before issuing a floodplain development permit:
- (1) Review all applications for completeness, particularly with the requirements of § 205-25, Development permit, and for compliance with the provisions and standards of this article.
 - (2) Review subdivision and other proposed new development including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of § 205-29, General standards for flood hazard reduction, and, in particular, § 205-29B, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Building Inspector may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of § 205-29, General standards for flood hazard reduction, and § 205-31.2, Manufactured homes and recreational vehicles, of this article, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Review all development permits to assure that the proposed development will not alter sand dunes so as to create potential flood damage.

- (5) Review plans for walls to be used to enclose space below the base flood level.
- (6) Review all development permits to assure that the proposed development will not adversely affect the flood-carrying capacity of areas of special flood hazard. For the purpose of this article, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood.

B. Use of other base flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (These areas are designated Zone A or V on the FIRM.) nor identified a floodway, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 205-25G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this article.
- (2) When base flood elevation data are not available, the Building Inspector may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this article.

C. The Building Inspector shall retain and maintain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 205-27E(1) and (2) and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to § 205-27E(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to § 205-28, Variances;
- (5) Notices required under § 205-27D, Alteration of watercourses.

D. Alteration of watercourses. The Building Inspector shall:

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

E. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data are available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the Building Inspector a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Building Inspector shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

F. Inspections. The Building Inspector shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions. The developer's engineer or architect shall certify to the Village that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

G. Stop-work orders.

- (1) The Building Inspector shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 205-21, Penalties for offenses, of this article.
- (2) The Building Inspector shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this article and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 205-21, Penalties for offenses, of this article.

H. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 205-20, Basis for establishing areas of special flood hazard; Floodplain District II, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Building Inspector stating that the building or land conforms to the requirements of this article.
- (2) A certificate of compliance shall be issued by the Building Inspector upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 205-27F, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

I. Interpretation of FIRM boundaries. The Building Inspector shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 205-28, Variances.

§ 205-28. Variances.

A. Appeal Board.

- (1) The Board of Zoning Appeals, as established by the Village, shall hear and decide appeals and requests for variances from the requirements of this article consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program.
- (2) The Board of Zoning Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Building Inspector in the enforcement or administration of this article.
- (3) Those aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the New York State Supreme Court through an Article 78 proceeding.⁹
- (4) In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.

⁹ . Editor's Note: See Article 78 of the Civil Practice Law and Rules.

- (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- (5) Upon consideration of the factors of § 205-28A(4) and the purposes of this article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article. [Amended 7-20-2009 by L.L. No. 2-2009]
- (6) The Board of Zoning Appeals shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request. [Amended 7-20-2009 by L.L. No. 2-2009]

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of two acres or more in size in the Residence A-1 District and four acres or more in size in the Residence A-2 District, contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the provisions of Subsection A(4)(a) through (k) have been fully considered. As the lot size increases beyond two acres in the Residence A-1 District and beyond four acres in the Residence A-2 District, the technical justification required for issuing the variance increases. [Amended 7-20-2009 by L.L. No. 2-2009; 1-19-2010 by L.L. No. 1-2010]

- (2) Variances may be issued for the repair, reconstruction, rehabilitation or restoration of historic structures upon determination that:
 - (a) The proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure"; and
 - (b) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause.
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense nor create nuisances, cause fraud on or victimization of the public as identified in Subsection A(4) or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (7) Variances granted pursuant to this article shall not be deemed to vary any other provision of this chapter.
- (8) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that: [Added 7-20-2009 by L.L. No. 2-2009]
 - (a) The criteria of Subsection B(1), (3), (4) and (7) of this section are met; and
 - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

§ 205-29. General standards for flood hazard reduction. [Amended 11-20-1989 by L.L. No. 6-1989; 7-20-2009 by L.L. No. 2-2009; 1-19-2010 by L.L. No. 1-2010]

In Floodplain District II and those areas included within Floodplain District I that are placed in the Residence A-1 or A-2 Districts, the following standards are required:

- A. Coastal high hazard areas.
 - (1) All new construction, including manufactured homes and recreational vehicles on site 180 days or longer and not fully licensed for highway use, shall be located landward of the reach of high tide.
 - (2) The use of fill for structural support of buildings, manufactured homes or recreational vehicles on site 180 days or longer is prohibited.
 - (3) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

- B. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions, if permitted in the future).
 - (1) Proposals shall be consistent with the need to minimize flood damage;
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage;
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage; and
 - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

§ 205-30. Standards for all structures. [Amended 4-18-1988 by L.L. No. 2-1988; 7-20-2009 by L.L. No. 2-2009]

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

- B. Construction materials and methods.
 - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - (3) Enclosed areas.
 - (a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an

area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

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

- (4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation are available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts are subject to the design requirements for breakaway walls.

C. Utilities.

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

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 205-30.1. Residential structures (except coastal high hazard areas). [Added 7-20-2009 by L.L. No. 2-2009]

- A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 205-29B, Subdivision proposals, and § 205-30, Standards for all structures.
 - (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
 - (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
 - (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 205-20, Basis for establishing areas of special flood hazard; Floodplain District II, (at least two feet if no depth number is specified).
 - (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 205-30.2. Nonresidential structures (except coastal high hazard areas). [Added 7-20-2009 by L.L. No. 2-2009]

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 205-29B, Subdivision proposals, and § 205-30 Standards for all structures.

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

- (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 205-30C, Utilities.
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the Building Inspector that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 205-30.2A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 205-31. Residential structures (coastal high hazard areas). [Amended 7-20-2009 by L.L. No. 2-2009]

Coastal high hazard areas (V Zones) are located within Floodplain District II (which may include portions of Floodplain District I) as established in § 205-20, Basis for establishing areas of special flood hazard; Floodplain District II. The following standards, in addition to the standards in § 205-29A, Coastal high hazard areas, § 205-29B, Subdivision proposals, and § 205-30, Standards for all structures, apply to new and substantially improved residential structures located in areas of special flood hazard shown as Zones V1-V30, VE or V on the community's Flood Insurance Rate Map designated in § 205-20, Basis for establishing areas of special flood hazard; Floodplain District II.

- A. Elevation. The location of all buildings or structures shall be located landward of the reach of mean high tide. New construction and substantial improvements shall be elevated on pilings, columns or shear walls such that the bottom of the lowest horizontal structural member supporting the lowest elevated floor (excluding columns, piles, diagonal bracing attached to the piles or columns, grade beams, pile caps and other members designed to either withstand storm action or break away without imparting damaging loads to the structure) is elevated to or above two feet above base flood elevation so as not to impede the flow of water.
- B. Determination of loading forces. Structural design shall consider the effects of wind and water loads acting simultaneously during the base flood on all building components.
- (1) The structural design shall be adequate to resist water forces that would occur during the base flood. Horizontal water loads considered shall include inertial and drag forces of waves, current drag forces, and impact forces from waterborne storm debris. Dynamic uplift loads shall also be considered if bulkheads, walls, or other natural or man-made flow obstructions could cause wave run-up beyond the elevation of the base flood.

- (2) Buildings shall be designed and constructed to resist the forces due to wind pressure. Wind forces on the superstructure include windward and leeward forces on vertical walls, uplift on the roof, internal forces when openings allow wind to enter the house, and upward force on the underside of the house when it is exposed. In the design, the wind should be assumed to blow potentially from any lateral direction relative to the house.
- (3) Wind-loading values used shall be those required by the building code.

C. Foundation standards.

- (1) The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse or lateral movement due to the effects of wind and water pressures acting simultaneously on all building components. Foundations must be designed to transfer safely to the underlying soil all loads due to wind, water, dead load, live load and other loads (including uplift due to wind and water).
- (2) Spread footings and fill material shall not be used for structural support of a new building or substantial improvement of an existing structure.

D. Pile foundation design.

- (1) The design ratio of pile spacing to pile diameter shall not be less than 8:1 for individual piles. (This shall not apply to pile clusters located below the design grade). The maximum center-to-center spacing of wood piles shall not be more than 12 feet on center under load-bearing sills, beams, or girders.
- (2) Pilings shall have adequate soil penetration (bearing capacity) to resist the combined wave and wind loads (lateral and uplift) associated with the base flood acting simultaneously with typical structure (live and dead) loads, and shall include consideration of decreased resistance capacity caused by erosion of soil strata surrounding the piles. The minimum penetration for foundation piles is to an elevation of five feet below mean sea level (msl) datum if the BFE is +10 msl or less, or to be at least 10 feet below msl if the BFE is greater than +10 msl.
- (3) Pile foundation analysis shall also include consideration of piles in column action from the bottom of the structure to the stable soil elevation of the site. Pilings may be horizontally or diagonally braced to withstand wind and water forces.
- (4) The minimum acceptable sizes for timber piles are a tip diameter of eight inches for round timber piles and eight inches by eight inches for square timber piles. All wood piles must be treated in accordance with requirements of EPEE-C3 to minimize decay and damage from fungus.
- (5) Reinforced concrete piles shall be cast of concrete having a twenty-eight-day ultimate compressive strength of not less than 5,000 pounds per square inch, and shall be reinforced with a minimum of four longitudinal steel bars having a combined area of not less than 1% nor more than 4% of the gross concrete area. Reinforcing for precast piles

- shall have a concrete cover of not less than 1 1/4 inches for No. 5 bars and smaller and not less than 1 1/2 inches for No. 6 through No. 11 bars. Reinforcement for piles cast in the field shall have a concrete cover of not less than two inches.
- (6) Piles shall be driven by means of a pile driver or drop hammer, jetted, or augered into place.
 - (7) Additional support for piles in the form of bracing may include lateral or diagonal bracing between piles.
 - (8) When necessary, piles shall be braced at the ground line in both directions by a wood timber grade beam or a reinforced concrete grade beam. These at-grade supports should be securely attached to the piles to provide support even if scoured from beneath.
 - (9) Diagonal bracing between piles, consisting of two-inch-by-eight-inch (minimum) members bolted to the piles, shall be limited in location to below the lowest supporting structural member and above the stable soil elevation, and aligned in the vertical plane along pile rows perpendicular to the shoreline. Galvanized steel rods (minimum diameter 1/2 inch) or cable-type bracing is permitted in any plane.
 - (10) Knee braces, which stiffen both the upper portion of a pile and the beam-to-pile connection, may be used along pile rows perpendicular and parallel to the shoreline. Knee braces shall be two-by-eight lumber bolted to the sides of the pile/beam, or four-by-four-or-larger braces framed into the pile/beam. Bolting shall consist of two five-eighths-inch galvanized steel bolts (each end) for two-by-eight members, or one five-eighths-inch lag bolt (each end) for square members. Knee braces shall not extend more than three feet below the elevation of the base flood.
- E. Column foundation design. Masonry piers or poured-in-place concrete piers shall be internally reinforced to resist vertical and lateral loads, and be connected with a movement-resisting connection to a pile cap or pile shaft.
- F. Connectors and fasteners. Galvanized metal connectors, wood connectors, or bolts of size and number adequate for the calculated loads must be used to connect adjoining components of a structure. Toe nailing as a principal method of connection is not permitted. All metal connectors and fasteners used in exposed locations shall be steel, hot-dipped galvanized after fabrication. Connectors in protected interior locations shall be fabricated from galvanized sheet.
- G. Beam-to-pile connections. The primary floor beams or girders shall span the supports in the direction parallel to the flow of potential floodwater and wave action and shall be fastened to the columns or pilings by bolting, with or without cover plates. Concrete members shall be connected by reinforcement, if cast in place, or (of precast) shall be securely connected by bolting and welding. If sills, beams, or girders are attached to wood piling at a notch, a minimum of two five-eighths-inch galvanized steel bolts or two hot-dipped galvanized straps 3/16 inch by four inches by 18 inches each bolted with two one-half-inch lag bolts per beam member shall be used. Notching of pile tops shall be the minimum sufficient to provide ledge

support for beam members without unduly weakening pile connections. Piling shall not be notched so that the cross section is reduced below 50%.

H. Floor and deck connections.

- (1) Wood two-by-four-inch (minimum) connectors or metal joist anchors shall be used to tie floor joists to floor beams/girders. These should be installed on alternate floor joists, at a minimum. Cross bridging of all floor joists shall be provided. Such cross bridging may be one-by-three-inch members, placed eight feet on-center maximum, or solid bridging of same depth as joist at same spacing.
- (2) Plywood should be used for subflooring and attic flooring to provide good torsional resistance in the horizontal plane of the structure. The plywood should not be less than three-fourths-inch total thickness, and should be exterior grade and fastened to beams or joists with 8d annular or spiral thread galvanized nails. Such fastening shall be supplemented by the application of waterproof industrial adhesive applied to all bearing surfaces.

I. Exterior wall connections. All bottom plates shall have any required breaks under a wall stud or an anchor bolt. Approved anchors will be used to secure rafters or joists and top and bottom plates to studs in exterior and bearing walls to form a continuous tie. Continuous fifteen-thirty-seconds-inch-or-thicker plywood sheathing overlapping the top wall plate and continuing down to the sill, beam, or girder may be used to provide the continuous tie. If the sheets of plywood are not vertically continuous, then two-by-four nailer blocking shall be provided at all horizontal joints. In lieu of the plywood, galvanized steel rods of 1/2 inch diameter or galvanized steel straps not less than one inch wide by 1/16 inch thick may be used to connect from the top wall plate to the sill, beam, or girder. Washers with a minimum diameter of three inches shall be used at each end of the 1/2 inch round rods. These anchors shall be installed no more than two feet from each corner rod, no more than four feet on center.

J. Ceiling joist/rafter connections.

- (1) All ceiling joists or rafters shall be installed in such a manner that the joists provide a continuous tie across the rafters. Ceiling joists and rafters shall be securely fastened at their intersections. A metal or wood connector shall be used at alternate ceiling joist/rafter connections to the wall top plate.
- (2) Gable roofs shall be additionally stabilized by installing two-by-four blocking on two-foot centers between the rafters at each gable end. Blocking shall be installed a minimum of eight feet toward the house interior from each gable end.

K. Projecting members. All cantilevers and other projecting members must be adequately supported and braced to withstand wind and water uplift forces. Roof eave overhangs shall be limited to a maximum of two feet and joist overhangs to a maximum of one foot. Larger overhangs and porches will be permitted if designed or reviewed and certified by a registered professional engineer or architect.

L. Roof sheathing.

- (1) Plywood, or other wood material, when used as roof sheathing, shall not be less than 15/32 inch in thickness, and shall be of exterior sheathing grade or equivalent. All attaching devices for sheathing and roof coverings shall be galvanized or be of other suitable corrosion-resistant material.
- (2) All corners, gable ends, and roof overhangs exceeding six inches shall be reinforced by the application of waterproof industrial adhesive applied to all bearing surfaces of any plywood sheet used in the sheathing of such corner, gable end, or roof overhang.
- (3) In addition, roofs should be sloped as steeply as practicable to reduce uplift pressures, and special care should be used in securing ridges, hips, valleys, eaves, vents, chimneys, and other points of discontinuity in the roofing surface.

M. Protection of openings. All exterior glass panels, windows, and doors shall be designed, detailed, and constructed to withstand loads due to the design wind speed of 75 mph. Connections for these elements must be designed to transfer safely the design loads to the supporting structure. Panel widths of multiple panel sliding glass doors shall not exceed three feet.

N. Breakaway wall design standards.

- (1) The breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot, with the criterion that the safety of the overall structure at the point of wall failure be confirmed using established procedures. Grade beams shall be installed in both directions for all piles considered to carry the breakaway wall load. Knee braces are required for front row piles that support breakaway walls.
- (2) Use of breakaway wall strengths in excess of 20 pounds per square foot shall not be permitted unless a registered professional engineer or architect has developed or reviewed the structural design and specifications for the building foundation and breakaway wall components, and certifies that the breakaway walls will fail under water loads less than those that would occur during the base flood; and the elevated portion of the building and supporting foundation system will not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Water-loading values used shall be those associated with the base flood. Wind-loading values shall be those required by the building code.

O. Sand dunes. There shall be no alteration of sand dunes which would increase potential flood damage.

§ 205-31.1. Nonresidential structures (coastal high hazard areas). [Added 7-20-2009 by L.L. No. 2-2009]

In Zones V1-V30, VE and also Zone V if base flood elevations are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary

facilities, shall have the bottom of lowest member of the lowest floor elevated to or above two feet above the base flood elevation. Floodproofing of structures is not an allowable alternative to elevating the lowest floor to two feet above the base flood elevation in Zones V1-V30, VE and V.

§ 205-31.2. Manufactured homes and recreational vehicles. [Added 7-20-2009 by L.L. No. 2-2009]

The following standards in addition to the standards in § 205-29, General standards for flood reduction, and § 205-30, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in § 205-31.2B, C and D.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

C. Within Zones A or V, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 205-20 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

ARTICLE VIII

Site and Building Permit Review Board

[Added 12-15-1969; amended 4-20-1992 by L.L. No. 1-1992; 7-19-1993 by L.L. No. 1-1993;

7-23-1996 by L.L. No. 1-1996; 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]

§ 205-32. Findings; purpose.

The Village Board of Trustees hereby finds that excessive uniformity or dissimilarity, inappropriateness and poor quality of design and the improper placement or inadequate screening of structures within the Village and along its shorelines adversely affects the environment and community by creating a visual or ecological detriment. These visual and ecological detriments impair the beneficial use of real property in such areas, impair the stability and value of both the improved and unimproved real property in such areas, prevent the most appropriate development of such areas, produce a degeneration of the property and aesthetic character of such areas and impair the proper relationship between the taxable value of real property in the community and the cost of municipal services provided therefor. These detriments, singly and in combinations, result in a deterioration of conditions affecting the health, safety, morals and general welfare of the inhabitants of the community. It is the purpose of this article to prevent these and other harmful effects by instituting a review procedure for all building permit applications to the Village prior to their review by the Building Inspector pursuant to the state building code.

§ 205-33. Application process.

- A. Every completed application for a building permit for the construction of any building within the Village of Lloyd Harbor, or for the reconstruction or alteration of any building, including any additions thereto, which would affect the exterior appearance of such building, shall be referred by the Building Inspector to the Site and Building Permit Review Board of the Village for review. Such referral shall be made within 21 days of the date that the completed application is received by the Building Inspector, provided that such application conforms in all respects to all other applicable laws and ordinances, including but not limited to § 205-73 of this chapter. The referral shall be made prior to the Building Inspector's review of the plans and drawings as required by the state building code and shall be made in conformity with this article.
- B. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 171, Stormwater Management and Erosion and Sediment Control, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards of Chapter 171, Stormwater Management and Erosion and Sediment Control. The approved site plan shall be consistent with the provisions of Chapter 171, Stormwater Management and Erosion and Sediment Control. [Added 12-17-2007 by L.L. No. 7-2007¹⁰]
- C. In order to assist applicants in designing and locating structures in harmony with this chapter, the Site and Building Permit Review Board may adopt such preapplication review procedures as it deems necessary and expedient.

§ 205-34. Site and Building Permit Review Board standards for review.

- A. The Site and Building Permit Review Board, in conformity with the purposes and standards

¹⁰. Editor's Note: This local law also provided for the redesignation of former Subsection B as Subsection C.

of this article, shall review and approve, with or without conditions, or it shall disapprove any building permit application referred to it pursuant to § 205-33. The decision of the Site and Building Permit Review Board must be by a majority vote of its full membership or the unanimous vote of any subcommittee it may appoint, and its findings and decision shall be recorded in the minutes of the Board filed with the Village Clerk. The Site and Building Permit Review Board shall disapprove any permit where it finds that the proposed construction, reconstruction or alteration would be so detrimental to the surrounding properties or the community as to provoke one or more of the harmful effects set forth in § 205-32 above, by reason of:

- (1) Excessive similarity to any other structure or structures existing or for which a permit has been issued or to any other structure included in the same permit application, or any structure located on a contiguous lot, or structure located on lots on the same street within 1,000 feet of the subject site, in respect to one or more of the following features of exterior design and appearance: substantially identical facade; substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement; or other significant identical features, such as but not limited to material, roofline and height or other design elements. A finding of excessive similarity shall state not only that such similarity exists but further that it is of such a nature as to be expected to provoke one or more of the harmful effects set forth in § 205-32 and that the finding is not based on personal preference as to taste or choice of architectural style.
- (2) Excessive dissimilarity or inappropriateness in relation to any other existing structure, or structure for which a permit has been issued, or to any other structure included in the same permit application, or any structure located on a contiguous lot and structure located on lots within 1,000 feet on the same street of the proposed site, in respect to one or more of the following features: inappropriate relationship to the contours, shape or natural characteristics of the site; inappropriate location of features incorporated into the structure, including but not limited to windows or air-conditioning equipment, or of features ancillary to the structure, including but not limited to patios or refuse storage areas; and other significant design features, such as materials, quality of construction or architectural design. Before the Site and Building Permit Review Board makes a finding of excessive dissimilarity or inappropriateness, it shall conclude that one or more of such dissimilarities or inappropriateness exist and further that such dissimilarities or inappropriateness are of such a nature as to be expected to provoke one or more of the harmful effects set forth in § 205-32, and further, that the finding is not based on personal preference of Site and Building Permit Review Board members as to taste or choice of architectural style.
- (3) Inappropriate building site selection or location of improved surfaces including driveways, or excessive site disturbance in relation to the surrounding environmental, ecological, natural, other features of the subject and neighboring lands, including but not limited to topography, vistas, existing patterns of tree and shrub growth, property lines, and accessibility or proximity to wetlands, preserves, historic sites or areas.

B. The Site and Building Permit Review Board shall examine, review and approve or disapprove applications for permits for swimming pools, tennis courts and other structures as to the screening and placement of the same. A landscaped strip 10 feet wide, planted and maintained with the appropriate number and species of nondeciduous plants, with an actual height of at least six feet above the natural grade when installed, is the preferred screening method between the pool or court and the abutting property. However, the Site and Building Permit Review Board may approve alternate conditions if:

- (1) There is existing landscaping on the lot between the pool or court and the property line(s) equal in effectiveness, height and density to the required evergreen screening.
- (2) There is a preexisting six-foot-high opaque fence or wall on the lot between the pool or court and the property line(s), which is totally owned and controlled by the lot owner and which is in conformity with applicable fence height regulations, provided that the Site and Building Permit Review Board further finds that the increased height of matured evergreen screening is not necessary to screen the pool or court from the view of the abutting property.
- (3) The existing topography of the lot where the pool or court is to be located, relative to the topography of the abutting property, is such that the pool or court will not be within the view of the abutting property, provided that the Site and Building Permit Review Board further finds that it is reasonable to expect that this topographical relationship will not be adversely altered in order to facilitate future development of either property.
- (4) The soil conditions where the landscaping strip would be required to be installed are such that the evergreens cannot be expected to survive or to properly mature, provided that the Site and Building Permit Review Board further finds that the pool or court cannot be reasonably placed in another location with suitable soil conditions, and further provided that a preexisting six-foot-high opaque fence or wall which conforms to applicable fence height regulations exists between the property line and the pool or court in place of the landscaped strip.
- (5) The property line which would otherwise be screened is along the Long Island Sound, Cold Spring Harbor, Lloyd Harbor or Huntington Bay, and provided that the Site and Building Permit Review Board further finds that the landscaped strip is not necessary to screen the pool or court.
- (6) Conditions exist which are not specifically covered in Subsection B(1) through (5) above, but which are of a similar nature, provided that the Site and Building Permit Review Board further finds that approval of the waiver will not be inconsistent with the spirit and intent of this section or less protective of the view from the abutting properties.

§ 205-35. Refusal of permit.

No building permit shall be issued by the Building Inspector unless it first has been approved by the Site and Building Permit Review Board.

§ 205-36. (Reserved)

§ 205-37. (Reserved)

§ 205-38. (Reserved)

§ 205-39. (Reserved)

ARTICLE IX

Special Uses

§ 205-40. **Approval required; standards.** [Amended 1-19-2010 by L.L. No. 1-2010]

Notwithstanding any other provision of this chapter to the contrary, special uses, not necessarily residential in character, may be permitted in the Residence A-1 or A-2 Districts when approved by the Board of Trustees after finding that:

- A. The proposed special use will not be detrimental to the essential character, health, safety, morals or general welfare of the community.
- B. Such proposed special use, together with the location, size and topography of the parcel of land involved; the nature, design, size and location of every existing and proposed building, structure, access road, utility line and other improvement; and the provisions for landscaping, screening neighboring property, major planting of trees and shrubs and parking of vehicles, will be, both as a composite architectural scheme and as a functioning establishment, consistent with the Comprehensive Master Plan of the Village in effect at the time that the application for such special use is filed with the Village Clerk.

§ 205-41. **Application for approval.** [Amended 11-21-1994 by L.L. No. 2-1994]

Application for approval of a special use must be addressed to the Planning Board and filed with the Village Clerk. Such application shall comply with the provisions of § 175-49 of Chapter 175, Subdivision of Land, and the following requirements:

- A. It shall explicitly describe the intended use, including an explanation of any terms not normally clearly understood by laymen and in such terms as to exclude all other uses.
- B. It shall contain a plot plan showing land contours and explicitly indicating all intended changes in the topography and vegetation that would be incurred in implementing the proposed use, including specifications of all excavating, grading, filling, dredging, draining, damming and removal of growth and final landscaping plans and provisions for parking of vehicles.
- C. It shall include a precise description of the nature and architectural appearance of any new buildings and of any proposed alterations to existing buildings. Such descriptions shall include all buildings above or below ground or extending into the water.
- D. It shall explicitly describe the financing, management and supervision of the proposed special use, giving the names and true identities of all owners, sponsors, corporate stockholders or corporate members (if any) and the names of the proposed managers and supervisors of the

enterprise.

- E. It shall contain a schedule of events indicating the time or times at which various construction, alteration or landscaping activities will be undertaken and the time or times at which they will be completed.

§ 205-42. Action by Planning Board.

- A. Public hearings.

- (1) Not more than 90 days after the Planning Board has received such an application in a form satisfactorily complying with § 205-41, the Planning Board shall hold a public hearing thereon at a time and place to be set by it. Not less than 15 days' advance notice of such public hearing shall be given by publication in the official Village newspaper and by service, in person or by mail, upon the following:

- (a) The applicant or applicant's attorney or other representative.

- (b) The owner or owners as shown on the current Village assessment roll of each parcel of land contiguous to the boundaries of the subject premises, including parcels across any abutting street embraced within the prolongations of the boundary lines of the subject premises.

- (c) The owners of all land within 100 feet (whether contiguous or not) from the boundaries of the subject premises, including land directly opposite the subject premises extending 100 feet from the street frontage of such opposite land.

- (2) The Planning Board may hold such further public hearings as it may deem advisable on 15 days' notice to be given as aforesaid.

- B. The Planning Board shall file a report with the Board of Trustees not later than 60 days after its final public hearing on the application, containing its comments and recommendations with respect thereto; a copy of such report shall be made available to the applicant.

§ 205-43. Action by Board of Trustees.

- A. After receipt of such report from the Planning Board, the Board of Trustees may or may not, in its discretion, call a public hearing on the application and take appropriate action thereon; provided, however, that if the Planning Board's report contains a recommendation that the application be granted in whole or in part with or without conditions, the Board of Trustees must hold a public hearing thereon. All procedures for the calling and holding of such public hearing shall conform to the notice requirements contained in § 205-42A of this article. [Amended 7-2-1973]

- B. The Board of Trustees, in its discretion, may require the applicant to post a bond in a reasonable amount to secure proper performance of the applicant's duties and conditions imposed for the granting of such use.

- C. Where an application is made for approval of a special use to be exercised by a tax-exempt

institution, the Board of Trustees, in its discretion, may require such institution to enter into a binding written agreement with the Village under which the Village shall receive annual payments in such amounts as will fully compensate the Village for rendition of municipal services to such institution.

§ 205-44. Transferability of approval.

If an application for a special use shall be approved, such approval shall not be transferable but shall inure solely and specifically to the benefit of the applicants and others described in § 205-41D of this article, unless the Board of Trustees shall by resolution consent to such transfer.

§ 205-45. Fees. [Added 12-18-1972; amended 11-21-1994 by L.L. No. 2-1994]

The fee for filing each application under § 205-41 of this article shall be as established by resolution of the Board of Trustees. In addition, the applicant shall reimburse the Village for all stenographic charges for taking down and transcribing the minutes of each formal public hearing and any adjournment thereof.

ARTICLE X

Swimming Pools

§ 205-46. Compliance required.

No outdoor water pool shall be constructed, maintained, installed, altered or enlarged in this Village, except as specifically permitted herein.

§ 205-47. Permit required; fees.

- A. It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any pool or appurtenances within the Village unless a permit therefor shall have first been obtained from the Building Inspector.
- B. The fees for such permit and for a certificate of occupancy shall be computed on the basis prescribed for buildings or structures. [Amended 9-21-1970; 11-21-1994 by L.L. No. 2-1994]

§ 205-48. Construction materials.

Pool walls and floors shall be constructed of any impervious material which shall provide a tight tank and shall be of sufficient strength to contain the water therein.

§ 205-49. Plans and drawings.

- A. All drawings and plans for the construction, installation, enlargement or alteration of any pool shall be prepared by and bear the signature of a professional engineer or architect licensed by the State of New York and shall certify that the drainage of such pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities, with adjoining property owners, with the public highways or with private roads. Such plans, as so certified, shall be submitted to the Building Inspector for examination and approval.
- B. Plans and drawings shall show lot lines and shall include information pertinent to the pool,

fence construction, pool screening, water supply system, drainage, water disposal system, filter system and all other appurtenances as well as detailed plans and vertical elevations. [Amended 10-21-2002 by L.L. No. 3-2002]

- C. Pools, appurtenances, water supply, drainage systems and fences shall be constructed in conformity with the approved plans.

§ 205-50. Water disposal.

All water, either overflowing or emptying from the pool, shall be disposed of on the owner's land; and the plans submitted shall show provisions made for preventing such water from flowing onto the land of any adjoining property owner or into any abutting street.

§ 205-51. Pools to be enclosed. [Amended 11-21-1994 by L.L. No. 3-2002]

All pools shall be completely enclosed as required by the New York State Uniform Fire Prevention and Building Code.

§ 205-52. Location.

Every pool which shall hereafter be installed or enlarged shall be so located and constructed that:

- A. In the Residence A-1 District such pool shall be set back at least 100 feet from every street line and at least 50 feet from every other boundary line of the lot and in the Residence A-2 District such pool shall be set back at least 160 feet from every street line and at least 80 feet from every other boundary line of the lot in which it is installed. [Amended 1-19-2010 by L.L. No. 1-2010]
- B. No current carrying electrical conductors, either overhead or underground, shall cross such pool or come in contact with the water therein.
- C. The top of such pool shall not extend more than two feet above the level of the surrounding area.

§ 205-53. Lighting.

All lights used to illuminate the pool or pool area shall be shielded so as to prevent their shining upon the property of any adjacent property owner.¹¹

§ 205-54. Offenses.

The failure to comply with any provision of this article shall constitute a violation of this chapter by the owner of the land on which the pool is located, notwithstanding the fact that such owner may not be in actual possession of such land. All persons actually in possession of any land affected by the terms of this article who fail to comply with § 205-51 hereof shall be in violation of this chapter, even though such land may be owned by another.

¹¹. Editor's Note: Original Section 10.9, Existing water pools, which immediately followed this section, was repealed 11-21-1994 by L.L. No. 2-1994.

ARTICLE XI

Signs, Fences and Trailers

§ 205-55. Signs to comply with regulations.

No sign shall be hereafter erected or maintained on any building or premises in any residence district, except as specifically permitted herein.

§ 205-56. Signs. [Amended 1-19-2010 by L.L. No. 1-2010; 11-21-2011 by L.L. No. 2-2011]

A. Purpose.

(1) The Board of Trustees of the Incorporated Village of Lloyd Harbor finds that the prevalence of signs, including signs advertising real estate for sale or let, has marred the character and appearance of the Village, reduced property values, become a danger and distraction to persons using public highways, and has a negative and undesirable impact on the health, safety, and general welfare of the Village and its residents.

(2) The Board of Trustees further finds that signs advertising real estate are distinguishable from other commercial signs in that they relate directly to the property of residents in the Village, thereby having a greater reason for placement within the Village than other types of commercial signs.

B. The Board of Trustees further finds that the advertising of a premises for rent suggests that premises are vacant, and hence attracts persons with criminal intent to the Village, thereby jeopardizing the health, safety, and general welfare of residents.

C. Therefore, the Board of Trustees declares it to be the policy of the Village of Lloyd Harbor to limit and restrict the construction, placement, use, and maintenance of signs within the Village, as provided in this article.

D. Prohibited and permitted signs. Notwithstanding the provisions of this section to the contrary, one real estate sign shall be permitted on each premises or parcel of land within the Village that is for sale, provided that a permit for such sign is first obtained, as provided herein. Any such sign shall be rectangular in shape. No such sign may be larger than one foot high and two feet wide. Any such sign may advertise only the sale of the property upon which the sign is located. Each such sign shall have a white background with black letter or numerals only, and shall be limited to writing that states: "For Sale," together with the word "Realtor," if the homeowner has contracted with a licensed real estate broker to broker the sale of the premises or parcel, and may include the telephone number of the party seeking to sell the residence or the realtor. No other words, symbols, numerals, images, names, colors, designs or borders shall be permitted. Said real estate sign shall be located within the lot boundaries of the subject property for sale, and shall be at least 15 feet from any roadway, curb, driveway, or property line. The top of any authorized real estate sign shall be no higher than six feet from grade. No ancillary or additional signs may be attached to said real estate sign, or to any post to which said real estate sign is affixed, nor shall any balloons, bows, ribbons, or other adornments, be attached in any way to the said real estate sign or any post to which it is attached, nor shall the said real estate sign be artificially illuminated in any manner.

E. Sign permit. The Village Clerk shall issue a permit for any sign authorized by this article, upon submission of a completed application and payment of any applicable fees.

- (1) Any such permit shall effective for a period of one year from the date of issuance.
- (2) If the sign for which the application is made does not conform to the provisions of this article, the permit application shall be denied.
- (3) Each application for a sign permit shall include a survey of the property, showing the specific location whereat the sign is sought to be placed, and shall include a facsimile of the sign in full size. The applicant shall also mark the proposed sign location at the premises or parcel where the sign is to be placed by placing a flag at such location.
- (4) If a sign permit application is made by any person or entity other than the recorded owner of the premises, the application shall include a signed and notarized authorization from each recorded owner.
- (5) Any person aggrieved by a determination of the Village Clerk made pursuant to this article may appeal to the Village Board of Zoning Appeals ("Board of Appeals") by filing such appeal in writing within 15 days after the date of such determination, or within 10 days after the erection of the sign, whichever is later. In the event such an appeal is made by a person other than the applicant for the permit, the filing of an appeal shall stay the effect and operation of the permit pending determination of the appeal by the Board of Appeals. In the event an appeal is filed by any person other than the applicant for the permit, the Village Clerk shall give written notice to the permit holder, including a copy of the appeal, at least five days prior to the date on which the Board of Appeals will consider such appeal. The Board of Appeals shall hear and determine any such appeal within 35 days after the filing of the appeal.
- (6) No sign for which a permit is issued shall be altered, modified, moved, or changed in any manner such that the sign does not conform to the sign for which the application was made and approved, without an approved amendment to the permit. Such amendment may be approved upon written application, containing the same information as required for an initial application.
- (7) The fee for the sign permit shall be fixed or amended, from time to time, by resolution of the Board of Trustees.
- (8) Any permit issued pursuant to this article shall terminate and expire on the execution of a contract of sale, the termination of a listing agreement with the real estate broker, or upon the expiration of the permit, whichever occurs earliest. The sign must be removed within 24 hours after the termination or expiration of the permit.

F. Open house signs. One sign announcing a bona fide open house shall be permitted as follows:

- (1) The sign shall be displayed by temporary attachment to the bottom of the real estate sign for which a permit has been obtained.

- (2) Surface area shall not be greater than two feet wide by six inches in height and contain only the words "Open House."
- (3) An open house sign may only be displayed during the limited hours of the bona fide open house, but in no event longer than six hours.
- (4) No open house sign shall be placed on property other than that of the seller.

G. Regulations applicable to all signs.

- (1) No sign shall be affixed in any manner to a tree, bush, or other flora.
- (2) Notwithstanding anything to the contrary in this article, no sign shall include or consist of colors, whether in foreground, background, or otherwise, in a florescent-type, neon-type, color or overly bright hue.

H. Penalties for offenses. Any person who erects or maintains a sign in violation of the provisions of this article, or who owns property on which any sign is erected or maintained in violation of the provisions of this article, shall be guilty of a violation and shall be subject to a fine not to exceed \$500.

I. Presumption regarding placement. Where the matter included on a sign consists of a commercial advertisement, it shall be presumed that the vendor of the specified product, service, or entertainment is a person or entity who placed such sign or caused it to be placed upon the property.

§ 205-57. Permits for signs; applications; fees.

- A. Except as provided in § 205-56A hereof, it shall be unlawful to erect, alter, maintain, reconstruct or relocate a sign until a permit has been issued therefor by the Building Inspector.
- B. A written application therefor shall be filed with the Building Inspector by the owner or lessee of the building or premises on which such sign is to be erected or maintained or by the duly authorized agent of such owner or lessee. Such application shall be accompanied by the written consent of the owner or lessee of the property on which such sign is to be erected or maintained and shall contain an accurate description of the location or proposed location of such sign, the name and address of the person by whom such sign is to be erected, altered, maintained, reconstructed or relocated and such other information as the Building Inspector or may reasonably require to show a compliance with the provisions of this chapter.
- C. A fee as required by a Board of Trustees resolution shall be paid to the Village by the applicant for a permit at the time of submitting his/her application for a permit. [Amended 11-21-1994 by L.L. No. 2-1994]

§ 205-58. Construction and maintenance of signs.

All signs shall be properly secured, supported and braced as to make them safe and shall be kept in perfect structural condition and clean and well-painted.

§ 205-59. Unsafe signs.

When it shall appear to the Building Inspector or the Code Enforcement Officer that any sign is being maintained in an unsafe or insecure manner or in violation of any of the other terms of this article, he/she shall so notify the person to whom the final permit has been issued, in writing, at the address stated on the application; and it shall be the duty of such person to make such repairs or to comply with the necessary provisions of the chapter within the time stated in the notice. If such repairs are not made or if such compliance is not so effected, the Building Inspector or the Code Enforcement Officer may cause such sign to be removed and shall charge the expense thereof to the person so notified.

§ 205-60. Expiration of sign permits.

Any permit issued hereunder shall be deemed to expire upon any change in ownership of the premises on which it is erected or upon any change in ownership of the business or profession which it shall advertise. Upon expiration and notice thereof by the Building Inspector or the Code Enforcement Officer to the applicant, it shall be the duty of the person so notified to remove such sign, and if not so removed, the Building Inspector or the Code Enforcement Officer may cause such sign to be removed and shall charge the expense thereof to the person so notified.

§ 205-61. Fences. [Amended 11-21-1988 by L.L. No. 4-1988]

- A. No fence, wall or structure in the nature of a fence (fence-like structure) or gates, piers, pillars or similar structures shall be hereafter erected or maintained on any premises unless a permit has been issued therefor. No such structure shall exceed 6 1/2 feet in height, which measurement shall exclude unlighted finials not exceeding 18 inches located atop such structure, such height to be measured from the natural existing grade; provided, however, that as to said height limitation, a backstop consisting of screening with apertures of not less than three square inches for use in connection with a tennis court shall be permitted, but the height of such backstop shall not exceed 12 feet. On any corner lot, no wall, fence or other similar structure shall be erected and no hedge, tree, shrub or other growth shall be maintained in such location as, in the opinion of the Police Department, would cause danger to traffic by obstructing the view. All fences and fence-like structures shall be installed with the finished side facing the adjoining property. [Amended 10-21-2002 by L.L. No. 3-2002]
- B. Each application for a permit for a fence-like structure shall be accompanied by an affidavit of the owner which certifies that the owner is familiar with the location of his property line and that the fence-like structure will not encroach upon adjacent properties and an application fee in an amount required by resolution of the Board of Trustees.

§ 205-62. Motor homes and trailers. [Amended 10-21-2002 by L.L. No. 3-2002; 1-19-2010 by L.L. No. 1-2010]

No automobile or trailer designed to be used for human habitation shall be used, stored or parked in the Residence A-1 or A-2 Districts, except that a trailer may be stored or parked inside a private garage or screened enclosure, said enclosure to comply with the zoning setback requirements for accessory structures.

ARTICLE XII

Nonconformities

§ 205-63. Nonconforming buildings and uses. [Amended 10-21-2002 by L.L. No. 3-2002]

Any building or use legally existing on the effective date of this chapter and permitted by the Building Zone Ordinance in effect immediately prior to that date, although not conforming to the other provisions of this chapter, may be continued subject to compliance with § 205-64 of this chapter and subject to the following conditions.

- A. No such building which is nonconforming with respect to height, area, location on the lot, or setback from any lot line shall be enlarged or altered in such manner as to increase any nonconformity, subject to the provisions of § 205-64 of this chapter.
- B. No such building which is nonconforming with respect to use shall be enlarged, nor shall it be altered structurally, except as may be allowed by law or ordinance.
- C. No such nonconforming use shall be enlarged or extended, nor shall it be changed to another nonconforming use.
- D. No such nonconforming building or use, if changed to a building or use which conforms to the provisions of this chapter, shall thereafter be changed to a nonconforming use or building.
- E. No such nonconforming use, if discontinued for six months or longer, shall be resumed.
- F. No such nonconforming use or its building, if 50% or more of the assessed value thereof is destroyed due to any cause, shall be restored in nonconforming form or location or for the continuance of a nonconforming use.
- G. If a nonconforming building containing a permitted use is destroyed accidentally due to fire, explosion or any other cause, or in need of repair, it may be restored in substantially the same form and location, but without enlargement.

§ 205-64. Nonconforming lots. [Amended 6-28-1989 by L.L. No. 4-1989; 10-21-2002 by L.L. No. 3-2002]

- A. In the case of a lot on which there stands, on the effective date of this chapter or any subsequent amendment, a dwelling or other principal building which conformed to the Building Zone Ordinance in effect at the time it was legally created and which lot shall not at any time on or after the effective date it was legally created have been reduced in area or in any dimension and the perimeter per unit area of which lot shall not have been increased, then such lot and building shall be considered a preexisting nonconforming lot and building and may continue to be used and maintained. However, no addition, enlargement or alteration of the building shall be permitted unless such change complies with all the other requirements of this Chapter 205.
- B. In the case of an unimproved lot in single and separate ownership on the effective date of this chapter or any subsequent amendment, which lot conformed to the Building Zone Ordinance

in effect at the time it was legally created and which lot shall not at any time on or after the effective date of its legal creation be reduced in area or in any dimension and the perimeter per unit area of which shall not have been increased, then such lot shall be considered a preexisting nonconforming lot and may be improved upon. However, the proposed structure and its location must comply with all the other requirements of this Chapter 205.

§ 205-65. Reducing area or changing dimension of improved lots. [Amended 6-28-1989 by L.L. No. 4-1989; 10-21-2002 by L.L. No. 3-2002]

No improved lot shall be reduced in area or changed in any dimension unless the lot so reduced conforms to all requirements of this Chapter 205.

ARTICLE XIII

Board of Zoning Appeals and Planning Board

[Amended 7-22-1996 by L.L. No. 2-1996]

§ 205-66. Appointment; membership - Board of Zoning Appeals.

The Board of Trustees shall appoint a Board of Zoning Appeals consisting of a membership as provided by the Village Law or by a local law of the Village.

§ 205-66.1. Appointment; membership - Planning Board.

The Planning Board, previously created by the Board of Trustees and consisting of five appointed members, is hereby increased to seven members pursuant to Village Law § 7-718, Subsection 6.

§ 205-67. Meetings and procedure - Board of Zoning Appeals.

The meetings and procedure of the Board of Zoning Appeals shall be governed by the provisions of the Village Law and the local laws of the Village. The Board of Zoning Appeals shall have the power, from time to time, to adopt, repeal and amend rules and regulations not inconsistent with law or the provisions of this chapter governing its procedure and the transaction of its business.

§ 205-68. Appellate jurisdiction - Board of Zoning Appeals. [Amended 10-21-2002 by L.L. No. 3-2002]

The Board of Zoning Appeals shall, pursuant to the Village Law of the State of New York, as amended from time to time by state or local action, hear and decide appeals from and review any order, requirements, decisions or determinations made by the Building Inspector, or other officer charged with the enforcement of this chapter, and hear and decide all matters specifically referred to it by the Planning Board or upon which it is required to pass under any local law or ordinance.

§ 205-69. Original jurisdiction - Board of Zoning Appeals.

The Board of Zoning Appeals may, in a specific case after public notice and hearing and subject to appropriate safeguards to be prescribed by such Board, determine and vary the application of the provisions of this chapter in harmony with their general purposes and intent as follows:

- A. It may permit any variance specifically provided for in this chapter subject to the provisions and conditions applicable thereto.

- B. It may exercise such other powers of original jurisdiction as are specifically provided for in other sections of this chapter or are authorized under the Village Law or local laws of the Village.¹²

ARTICLE XIV

Interpretation; Enforcement; Administration

§ 205-70. Interpretation. [Amended 6-20-1977 by L.L. No. 2-1977]

This chapter shall be deemed to prescribe minimum requirements and is intended to impose strict liability as defined in the Penal Law. Except for the repeal of the Building Zone Ordinance,¹³ this chapter shall not be deemed to amend, repeal or impair any requirement in any ordinance or law or in any deed restriction or covenant or in any other undertaking among private persons, but no provision in any such ordinance, law, restriction, covenant or undertaking shall be deemed to justify noncompliance with any provision of this chapter.

§ 205-71. Enforcement. [Amended 6-20-1977 by L.L. No. 2-1977; 11-21-1988 by L.L. No. 4-1988¹⁴]

It shall be the duty of the Building Inspector, the Code Enforcement Officer and the police and they hereby are given the authority to enforce the provisions of this chapter and issue appearance tickets for any violations they observe. The Building Inspector, the Code Enforcement Officer and the police in discharge of their duties shall have authority to enter any building or premises at any reasonable hour, in accordance with law.

§ 205-72. Penalties for offenses. [Amended 6-20-1977 by L.L. No. 2-1977; 1-29-1986 by L.L. No. 3-1986]

- A. Any owner, lessee, contractor, agent or individual, whether a person, partnership or corporation, shall be guilty of an offense if he/she occupies, uses or maintains or causes or permits to be occupied, used or maintained or erects, enlarges, alters or converts or causes, or permits to be erected, enlarged, altered or converted any building, structure or part thereof on any land in the Village, except in conformity with the provisions of this chapter or a decision of the Board of Zoning Appeals or the Planning Board, or in any manner violates or allows, causes, permits, takes part in or assists in a violation of any provision of this chapter or of any regulation, order or ruling promulgated hereunder.
- B. A person convicted of an offense shall be guilty of a violation as defined in the Penal Law.
- C. A violation of two or more sections of this chapter or provisions within a section shall be

¹² . Editor's Note: Former § 205-69.1, Original jurisdiction - Planning Board, which immediately followed this section, was repealed 10-21-2002 by L.L. No. 3-2002.

¹³ . Editor's Note: The prior Zoning Ordinance of the Village of Lloyd Harbor, as last amended 7-25-1965, was repealed by the ordinance adopting this chapter.

¹⁴ . Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

separate and distinct offenses for which a fine may be levied.

- D. Each and every week that a violation exists or continues shall constitute a separate and distinct violation, conviction for which shall be an additional offense.
- E. Each violation of this chapter shall be punishable by:
- (1) A fine not to exceed \$350 or a term of imprisonment not to exceed five days, or both, for a conviction of a first offense.
 - (2) A fine not to exceed \$700, but not less than \$350, or a term of imprisonment not to exceed 10 days, or both, for the conviction of a second offense committed within five years of a prior offense.
 - (3) A fine not to exceed \$1,000, but not less than \$700, or a term of imprisonment not to exceed 15 days, or both, for the conviction of a third or subsequent offense committed within five years of two prior offenses.
- F. If any person fails to abate any such violation of this chapter within five calendar days after written notice has been served personally upon said person or within 10 days after written notice has been sent to said person, by certified mail, at said person's home or business address, said person shall be subject to a civil penalty of \$250 for each and every day that said violation continues, recoverable by suit brought by the Village.
- G. Any violation of this chapter may be enjoined pursuant to law.
- H. The remedies provided for herein shall be cumulative and shall be in addition to any other remedies provided by law, including injunctive relief.

§ 205-73. Filing of plans required.¹⁵

No building shall be erected, enlarged or altered structurally unless the owner or lessee of the premises files or causes to be filed with the Building Inspector, before such erection, enlargement or alteration is commenced, a plan in duplicate, drawn to scale, showing the actual dimensions, monuments, radii and angles of the lot to be built upon, the exact size and location on the lot of the principal building and accessory buildings to be erected, enlarged or altered and such other information as may be reasonably necessary to determine compliance with the provisions of this chapter.

§ 205-74. Building permit required. [Amended 11-21-1988 by L.L. No. 4-1988]

It shall be unlawful for any person to commence work for the erection or alteration of any building until a building permit has been duly issued therefor. A fee shall be paid to the Village by the applicant for a permit, at the time of submitting his/her application for a permit, in the amount required by resolution adopted by the Board of Trustees. No building permit shall be issued until the Building Inspector has certified that the proposed building or alteration complies with all provisions

¹⁵ . Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

of this chapter.

§ 205-75. Certificates of occupancy and completion. [Amended 11-21-1988 by L.L. No. 4-1988¹⁶]

It shall be unlawful to use or permit the use of any building or premises or part thereof, hereafter erected, altered, changed, converted or enlarged, wholly or partly, in its use or structure, until a certificate of occupancy or a certificate of completion therefor shall have been issued by the Building Inspector. Such certificate shall show that such building or premises or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. It shall be the duty of the Building Inspector to issue a certificate of occupancy or a certificate of completion as promptly as practicable after having determined that the building and premises and the proposed use thereof conform to all the requirements of this chapter.

ARTICLE XV

Amendments

§ 205-76. Making of changes.

The Board of Trustees may, from time to time, either on its own motion or on petition, after public notice and hearing, amend, supplement, change, modify or repeal the regulations, restrictions and boundaries herein established, pursuant to the provisions of the Village Law and local laws of the Village, as amended from time to time.

ARTICLE XVI

Coastal Erosion Hazard Management

[Added 6-28-1989 by L.L. No. 5-1989]

§ 205-77. Purpose.

The Village of Lloyd Harbor hereby assumes the responsibility and authority to implement and administer a coastal erosion management program within its jurisdiction pursuant to Article 34 of New York State Environmental Conservation Law. In addition, it is the purpose of this article to:

- A. Establish standards and procedures for minimizing and preventing damage to structures from coastal flooding and erosion and to protect natural protective features and other natural resources.
- B. Regulate, in coastal areas subject to coastal flooding and erosion, land use and development activities so as to minimize or prevent damage or destruction to man-made property, natural protective features and other natural resources and to protect human life.
- C. Regulate new construction or placement of structures in order to place them a safe distance from areas of active erosion and the impacts of coastal storms to ensure that these structures are not prematurely destroyed or damaged due to improper siting, as well as to prevent damage

¹⁶ . Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

to natural protective features and other natural resources.

- D. Restrict public investment in services, facilities or activities which are likely to encourage new permanent development in erosion hazard areas.
- E. Regulate the construction of erosion protection structures in coastal areas subject to serious erosion to assure that when the construction of erosion protection structures is justified, their construction and operation will minimize or prevent damage or destruction to man-made property, private and public property, natural protective features and other natural resources.

§ 205-78. Findings.

The Village of Lloyd Harbor finds that the coastal erosion hazard area:

- A. Is prone to erosion from action of Long Island Sound and its connecting water bodies, bays, harbors, shallows and marshes. Such erosion may be caused by the action of waves, currents running along the shore and wind-driven water and ice. Such areas are also prone to erosion caused by the wind, runoff of rain water along the surface of the land or groundwater seepage, as well as by human activities, such as construction, navigation and certain forms of recreation.
- B. Experiences coastal erosion which causes extensive damage to publicly and privately owned property and to natural resources as well as endangers human lives. When this occurs, individuals and private businesses suffer significant economic losses, as do the Village and the state economies, either directly through property damage or indirectly through loss of economic return. Large public expenditures may also be necessitated for the removal of debris and damaged structures and replacement of essential public facilities and services.
- C. Experiences erosion-related problems that are often contributed to by man's building without considering the potential for damage to property, by undertaking activities which destroy natural protective features such as bluffs, dunes or vegetation, by building structures intended for erosion prevention which may exacerbate erosion conditions on adjacent or nearby property and by water action produced by wakes from boats.
- D. Is the subject of programs which foster erosion protection structures, either with private or public funds, which are costly and often only partially effective over time and which may even be harmful to adjacent or nearby properties. In some sections of the Village, major erosion protection structures of great length would be required to effectively reduce future damages due to erosion.

§ 205-79. Definitions.

- A. The following definitions of terms or words used in this article pertain to coastal erosion hazard areas only. In the case of a conflict between the definitions contained in this article and any other definition of a similar word or term contained in any other Article of this chapter, the more restrictive definition shall control unless the context clearly requires otherwise.
- B. As used in this article, the following terms shall have the meanings indicated:

APPURTENANCE — A minor or accessory structure attached to, placed near or used in conjunction with a structure.

BEACH — The zone of unconsolidated earth that extends landward from the mean low-water line to the waterward toe of a dune or bluff, whichever is most waterward. Where no dune or bluff exists landward of a "beach," the landward limit of a "beach" is 100 feet landward from the place where there is a marked change in material or physiographic form or from the line of permanent vegetation, whichever is most waterward. Shorelands subject to seasonal or more frequent overwash or inundation are considered to be "beaches."

BLUFF — Any bank or cliff with a precipitous or steeply sloped face adjoining a beach or a body of water. The seaward limit of a "bluff" is the landward limit of its waterward natural protective feature. Where no beach is present, the waterward limit of a "bluff" is mean low water. The landward limit is 25 feet landward of the receding edge or, in those cases where there is no discernible line of active erosion, 25 feet landward of the point of inflection on the top of the "bluff." (The point of inflection is that point along the top of the "bluff" where the trend of the land slope changes to begin its descent to the shoreline.)

BOARD OF ADMINISTRATION — The local board responsible for administering this article. The powers and duties of this Board are more fully described in § 205-93.

COASTAL EROSION HAZARD AREA MAP — The final map and any amendments thereof issued by the Commissioner of the New York State Department of Environmental Conservation, which delineates boundaries of coastal erosion hazard areas subject to regulation under this article.

COASTLINE and COASTAL WATERS — The lands adjacent to the Village's coastal waters are the "coastline." "Coastal waters" are Long Island Sound and its connecting water bodies, bays, harbors, shallows and marshes.

DEBRIS LINE — A linear accumulation of waterborne debris deposited on a beach by storm-induced high water or by wave action.

DUNE — A ridge or hill of loose, windblown or artificially placed earth, the principal component of which is sand.

ENFORCEMENT OFFICER — The local Village official empowered to enforce this article. The powers and duties of this official are more fully described in § 205-93.

EROSION — The loss or displacement of land along the coastline due to the action of waves, currents, wind-driven water, waterborne ice or other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters or groundwaters or groundwater seepage.

EROSION HAZARD AREA — An area of the coastline which is a structural hazard area or a natural protective feature area.

EROSION PROTECTION STRUCTURE — A structure specifically designed to reduce or prevent erosion, such as a groin, jetty, revetment, breakwater or artificial beach nourishment project.

EXISTING STRUCTURE — A structure and appurtenance in existence or one where construction has commenced or one where construction has not begun but for which a building permit has been issued prior to the effective date of this article.

GRADING — A redistribution of sand or other unconsolidated earth to effect a change in profile.

MAJOR ADDITION — An addition to a structure resulting in a twenty-five-percent-or-greater increase in the ground area coverage of the structure other than an erosion protection structure or a pier, dock or wharf. The increase will be calculated as the ground area coverage to be added, including any additions previously constructed under a coastal erosion management permit, divided by the ground area coverage of the existing structure as defined above.

MEAN LOW WATER — The approximate average low-water level for a given body of water at a given location, determined by reference to hydrological information concerning water levels or other appropriate tests.

MODIFICATION — A change in the design, shape, configuration, materials or use of a structure.

MOVABLE STRUCTURE — A structure designed and constructed to be readily relocated with minimum disruption of the intended use. Examples of "movable structures" are gazebos, sheds, statuary or aboveground pools.

NATURAL PROTECTIVE FEATURE — A nearshore area, beach, bluff, primary dune, secondary dune or marsh and its vegetation.

NATURAL PROTECTIVE FEATURE AREA — A land and/or water area containing natural protective features, the alteration of which might reduce or destroy the protection afforded other lands against erosion or high water or lower the reserve of sand or other natural materials available to replenish storm losses through natural processes.

NEARSHORE AREA — Those lands under water beginning at the mean low-water line and extending waterward in a direction perpendicular to the shoreline to a point where mean low-water depth is 15 feet or to a horizontal distance of 1,000 feet from the mean low-water line, whichever is greater.

NORMAL MAINTENANCE — Periodic replacement or repair of same-kind structural elements or protective coatings which do not change the size, design or function of a functioning structure. A functioning structure is one which is fully performing as originally designed at the time that "normal maintenance" is scheduled to begin. "Normal maintenance" of a structure does not require a coastal erosion management permit.

PERSON — Any individual, public or private corporation, political subdivision, government agency, public improvement district, partnership, association, firm, trust or estate or any other legal entity whatsoever.

PRIMARY DUNE — The most waterward major dune where there are two or more parallel dunes within a coastal area. Where there is only one dune present, it is the primary one. Occasionally one

or more relatively small dune formations exist waterward of the "primary dune." These smaller formations will be considered to be part of the "primary dune" for the purposes of this article. The waterward limit of a "primary dune" is the landward limit of its fronting beach. The landward limit of the "primary dune" is 25 feet landward of its landward toe.

RECEDING EDGE — The most landward line of active erosion or, in cases where there is no discernible line of active erosion, it is the most waterward line of permanent vegetation.

RECESSION RATE — The rate, expressed in feet per year, at which an eroding shoreline moves landward.

REGULATED ACTIVITY — The construction, modification, restoration or placement of a structure or major addition to a structure; or any action or use of land which materially alters the condition of land, including grading, excavating, dumping, mining, dredging, filling or other disturbance of soil.

RESTORATION — The reconstruction without modification of a structure, the cost of which equals or exceeds 50% of the estimated full replacement cost of the structure at the time of restoration. Modifications, however, may be allowed if they do not exceed preexisting size limits and are intended to mitigate impacts to natural protective features and other natural resources.

SECONDARY DUNE — The major dune immediately landward of the primary dune. The waterward limit of a "secondary dune" is the landward limit of its fronting primary dune. The landward limit of a "secondary dune" is 25 feet landward of its landward toe.

SIGNIFICANT FISH AND WILDLIFE HABITAT — Those habitats which are essential to the survival of a large portion of a particular fish or wildlife population, which support rare or endangered species, which are found at a very low frequency within a geographic area, which support fish or wildlife populations having significant commercial or recreational value or which would be difficult or impossible to replace.

STRUCTURAL HAZARD AREA — Those shorelands located landward of natural protective features and having shorelines receding at a long-term average recession rate of one foot or more per year. The inland boundary of a "structural hazard area" is calculated by starting at the landward limit of the fronting natural protective feature and measuring along a line perpendicular to the shoreline a horizontal distance landward which is 40 times the long-term average annual recession rate.

STRUCTURE — Any object constructed, installed or placed in, on or under land or water, either permanently or temporarily, including but not limited to a building; shed; deck; gazebo; in-ground and above ground pools; garage; mobile home; recreation court; road; public service distribution, transmission, or collection systems; tanks; docks; piers; wharves; groins; jetties; seawalls; bulkheads; breakwaters; revetments; or artificial beach nourishment; or any addition to or alteration of the same.

TOE — The lowest surface point on a slope face of a dune or bluff.

UNREGULATED ACTIVITY — Activities which are not regulated by this article and which include, but are not limited to, normal beach grooming or cleanup; normal and customary

maintenance of structures and/or in compliance with an approved maintenance program; planting vegetation and sand fencing so as to stabilize or entrap sand in primary dune and secondary dune areas in order to maintain or increase the height and width of dunes; routine agriculture operations, including cultivation or harvesting; and the implementation of practices recommended in a soil and water conservation plan as defined in § 3(12) of the Soil and Water Conservation Districts Law; provided, however, that agricultural operations and implementation of practices will not be construed to include any activity that involves the construction or placement of a structure.

VEGETATION — Plant life capable of surviving and successfully reproducing in the area or region in which it is planted and which is compatible with the environment of the coastal erosion hazard area.

§ 205-80. Coastal erosion hazard area established; Map.

The coastal erosion hazard area is hereby established to classify land and water areas within the Incorporated Village of Lloyd Harbor, based upon shoreline recession rates or the location of natural protective features. The boundaries of the area are established on the final map prepared by the New York State Department of Environmental Conservation under § 34-0104 of the New York State Environmental Conservation Law and entitled "Coastal Erosion Hazard Area Map of the Village of Lloyd Harbor," first issued on December 5, 1988, including all amendments made thereto, by the Commissioner of the New York State Department of Environmental Conservation pursuant to § 34-0104 of the New York State Environmental Conservation Law.

§ 205-81. Permit required for regulated activities.

No person may engage in any regulated activity in an erosion hazard area as depicted on the Coastal Erosion Hazard Map of the Village of Lloyd Harbor without first obtaining a coastal erosion management permit. No coastal erosion management permit is required for unregulated activities.

§ 205-82. Standards for issuance of permit.¹⁷

A coastal erosion management permit will be issued only with a finding by the Board of Administration that the proposed regulated activity:

- A. Is reasonable and necessary, considering reasonable alternatives to the proposed activity and the extent to which the proposed activity requires a shoreline location.
- B. Is not likely to cause a measurable increase in erosion at the proposed site or at other locations.
- C. Prevents, if possible, or minimizes adverse effects on natural protective features and their functions and protective values, existing erosion protection structures and natural resources.

§ 205-83. Restrictions in structural hazard areas.

¹⁷ . Editor's Note: See also the provisions of § 175-52 of Chapter 175, Subdivision of Land.

The following restrictions apply to regulated activities within structural hazard areas:

- A. A coastal erosion management permit is required for the installation of public service distribution, transmission or collection systems for gas, electricity, water or wastewater. Systems installed along the shoreline must be located landward of the shoreline structures.
- B. The construction of nonmovable structures or placement of major nonmovable additions to existing structures is prohibited.
- C. Permanent foundations may not be attached to movable structures, and any temporary foundations are to be removed at the time the structure is moved. Below-grade footings will be allowed if satisfactory provisions are made for their removal.
- D. No movable structure may be located closer to the landward limit of a bluff than 25 feet.
- E. No movable structure may be placed or constructed such that, according to accepted engineering practice, its weight places excessive groundloading on a bluff.
- F. Plans for landward relocation of movable structures must be included with each application for a permit. Movable structures which have been located within a structural hazard area pursuant to a coastal erosion management permit must be removed before any part of the structure is within 10 feet of the receding edge. The owner of record, as shown on the latest assessment roll, is responsible for removing that structure and its foundation unless a removal agreement was attached to the original coastal erosion management permit. With the attachment of a removal agreement to the coastal erosion management permit, the signator is responsible for the landward relocation of movable structures. In the event that the signator fails to relocate the movable structure within the time required, it then shall be the obligation of the owner of record to remove the structure within 30 days of notice to do so by the Village. Removal agreements may only be made, with the approval of the Village at the time the permit is issued, when the owner of record and the owner of the structure are different.
- G. Debris from structural damage which may occur as a result of sudden unanticipated bluff edge failure, dune migration or wave or ice action must be removed within 60 days of the damaging event, by the owner of the structure. In the event that the owner of the structure shall default in said removal and the owner is different than the landowner of record, then the landowner of record shall remove the debris within 30 days after the expiration of the sixty-day period described above.
- H. In the event that the removal of movable structures or the removal of debris is not completed as described above, the Village may contract to have the work performed after notice of intention to do so is mailed, certified mail, to the owner of the property at the address last shown on the Village assessment roll. The cost of the work, together with any administrative fees, such as attorney's or engineering fees, shall be made a special assessment against the offending property and shall be collected with the tax bill next due the Village. Upon the failure of the assessment to be timely paid, such assessment shall then become a lien against the property and collectible pursuant to the Real Property Tax Law.
- I. Any grading, excavation or other soil disturbance conducted within a structural hazard area

must not direct surface water runoff over a bluff face.

§ 205-84. Restrictions in near shore areas.

- A. Nearshore areas dissipate a substantial amount of wave energy before it is expended on beaches, bluffs or dunes by causing waves to collapse or break. Nearshore areas also function as reservoirs of sand, gravel and other unconsolidated material for beaches. Sandbars, which are located in nearshore areas, control the orientation of incoming waves and promote the development of ice cap formations which help protect shorelines during winter storms. The roots of aquatic vegetation in nearshore areas bind fine grained silts, clays and organic matter to form a fairly cohesive bottom that resists erosion.
- B. The following restrictions apply to regulated activities in nearshore areas:
- (1) Excavating, grading, mining or dredging which diminishes the erosion protection afforded by a nearshore area is prohibited, except that construction or maintenance of navigation channels, bypassing sand around natural and man-made obstructions and artificial beach nourishment shall be permitted pursuant to a coastal erosion management permit.
 - (2) Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within nearshore areas. Any deposition shall be done pursuant to a coastal erosion management permit.
 - (3) All development, including construction, alteration, restoration and reconstruction of any structure or appurtenance, except an approved erosion protection structure, or the removal of any erosion protection structure or appurtenance is prohibited in nearshore areas unless otherwise specifically provided for by this article.

§ 205-85. Restrictions in beach areas.

- A. Beaches buffer shorelands from erosion by absorbing wave energy that otherwise would be expended on the toes of bluffs or dunes. Beaches that are high and wide protect shorelands from erosion more effectively than beaches that are low or narrow. Beaches also act as reservoirs of sand or other unconsolidated material for longshore littoral transport and offshore sandbar and shoal formation.
- B. The following restrictions apply to regulated activities in beach areas:
- (1) Excavating, grading or mining which diminishes the erosion protection afforded by beaches is prohibited.
 - (2) Clean sand or gravel of an equivalent or slightly larger grain size is the only material which may be deposited within beach areas. Any deposition shall be done pursuant to a coastal erosion management permit, which permit may be issued only for expansion or stabilization of beaches.
 - (3) Active bird nesting and breeding areas shall not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the

Department of Environmental Conservation.

- (4) Restoration of existing structures on beaches that are damaged or destroyed by events not related to coastal flooding may only be undertaken pursuant to a coastal erosion management permit.
- (5) All development, including construction, alteration, restoration and reconstruction of any structure or appurtenance, except an approved erosion protection structure, or removal of any erosion protection structure or appurtenance is prohibited on beaches unless otherwise specifically provided by this article.

§ 205-86. Restrictions in dune areas.

A. Dunes prevent overtopping and store sand for coastal processes. High, vegetated dunes provide a greater degree of protection than low, unvegetated ones. Dunes are of the greatest protective value during conditions of storm-induced high water. Because dunes often protect some of the most biologically productive areas, as well as developed coastal areas, their protective value is especially great. The key to maintaining a stable dune system is the establishment and maintenance of beach grass or other vegetation on the dunes and assurance of a supply of nourishment sand to the dunes.

B. The following restrictions apply to regulated activities in dune areas:

- (1) In primary dune areas:
 - (a) Excavating, grading or mining of primary dunes is prohibited.
 - (b) Clean sand of a compatible type and size is the only material which may be deposited. Any deposition shall be done pursuant to a coastal erosion management permit.
 - (c) All depositions must be vegetatively stabilized using species tolerant of the conditions at the site and must be placed so as to increase the size of or to restore a dune or dune area.
 - (d) Active bird nesting and breeding areas must not be disturbed unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.
 - (e) No additions to existing structures are allowed on primary dunes.
 - (f) Restoration of existing structures on primary dunes that are damaged or destroyed by events no related to coastal flooding and erosion may only be undertaken pursuant to a coastal erosion management permit.
 - (g) Stone revetments or other erosion protection structures compatible with primary dunes will only be allowed at the waterward toe of primary dunes and must not interfere with the exchange of sand between primary dunes and their fronting beaches. Such revetments or other erosion protection structures shall be

constructed, modified or restored pursuant to a coastal erosion management permit.

- (2) In secondary dune areas:
 - (a) All depositions must be of clean sand of a compatible type and size, and all grading must be performed so as to increase the size of or to restore a dune or former dune area.
 - (b) Excavating, grading or mining must not diminish the erosion protection afforded by the dune.
 - (c) No additions to existing structures are allowed on secondary dunes.
 - (d) Restoration of existing structures on secondary dunes that are damaged or destroyed by events not related to coastal flooding and erosion may only be undertaken pursuant to a coastal erosion management permit.
- (3) All other activities and development, including but not limited to construction, alteration, restoration and reconstruction of a structure or appurtenance, except an approved erosion protection structure, in dune areas are prohibited unless otherwise specifically provided for by this article.
- (4) The restrictions of § 205-89, Traffic control, apply to dune areas.

§ 205-87. Restrictions in bluff areas.

- A. Bluffs protect shorelands and coastal development by absorbing the often destructive energy of open water. Bluffs are a source of depositional material for beaches and other unconsolidated natural protective features.
- B. The following activities are prohibited on bluffs:
 - (1) Excavating or mining, except when in conjunction with conditions stated in a coastal erosion management permit issued for minor alterations in construction of an erosion protection structure or for provisions of shoreline access.
 - (2) All development, including but not limited to construction, alteration, reconstruction and restoration of a structure or appurtenance, except an approved erosion protection structure, unless specifically permitted by Subsection D of this section.
 - (3) Disturbance of active bird nesting and breeding areas unless such disturbance is pursuant to a specific wildlife management activity approved, in writing, by the Department of Environmental Conservation.
 - (4) Soil disturbance that directs surface water runoff over a bluff face.
- C. The restrictions of § 205-89, Traffic control, apply to bluffs.
- D. Activities specifically allowed under this section are:

- (1) Minor alteration of a bluff performed in accordance with the conditions stated in a coastal erosion management permit issued for new construction, modification or restoration of an erosion protection structure.
- (2) Bluff cuts done in accordance with the conditions stated in a coastal erosion management permit issued for the provision of shoreline access, where:
 - (a) The cut is made in a direction perpendicular to the shoreline.
 - (b) The ramp slope does not exceed 1:6.
 - (c) Side slopes do not exceed 1:3 unless terraced or otherwise structurally stabilized.
 - (d) Side slopes and other disturbed nonroadway areas are stabilized with vegetation or other approved physical means.
 - (e) Completed roadways are stabilized, and drainage is provided for.
- (3) New construction, modification or restoration of walkways or stairways done in accordance with conditions of a coastal erosion management permit.
- (4) Nonmajor additions to existing structures, which may only be undertaken on bluffs pursuant to a coastal erosion management permit.
- (5) The restoration of existing structures on bluffs that are damaged or destroyed by events not related to coastal flooding and erosion, which may only be undertaken pursuant to a coastal erosion management permit.

§ 205-88. Erosion protection structures.

The following requirements apply to the construction, modification or restoration of erosion protection structures:

- A. The construction, modification, restoration or removal of erosion protection structures must:
 - (1) Not be likely to cause a measurable increase in erosion at the development site or at other locations.
 - (2) Minimize and, if possible, prevent adverse effects upon natural protective features, existing erosion protection structures and natural resources such as significant fish and wildlife habitats.
- B. All erosion protection structures must be designed and constructed according to generally accepted engineering principles or, where sufficient data is not currently available, demonstrate a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion on the immediate site for at least 30 years.
- C. All materials used in such structure must be durable and capable of withstanding inundation, wave impacts, weathering and other effects of storm conditions typical to the site over the last

100 years for a minimum of 30 years. Individual component materials may have a working life of less than 30 years only when a maintenance program included with the permit application ensures that they will be regularly maintained and replaced as necessary to attain the required 30 years of erosion protection.

- D. A long-term maintenance program shall be included with every permit application of construction, modification or restoration of an erosion protection structure. The maintenance program must include specifications for normal maintenance of degradable materials. To assure compliance with the proposed maintenance programs, a bond may be required.

§ 205-89. Traffic control.

Motorized and nonmotorized traffic must comply with the following restrictions:

- A. Motor vehicles must not travel on vegetation, must operate waterward of the debris line and, when no debris line exists, must operate waterward of the waterward toe of the primary dune or bluff.
- B. Motor vehicle traffic is prohibited on primary dunes and bluffs, except for officially designated crossing areas.
- C. Pedestrian passage across primary dunes must utilize elevated walkways and stairways or other specially designed dune crossing structures.

§ 205-90. Emergency activities.

- A. Applicability. The requirements of this article do not apply to emergency activities that are necessary to protect public health, safety or welfare, including preventing damage to natural resources. Whenever emergency activities are undertaken, damage to natural protective features and other natural resources must be prevented, if possible, or minimized.
- B. Notification to Board of Administration and Enforcement Officer. The Chairperson of the Board of Administration and the Enforcement Officer must be notified, in writing, by the person responsible for taking the emergency measures, which writing shall be hand delivered or mailed within 24 hours from the commencement of an emergency measure and shall provide a detailed description of the problem and activities undertaken. The description must outline the public health or safety or resource for which protection was sought and describe each measure that was taken to secure the protection.
- C. Improper or insufficient notification. If the Chairperson of the Board of Administration or the Enforcement Officer is not properly notified or determines that a regulated activity has been undertaken without a coastal erosion management permit and such activity does not meet the emergency activity criteria, then the Chairperson of the Board of Administration or the Enforcement Officer shall order the immediate cessation of the activity. In addition, the Board of Administration, after review of the matter, may require:
 - (1) Removal of any structure that was constructed or placed without a coastal erosion management permit.

- (2) The return to former conditions of any natural protective feature that was excavated, mined or otherwise disturbed without a coastal erosion management permit.

§ 205-91. Coastal erosion management permits.

A coastal erosion management permit will be issued for regulated activities which comply with the general standards (See § 205-82), restrictions and requirements of the applicable sections of this article, provided that the following is adhered to:

- A. The application for a coastal erosion management permit must be made upon the form provided by the Board of Administration and must include the following minimum information:
 - (1) A description of the proposed activity.
 - (2) A map drawn to a scale no smaller than one inch equals 100 feet, showing:
 - (a) The location of the proposed activity.
 - (b) The landward boundary of the coastal erosion hazard area.
 - (c) The recession rate last established for the coastal erosion hazard area on the property.
 - (3) Any additional information the Board of Administration may require to properly evaluate the proposed activity.
- B. Permits will be issued by and bear the name and signature of the Chairperson or Deputy Chairperson of the Board of Administration and will specify:
 - (1) The activity or operation for which the permit is issued.
 - (2) The address or location where the activity or operation is to be conducted.
 - (3) The name and address of the permittee.
 - (4) The permit number and date of issuance.
 - (5) The period of permit validity. If not otherwise specified, a permit will expire one year from the date of issuance.
 - (6) The terms and conditions of the approval.
 - (7) That the coastal erosion management permit does not constitute a building permit and that no work shall begin until all other necessary permits from the Building Department have been obtained.
- C. When more than one coastal erosion management permit is required for the same property or premises under this article, a single permit may be issued listing all activities permitted and any conditions, restrictions or bonding requirements. Revocation of a portion or portions of

such consolidated permits will not invalidate the remainder.

- D. A coastal erosion management permit may be issued with such terms and conditions as are necessary to ensure compliance with the policies and provisions of Article 34 of the Environmental Conservation Law, the Coastal Erosion Management Regulations implementing Article 34 (6 NYCRR Part 505) and the laws and policies of the Village.
- E. When an application is made for a coastal erosion management permit, variance thereto or other form of approval required by this article and such activity is subject to other permit, variance, hearing or application procedures required by another federal, state or local regulatory agency pursuant to any federal, state or local law or ordinance, the Enforcement Officer shall, at the request of the applicant, consolidate and coordinate the application, permit, variance and hearing procedures as required by each regulatory agency into a comprehensive hearing and review procedure. However, nothing contained in this section shall be deemed to limit or restrict any regulatory agencies which are properly a party to such a consolidated review proceeding from the independent exercise of such discretionary authority with respect to the issuance, denial or modification of such permits, variances or other forms of approval as they may have been granted by law.

§ 205-92. Bonds.

The Village may require a bond or other form of financial security. Such bond or security must be in an amount, with such surety and conditions as are satisfactory to the Village, so as to insure compliance with the terms and conditions stated in the coastal erosion management permit.

§ 205-93. Board of Administration; Enforcement Officer.

- A. Board of Administration. The authority for administering this article is hereby conferred upon the Site and Building Permit Review Board of the Village of Lloyd Harbor, which Board, acting through its Chairperson, shall have the following powers and duties: [Amended 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]
 - (1) Application of the regulations, restrictions and standards or other provisions of this article.
 - (2) Explanation to applicants of the map which designates the land and water areas subject to regulation and the advising of applicants of the standards, restrictions and requirements of this article.
 - (3) The reviewing of and taking of appropriate actions on completed applications.
 - (4) Issuance and signing of all approved permits.
 - (5) Preparation and submission of reports other than those prepared and submitted by the Enforcement Officer.
 - (6) Performance of such compliance inspections as the Site and Building Permit Review Board deems necessary, in addition to any inspection performed by the Enforcement Officer.

- (7) The keeping of official records of all permits, inspections, inspection reports, recommendations and actions of the Site and Building Permit Review Board and any other reports or communications relative to this article or requests for information from the New York State Department of Environmental Conservation.
- (8) Performance of normal and customary administrative functions required by the Village, relative to the Coastal Erosion Hazard Areas Act, Article 34 of the New York State Environmental Conservation Law, 6 NYCRR Part 505, and this article.
- (9) In addition, those powers and duties as are established in or reasonably implied from this article as are necessary to achieve its stated purpose.

B. Enforcement Officer. The authority for enforcing this article is hereby conferred upon the Building Inspector or the Code Enforcement Officer of the Incorporated Village of Lloyd Harbor or their deputies or such other persons as may be specified by the Board of Trustees. Such Enforcement Officer shall have the following powers and duties:

- (1) Application of the regulations, restrictions and standards or other provisions of this article.
- (2) Explanation to applicants of the map which designates the land and water areas subject to regulations and the advising of applicants of the standards, restrictions and requirements of this article.
- (3) Transmission of written notice of violations to property owners or to other responsible persons.
- (4) Preparation and submission of reports.
- (5) Performance of compliance inspections.
- (6) Service as the primary liaison with the New York State Department of Environmental Conservation.
- (7) The keeping of official records of all permits, inspections, inspection reports, recommendations, actions of the Coastal Erosion Hazard Board of Review and any other report or communication relative to this article or requests for information from the New York State Department of Environmental Conservation.
- (8) In addition, those powers and duties as are established in or reasonably implied from this article as are necessary to achieve its stated purpose.

§ 205-94. Variances.

A. Strict application of the standards and restrictions of this article may cause practical difficulty or unnecessary hardship. When this can be shown, such standards and restrictions may be varied or modified, provided that the following criteria are met:

- (1) No reasonable or prudent alternative site is available.

- (2) All responsible means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activity's design at the property owner's expense.
 - (3) The development will be reasonably safe from flood and erosion damage.
 - (4) The variance requested is the minimum necessary to overcome the practical difficulty or hardship which was the basis for the requested variance.
 - (5) Where public funds are utilized, the public benefits must clearly outweigh the long-term adverse effects.
- B. Format and procedure. Any request for a variance must be in writing and specify the standard, restriction or requirement to be varied and how the requested variance meets the criteria of § 205-82 of this article. The burden of demonstrating that the requested variance meets those criteria rests entirely with the applicant and must be done at a public hearing conducted by the Board of Review.
- C. Fees. Each variance request must be accompanied by the same fees and deposits as required for a public hearing before the Board of Zoning Appeals and set forth in the Chapter 8, Administrative Code.
- D. Expiration. Any construction activity allowed by a variance granted by the Coastal Erosion Hazard Board of Review must be completed within one year from the date of approval or approval with modifications or conditions. Variances expire at the end of this one-year period without further hearing or action by the Coastal Erosion Hazard Board of Review.

§ 205-95. Coastal Erosion Hazard Board of Review.

The Board of Zoning Appeals of the Incorporated Village of Lloyd Harbor is hereby designated as the Coastal Erosion Hazard Board of Review and has the authority to:

- A. Conduct public hearings, approve, approve with modification or deny requests for variances or other forms of relief from the requirements of this article.
- B. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Board of Administration or the Enforcement Officer in the administration or enforcement of this article, including any order requiring an alleged violator to stop, cease and desist.

§ 205-96. Appeals.

- A. The Coastal Erosion Hazard Board of Review may, in conformity with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination of the Board of Administration or the Enforcement Officer, including stop or cease and desist orders. Notice of such decision will forthwith be given to all parties in interest. The rules and procedures for filing appeals are as follows:
 - (1) Appeals must be filed with the Village Clerk within 30 days of the date of the adverse

decision.

- (2) All appeals made to the Coastal Erosion Hazard Board of Review must be in writing on the standard form prescribed by the Board. The Board will transmit a copy of the appeal to the Commissioner of the New York State Department of Environmental Conservation for his/her information.
- (3) All appeals must refer to the specific provisions of this article involved and specify the alleged errors, the interpretation thereof that is claimed to be correct and the relief which the appellant claims.

B. Appeal to the Court. Any person or persons, jointly or severally aggrieved by a decision by the Coastal Erosion Hazard Board of Review, or any officer, department, Board or Bureau of the Village may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules.

§ 205-97. Interpretation of provisions.

The provisions, regulations, procedures and standards of this article will be held to be the minimum requirements necessary to carry out the purposes of this article.

§ 205-98. Relationship to other provisions.

The provisions of this article will take precedence over any other laws, ordinances or codes in effect in the Village to the extent that the provisions of this article are more stringent than such other laws, ordinances or codes. A coastal erosion management permit issued pursuant to this article does not relieve the permit applicant from the responsibility of obtaining other permits or approvals as may be necessary nor does it convey any rights or interest in real property.

§ 205-99. Applicability of Environmental Quality Review Act.

All regulated activities are subject to the review procedures required by the New York State Environmental Quality Review Act (SEQR), Article 8 of the New York State Environmental Conservation Law. The applicant shall be required to submit information necessary for compliance with SEQR in addition to information required under this article.

§ 205-100. Penalties for offenses.

A violation of this article is punishable by fines or imprisonment as set forth in Article XIV, except that each day's continued violation of this article XVI will constitute a separate additional violation. Nothing herein will prevent the proper local authorities of the Village from taking such other lawful actions or proceedings as may be necessary to restrain, correct or abate any violation of this article.

§ 205-101. Amendments.

A. Procedure. The Village legislative body may, on its motion or on recommendation from the Planning Board, amend, supplement or repeal the provisions, regulations, procedures or standards of this article. When an amendment is duly proposed, the Village legislative body must:

- (1) Notify the Commissioner of the New York State Department of Environmental Conservation, in writing, of all proposed amendments and request his/her advice as to whether such amendment is subject to his/her approval and, if so, whether such amendment conforms to the minimum standards of a certified program.
 - (2) Issue a public notice and conduct a hearing on all proposed amendments. The Village legislative body, by resolution, must cause notice of such hearing's time, date and place to be published in the official newspaper not less than five days prior to the date of the hearing.
 - (3) Refer to the proposed amendment at least 30 days prior to the public hearing, in writing, to:
 - (a) The Planning Board, Board of Zoning Appeals and the Enforcement Officer, unless initiated thereby, for review of the amendment and a report to the Village legislative body of recommendations thereon, including a full statement of reasons for such recommendations.
 - (b) The County Planning Board for its review and recommendations pursuant to Article 12-B, § 239-b of the New York State General Municipal Law.
- B. Commissioner approval. After enactment, the amendment must be sent to the Commissioner of Environmental Conservation for certification.
- C. Recording. After an amendment to this article has been initially reviewed and found to be in conformance by the Commissioner of the New York State Department of Environmental Conservation, has completed the public hearing process and intergovernmental review, has been finally approved and adopted by the Village legislative body and has been certified by the Commissioner, the Clerk will, as prescribed by § 27 of the Municipal Home Rule Law:
- (1) Record the amended Article in the Village Clerk's Minute Book and in the Recorded Book of Local Laws.
 - (2) File the amended article within five days after adoption as follows:
 - (a) One copy in the Clerk's office.
 - (b) Three copies in the office of the Secretary of State.
 - (c) One copy with the Commissioner of the New York State Department of Environmental Conservation.

ARTICLE XVII

Coastal Overlay Districts

[Added 4-20-1992 by L.L. No. 1-1992]

§ 205-102. Findings; purpose.

A. Findings.

- (1) The Village Board of Trustees hereby finds that for ecological, public enjoyment, public navigation, aesthetic, visual and public health, safety and welfare reasons, the coastal areas of the Village of Lloyd Harbor must be protected.
- (2) As recreational boating has grown in popularity, there has been a concomitant and increasing demand for dock and mooring facilities, both public and private. The Village of Lloyd Harbor has not been exempt from this trend. The Village contains no commercial docking facilities; however, the increase in residential development along its shoreline has led to an increase in the number of applications for the construction of private docks.
- (3) The harbor of Lloyd Harbor and Lloyd Point are State of New York designated significant coastal fish and wildlife habitats. All of the shoreline of Lloyd Harbor has also been designated a critical environmental area (CEA) by the Village of Lloyd Harbor in accordance with the New York State Environmental Quality Review Act (SEQRA).¹⁸
- (4) Docks located in open water (and any boats moored to such docks) are exposed to increased damage from severe storms, thus creating pressure to establish docks and piers in protected waters such as the harbor of Lloyd Harbor. Inlets are more protected from storms but are often tidal habitats for birds, fish and other wildlife. Development in small harbor areas often impacts and degrades the very resources upon which this development depends. The water quality in such harbors deteriorates, the bird, fish and other wildlife habitats are thereby adversely impacted and the wildlife is therefore threatened. Locating docks (and boats) in these areas can cause significant damage to habitats and wildlife.
- (5) In addition to the other significant values of wildlife habitat areas, habitat areas and waterfront areas, in general, have significant value for their scenic qualities. A proliferation of docks and their associated boats causes overcrowding of waterfronts and waterbodies and can result in visual pollution, depending upon the number, location, size, height, length and design of the docks.
- (6) Docks which are long enough to reach water of sufficient depth for large boats can be hazardous to navigation if they encroach upon a navigational channel or if they draw boats into shoals because of their presence. Long docks can also be an impediment to the enjoyment of recreational boaters and anglers who desire to navigate along the shoreline. Docks acting as barriers along the water's edge also keep pedestrians from enjoying the waterfront. The desire for the construction of docks and other structures must be weighed against the environmental value and sensitivity of the waterfront and against the rights of the boating public to navigate, the rights of the community and public to walk along the foreshore and the rights of the community and general public to be protected from visual pollution. The Board of Trustees finds that private rights should not supersede

¹⁸ . Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

those of the public and that an appropriate balance must be achieved between property owner desires to access the water and the protection of the public trust relating to the enjoyment of waters and foreshore in the Village.

- B. It is for these reasons that the Village of Lloyd Harbor hereby creates the Coastal Overlay District-1 (COD-1) and Coastal Overlay District-2 (COD-2).

§ 205-103. Creation; location.

- A. There are hereby created two overlay zoning districts, respectively known as the "Coastal Overlay District-1 (COD-1)" and the "Coastal Overlay District-2 (COD-2)." These overlay districts shall be in addition to the existing underlying zoning which they overlay, and the regulations of these overlay districts shall supersede any inconsistent or less restrictive regulations of the existing underlying zoning.
- B. The respective locations of the COD-1 and COD-2 Districts are as shown on the Village Zoning Map. The landward boundary of the COD-1 and COD-2 Districts shall be 40 feet inland of the mean high-water line and seaward to the jurisdictional boundaries of the Village.

§ 205-104. Coastal Overlay District-1 (COD-1).

- A. The COD-1 District essentially encompasses relatively small or narrow waterbodies and lands immediately adjacent thereto. Because of the small or narrow configuration of these waterbodies, construction of shoreline structures, such as docks, piers, bulkheads or revetments, in areas not previously disturbed by such development (i.e., natural beach, tidal flats, adjacent woodlands or salt marsh) may have a significant adverse impact upon the environment.
- B. For these reasons and those reasons specified in § 205-102 above, there shall be no new structures or buildings or the enlargement or alteration of any existing structures or buildings, as defined by this chapter, located in the Coastal Overlay District-1, except that: [Amended 5-15-1995 by L.L. No. 1-1995; 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]
 - (1) Private docks may be located in the COD-1 upon review and approval from the Site and Building Permit Review Board and the issuance of a building permit by the Building Inspector if the Site and Building Permit Review Board determines that such structures will not provoke any of the adverse effects enumerated in § 205-102 and Subsection A herein and if the Site and Building Permit Review Board further determines that the dock would meet all of the following conditions:
 - (a) In order to minimize visual impact, the dock shall be of the floating variety only and shall only be permitted in those locations where the rising and lowering of such floating dock will not have a significant adverse impact upon vegetation, wildlife or wildlife habitat, including fish and fisheries resources.
 - (b) The dock shall be of a length, size and height which has no significant adverse impact upon the environment from a visual perspective or otherwise; shall be of a length which does not impede the navigation of vessels; and shall be of a length

which, in no case, exceeds 75 linear feet seaward from the mean high-water line.

- (c) In no case shall the seaward end of the dock extend beyond the point where the mean low-water depth at such point exceeds two feet.
 - (d) The width of the dock shall not exceed six feet. Such measurement shall include all appurtenances and appendages to the dock, including vertical supports and float configurations.
 - (e) The dock shall not impede the ability of the public to walk along the foreshore.
 - (f) The dock shall be removed from the water during the months November through March.
- (2) After approval by the Site and Building Permit Review Board:
- (a) The enlargement of existing docks and buildings which have been specifically approved by the Board of Trustees prior to the enactment hereof may be permitted.
 - (b) The construction, enlargement, alteration or repair of an erosion protection structure located in the coastal erosion hazard area may be permitted.

§ 205-105. Coastal Overlay District-2 (COD-2). [Amended 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]

For the purposes specified in § 205-102 above, there shall be no new structures or buildings or the enlargement or alteration of any existing structures or buildings, as defined by this chapter, located in the Coastal Overlay District-2, except that private docks, seawalls, retaining walls and jetties may be located in the COD-2 District upon the review and approval from the Site and Building Permit Review Board and the issuance of a building permit by the Building Inspector if the Site and Building Permit Review Board determines that such structures will not provoke any of the adverse effects enumerated in §§ 205-102 and 205-104 herein and further determines that any dock meets all of the following conditions:

- A. In order to minimize visual impact, the dock shall be of the floating variety in those locations where the rising and lowering of such floating dock will not have significant adverse impact upon vegetation, wildlife or wildlife habitat, including fish and fisheries resources. In locations where a floating dock would have such significant adverse impact, the dock shall be of the fixed-pier-type, with or without an accessory float, and shall be constructed in such a manner so that the float, if any, shall not rest upon the bottom lands.
- B. The total length of the dock shall not be more than 100 linear feet, and in no case shall the seaward end of the dock or any accessory float extend beyond the point where the mean low-water depth at such point exceeds three feet.
- C. The width of the dock, including vertical supports, shall not exceed six feet, and the size of any accessory float shall not exceed 150 square feet.

- D. The dock shall not impede the ability of the public to walk along the foreshore.
- E. All floating docks or floating components of docks shall be removed from the water during the months November through March.

§ 205-106. Replacement and repair of existing docks.

No replacement or substantial repair shall be made to any legally existing docks in the COD-1 or COD-2 District unless the building permit application is reviewed and approved pursuant to Article VIII. The term "substantial repair" shall mean the installation or replacement of more than 1/4 of the pilings of the dock, but shall not be construed to mean the replacement and securing of existing rails and deck boards or the painting and ordinary maintenance for such dock.

ARTICLE XVIII

Conservation Recreation District

[Added 9-16-1996 by L.L. No. 3-1996]

§ 205-107. Findings; purpose.

This article is adopted in accordance with the findings, purpose and goals of the Village of Lloyd Harbor Local Waterfront Revitalization Program adopted by the Board of Trustees on October 16, 1995.

§ 205-108. Creation; location.

- A. There is hereby created a zoning district known as the "Conservation Recreation District."
- B. The location of the Conservation Recreation District is as shown on Map, Figure 5-1, and listed in Table 5-1 of the Village of Lloyd Harbor Local Waterfront Revitalization Program.

§ 205-109. Permitted uses.

The permitted uses in this zoning district are limited to those uses allowed in the Parklands Overlay District and Estuarine District as well as bathing beaches, picnic areas or play areas not containing any structures. Permitted accessory uses are parking areas and shelters for municipal equipment and vehicles.

§ 205-110. Special use permit.

Any other use for public recreation not described in § 205-19 shall require a special use permit under Article IX.

ARTICLE XIX

Parkland Overlay District

[Added 9-16-1996 by L.L. No. 4-1996]

§ 205-111. Findings; purpose.

This article is adopted in accordance with the findings, purpose and goals of the Village of Lloyd Harbor Local Waterfront Revitalization Program adopted by the Board of Trustees on October 16, 1995.

§ 205-112. Creation; location.

- A. There is hereby created a zoning district known as the "Parkland Overlay District." This district shall be in addition to the existing underlying zoning which it overlaps, and the regulations of this district shall supersede any inconsistent or less restrictive regulations of the existing underlying zoning.
- B. The location of the Parkland Overlay District is as shown on Map, Figure 5-1, and listed in Table 5-1 of the Village of Lloyd Harbor Local Waterfront Revitalization Program.

§ 205-113. Permitted uses.

The only permitted use in the Parkland Overlay District are limited to conservation of the area as a passive parkland or nature preserve, observing or studying the indigenous flora or fauna, hiking or fishing. Minimal accessory uses such as parking areas, restrooms or seating that support the primary uses described above are also permitted upon receiving site plan approval from the Planning Board and an affirmative finding that the accessory use supports the primary use of the area as a passive parkland and nature preserve.

§ 205-114. Special use permit.

Any other proposed use of the area as a passive parkland or nature preserve not described in § 205-113 shall require a special use permit under Article IX.

ARTICLE XX

Estuarine District

[Added 9-16-1996 by L.L. No. 5-1996]

§ 205-115. Findings; purpose.

This article is adopted in accordance with the findings, purpose and goals of the Village of Lloyd Harbor Local Waterfront Revitalization Program adopted by the Board of Trustees on October 16, 1995.

§ 205-116. Creation; location.

- A. There is hereby created a zoning district known as the "Estuarine District."
- B. The location of the Estuarine District will encompass all lands below mean high water within the Local Waterfront Revitalization Area, including but not limited to those areas locally known as the "Sand Hole," "Harbor of Lloyd Harbor" and "Puppy's Cove" and all tidal wetlands, floodplains and all lands within Coastal Overlay District 1 and 2 (COD-1, COD-2) which are under water.

§ 205-117. Permitted uses.

The permitted uses within the Estuarine Zone shall be limited to those uses allowed in tidal wetlands and Coastal Overlay Districts, as well as vessel use and navigation, boat moorings, docks, piers, swimming, fishing and similar uses of surface waters and underwater lands.

ARTICLE XXI

Excavation, Erosion and Sediment Control Law

[Added 9-16-1996 by L.L. No. 6-1996]

§ 205-117.1. Title and purpose.

A. Title. This article will be known as the "Excavation, Erosion and Sediment Control Law."

B. Purpose.

- (1) Excessive quantities of soil are eroding within areas that are undergoing development for nonagricultural uses such as housing development, roads and recreation areas in the Village of Lloyd Harbor. This soil erosion makes necessary costly repairs to gullies, washed out fills, roads and embankments. The resulting sediment clogs storm sewers, muddies and silts streams, ponds and surrounding waterbodies. Sediment is expensive to remove and diminishes the use of water for its most beneficial purposes. Sediment filled waterways can result in damage to wildlife habitat and be a threat to the general health, welfare and safety.
- (2) The removal of protective topsoil, sod, earth and gravel from areas in the Village results in the washing of silt and mud into storm drains and catch basins thereby creating flooding conditions and unnecessary erosion, storm damage, flooding, pollution and other damage to the land so altered or to adjoining property and destroys the natural rural aspect of the community.

§ 205-118. Application procedure for excavation, erosion and sediment control for subdivisions, improved or unimproved lots.

A. Application for excavation, erosion and sediment control approval. Except as provided in § 205-121, no stone, sand, gravel, topsoil, earth of any kind or other natural material shall be moved, removed or excavated in any way (including, without limitation, any such moving, removing or excavating in connection with the reduction or increase of any kind of grade) from or on any land in the Village, including land under water within the Village boundaries, unless approval shall first have been obtained as hereinafter provided.

B. Compliance. No site plan for excavation on an improved or unimproved lot or subdivision plat shall be approved unless it includes soil erosion and sediment control measures as deemed necessary by the Site and Building Permit Review Board in accordance with the standards and specifications of this article. No approval for a certificate of occupancy for any building will be granted unless all needed erosion control measures have been completed or substantially provided for in accordance with this article. The applicant shall bear the final responsibility for

the installation and construction of all required erosion control measures according to the provisions of this article and may be required, as a condition of approval, to post a performance bond, or cash deposit, in an amount necessary to ensure the proper construction and completion of the erosion control measures. [Amended 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]

C. Data required from applicant. The applicant must submit the following information for the entire tract of land effected by the proposed project, whether or not the tract will be developed in stages:

- (1) A boundary line survey of the site on which the work is to be performed.
- (2) Description of the features, existing and proposed, surrounding the site of importance to the proposed development.
- (3) Description of general topographic and general soil conditions and contours on the site.
- (4) Location and description of existing and future man-made features of the proposed development.
- (5) Proposed new surface contours.
- (6) Plans and specifications of soil erosion and sedimentation control measures.
- (7) A construction schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.

D. Approval.

- (1) Application. A separate application shall be required for each excavation, erosion and sediment control request. Plans, specifications and timing schedules shall be submitted with each application. The plans shall be prepared or approved and signed by a professional engineer or architect.
- (2) Hearing. Upon receipt of any such application, the Board may, in its discretion, call a hearing for the consideration thereof and may at such hearing take testimony and receive exhibits from such witnesses it deems necessary or advisable to assist in its determination with respect to the application.
- (3) Requirement. Upon review of a completed application, the Site and Building Permit Review Board shall approve, approve with conditions, or disapprove the application. Except as exempted by § 205-121, no person shall do any grading, stripping, cutting, filling or other site preparation without an approval issued by the Village Site and Building Permit Review Board. [Amended 12-18-2000 by L.L. No. 5-2000; 10-21-2002 by L.L. No. 3-2002]
- (4) Grant of approval; conditions. The Board shall grant approval to any applicant, either

permanently or temporarily, with or without conditions, if it finds affirmatively that the proposed excavation is consistent with the health, safety, morals and general welfare of the inhabitants of the Village and the community, is consistent with all other ordinances and Articles of the Village and will not create harm or damage to adjacent property. The Board shall state in its approval such restrictions and conditions as it may deem necessary or desirable to protect and preserve the property of the Village and its inhabitants.

§ 205-119. Principles and standards for excavation, erosion and sediment control during construction.

- A. Implementation. Since considerable soil erosion can take place during construction, construction plans shall contain proposed erosion and sediment control measures. These measures shall be incorporated into the final plat and the final construction drawings and shall apply to all features of the construction site, including street and utility installations, as well as to the protection of individual lots. Measures shall also be instituted to prevent or control erosion and sedimentation during various stages of development.
- B. General design principles. Practical combinations of the following general principles will provide effective sediment control when properly planned and applied:
- (1) The subdivision and site plan shall be fitted to the topography and soils so as to create the least erosion potential.
 - (2) Grading of land within the one-hundred-year floodplain or watercourses designated and delineated as being subject to flood hazard will not be permitted unless Chapter 205, Article VII, is complied with regarding flood damage prevention.
 - (3) Permanent vegetation and improvements such as streets, storm sewers or other features of the development, capable of carrying storm run-off in a safe manner, shall be scheduled for installation to the greatest extent possible before removing any existing vegetation cover from an area.
 - (4) Wherever feasible, natural vegetation shall be retained and protected.
 - (5) Where inadequate vegetation exists, temporary or permanent vegetation shall be established.
 - (6) The smallest practical area of land shall be exposed at any one time during development.
 - (7) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
 - (8) Critical areas exposed during construction shall be protected with temporary vegetation and/or mulching.
 - (9) Sediment basins (debris basin, desilting basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development.

- (10) Provisions shall be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.
- (11) The permanent final vegetation and structures shall be installed as soon as practical in the development.

C. Maintenance. Applicants, successors or assigns carrying out excavation, soil erosion and sediment control measures under this chapter shall adequately maintain all permanent erosion control measures, devices and planting in effective working condition.

§ 205-120. Commercial activities prohibited.

Nothing in this chapter shall be deemed to allow or permit any commercial activity of any kind within the Village or any moving, removing or excavating (including, without limitation, any such moving, removing or excavating in connection with the reduction or increase of any kind in grade) of natural material for commercial purposes or for the sale thereof, and the same is prohibited, except as may be permitted by and approved pursuant to this chapter.

§ 205-121. Exceptions.

No approval shall be required:

- A. If the amount of such material to be moved, removed or excavated from any two-acre or larger parcel of land shall be less in aggregate than 50 cubic yards within any two-year period, provided that such work shall be done at least 100 feet distant from the mean high-water mark of all neighboring bodies of water, and further provided that such work shall be incident and necessary to the construction or alteration of a walk, driveway, building or other lawful structure on such land or to the landscaping thereof or planting therein.
- B. For the excavation for the basement of a building for which a building permit has been duly issued, provided that the plans submitted to the Building Inspector in the application for such permit shall include the dimensions and salient details of such excavation.
- C. For any work done by the Village for public purposes.

§ 205-122. Deposit of materials in watercourses.

Except as may be permitted by resolution of the Board, no stone, sand, gravel, topsoil, earth of any kind or other material shall be deposited in the bed of any watercourse within this Village or on any land lying within the Floodplain District as defined in Article VII of Chapter 205, Zoning. The term "watercourse," as used in this section, shall mean any waterway or other body of fresh, brackish or salt water having reasonably well-defined banks, including but not limited to harbors, sounds, bays, rivers, creeks, rivulets, lakes, ponds, vernal ponds and streams.

§ 205-123. Inspection and enforcement.

- A. Inspection. The requirements of this article shall be enforced by the Building Inspector who shall inspect or require adequate inspection of the work. If the Building Inspector finds any existing conditions not as stated in any application or approved plan, the Building Inspector

shall refuse to approve further work and issue a cease and desist order.

- B. Violations. Whenever, by the provisions of the Article, the performance of any act is required or the performance of any act is prohibited, a failure to comply with such provisions shall constitute a violation of this article.
- C. Correction. All violations shall be corrected within 30 days following date of issuance of written notice to correct.
- D. Penalties. Any person, firm or corporation who violates, neglects, omits or refuses to comply with any provision of this article or any permit or exception granted hereunder or any lawful requirement of the Building Inspector shall be subject to violations and penalties set forth in § 205-72. To promote compliance with the provisions of this article, each day that a violation is maintained, following notification, it shall be deemed a separate offense. The imposition of any fine shall not exempt the offender from further compliance with the provisions of this article.
- E. Fees. A fee schedule for permits and inspections based upon relevant criteria shall be established by resolution of the Village Board of Trustees.

§ 205-124. Severance provisions.

All parts of this article shall be deemed severable. Should any section, paragraph or provisions be declared invalid or unconstitutional by the courts, such holdings shall not affect the validity of the Article as a whole or any part thereof, other than the part so declared. The Village Board hereby declares that it would have enacted this article and each part thereof irrespective of the fact that any one or more parts, section, subsection, phrase, sentence or clauses be declared invalid.