

Chapter 107

FLOOD DAMAGE PREVENTION

- | | |
|--|---|
| § 107-1. Title. | § 107-9. Warning and disclaimer of liability. |
| § 107-2. General intent. | § 107-10. Designation of local administrator. |
| § 107-3. Objectives. | § 107-11. Development permit. |
| § 107-4. Definitions. | § 107-12. Duties of local administrator. |
| § 107-5. Applicability. | § 107-13. General standards. |
| § 107-6. Basis for establishing areas of special flood hazard. | § 107-14. Specific standards. |
| § 107-7. Interpretation; conflict with other laws. | § 107-15. Floodways. |
| § 107-8. Penalties for offenses. | § 107-16. Appeals Board. |
| | § 107-17. Conditions for variances. |

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 4-16-1987 by L.L. No. 4-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 102.
Water — See Ch. 184.

Zoning — See Ch. 190.

§ 107-1. Title.

This chapter shall be known and may be cited as the "Flood Damage Prevention Law of the Village of Sodus Point."

§ 107-2. General intent.

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

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwater.

- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 107-3. Objectives.

The objectives of this chapter are:

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

§ 107-4. Definitions.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them meaning they have in common usage and to give this chapter its most reasonable application.
- B. As used in this chapter, the following terms shall have the meanings indicated:

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. this

area may be designated as Zone A, AE, AH, AO, A1 - 99, V, VO, VE or V1 - 30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure build for support, shelter or enclosure for occupancy or storage.

CELLAR — The same as "basement."

COASTAL HIGH HAZARD AREA — The area subject to high velocity waters, including but not limited to hurricane wave wash. The area is designated on a Firm as Zone V1 - 30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Map and the water surface elevations of the base flood.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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.

FLOODWAY — The same as "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

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, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

LOWEST FLOOR — The lowest level, including basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

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 permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — The same as "manufactured home."

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

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

ONE-HUNDRED-YEAR FLOOD — The same as "base flood."

PRINCIPALLY ABOVE GROUND — That at least 51% of the actual cash value of the structure, excluding land value, is above ground.

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 provided in § 107-12B of this chapter.

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

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or the physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, construction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition substantial improvement is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

§ 107-5. Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Village of Sodus Point.

§ 107-6. Basis for establishing areas of special flood hazard. [Amended 2-15-1990 by L.L. No. 1-1990]

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Village of Sodus Point, of Wayne County, New York," dated November 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary Floodway Maps, enumerated on map index number 360B990001 B (dated November 2, 1977), is hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and maps are on file at the office of the Village Clerk.

§ 107-7. Interpretation; conflict with other laws.

This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter 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.

§ 107-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each say of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Sodus Point from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of the chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 107-16 and 107-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 107-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Sodus Point, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 107-10. Designation of local administrator.

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

§ 107-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 107-6. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 107-13C(1).
- (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 107-14.
- (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 107-12. Duties of local administrator.

Duties of the local administrator shall include, but not be limited to:

A. Permit application review. The local administrator shall:

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of § 107-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 107-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 107-13D(4) in order to administer § 107-14, Specific standards and § 107-15, Floodways.

C. Information to be obtained and maintained. The local administrator shall:

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (b) Maintain to floodproofing certifications required in §§ 107-13 and 107-14.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances when granted and certificates of compliance.

D. Alteration of watercourses. The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal

Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.

- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 107-6 and/or Subsection B of this section, when available, shall be used to accurately delineate the area of special flood hazards.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 107-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 107-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator. All certifications shall be based upon the inspections conducted subject to Subsection G and/or any certified elevations, hydraulic information, floodproofing, anchoring

requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 107-13. General standards. [Amended 11-16-2000 by L.L. No. 5-2000]

In all areas of special flood hazards the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All 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.
- (4) On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision approvals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.
- E. Encroachments.
- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects of the flood-carrying capacity of the area of special flood hazards set forth in § 107-12A, Permit review. This may require the submission of additional technical data to assist in this determination.
 - (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 107-12B or Subsection D of this section and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
 - (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 107-12B, the requirements of § 107-15, Floodways, shall apply.
- F. Undeveloped parcel requirements. The volume of stormwater discharged from a site shall be controlled to less than or equal to the volume generated by the natural, undeveloped site or present condition of the site prior to development.

§ 107-14. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 107-6, Basis for establishing areas of special flood hazards, and § 107-12B, Use of other base flood data, the following standards are required.

- A. Residential construction. New construction and substantial improvements of any resident structure shall:
- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
 - (2) Have fully enclosed areas below the lowest floor that 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:

- (a) 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.
- (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
- (c) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following 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;
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (b) If the structure is to be floodproofed:
 - [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

- (2) The local administrator shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazards without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 107-12B or two feet above the highest adjacent grade where no elevation data is available.
- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) 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.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 107-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, § 107-4). The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 107-6 and 107-12B, all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 107-16. Appeals Board.

- A. The Board of Appeals as established by the Board of Trustees of the Village of Sodus Point shall hear and decide appeals and requests for variances from the requirements of this chapter.

- B. The Board of Trustees shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Board of Trustees, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Board of Trustees shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
- (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) 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.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair or public utilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D of this section and the purposes of this chapter, the Board of Trustees may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 107-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 122-16E has been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- C. 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:
- (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) 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.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to who a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 122

LOITERING

§ 122-1. Loitering prohibited.

§ 122-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 12-17-1958. Amendments noted where applicable.]

GENERAL REFERENCES

Peace and good order — See Ch. 138.

§ 122-1. Loitering prohibited.

No person shall either alone or in congregation with others loiter or stand about on any part of any street, sidewalk or public place within the Village of Sodus Point or any part of any building or structure immediately adjacent to such street, sidewalk or public place within the Village of Sodus Point to the hindrance and inconvenience of the public generally.

§ 122-2. Penalties for offenses.

A violation of any of the provisions of this chapter shall be punishable by a fine not in excess of \$100 for such violation. Where any violation is of a continuous or continuing nature, each day on which such violation shall continue shall be deemed to constitute a separate violation and shall be punishable accordingly. Upon conviction of any violation, the magistrate may require the defendant to pay the costs of the proceedings. Unless the penalty and the costs, if imposed, be paid upon conviction, the magistrate shall commit the defendant to the County Jail of Wayne County for a term not exceeding one day of each dollar of the penalty imposed. Nothing herein contained shall be deemed to deprive the Board of Trustees of the right to enforce obedience to the provisions of this chapter or penalties imposed for violations thereof by any other means provided by law, including but not limited to actions to recover penalties and injunctions.

Chapter 127

NUISANCES

- | | |
|---|---|
| <p>§ 127-1. Title.</p> <p>§ 127-2. Legislative findings.</p> <p>§ 127-3. Public nuisance defined.</p> <p>§ 127-4. Powers of Board of Trustees.</p> <p>§ 127-5. Service of notice.</p> <p>§ 127-6. Lack of knowledge no defense.</p> <p>§ 127-7. Enforcement by Police Department.</p> | <p>§ 127-8. Time for enforcement.</p> <p>§ 127-9. Closing of premises.</p> <p>§ 127-10. No presumption of ownership by village.</p> <p>§ 127-11. Use of closed premises prohibited; penalty.</p> <p>§ 127-12. Penalties for offenses.</p> <p>§ 127-13. Rules and regulations.</p> |
|---|---|

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 9-9-1999 by L.L. No. 3-1999. Amendments noted where applicable.]

GENERAL REFERENCES

- | | |
|--|---|
| <p>Adult entertainment — See Ch. 51.</p> <p>Alcoholic beverages — See Ch. 53.</p> <p>Animal control — See Ch. 57.</p> <p>Outdoor entertainment — See Ch. 91.</p> <p>Firearms and fireworks — See Ch. 98.</p> | <p>Fire prevention and building construction — See Ch. 102.</p> <p>Licensing of occupations — See Ch. 129.</p> <p>Peace and good order — See Ch. 138.</p> <p>Property maintenance — See Ch. 141.</p> <p>Zoning — See Ch. 190.</p> |
|--|---|
-

§ 127-1. Title.

This chapter shall be known as the “Nuisance Abatement Law of the Village of Sodus Point.”

§ 127-2. Legislative findings.

The Board of Trustees finds that public nuisances exist in the Village of Sodus Point in the operation of certain establishments and the use of property, including residential premises, in violation of the Penal Laws of the State of New York, the New York State Uniform Fire Prevention and Building Code and the Code of the Village of Sodus Point, which nuisances substantially and seriously interfere with the interest of the public in the quality of life and total community environment, commerce in the village, property values and the public health, safety, peace, comfort, conveniences or welfare. The Board of Trustees further finds that the continued occurrence of such activities and violations is detrimental to the health, safety and welfare of the people of the Village of Sodus Point and of the businesses thereof and the visitors thereto. It is the purpose of this chapter to authorize the village to impose sanctions and penalties for such public nuisances and remediate the same, and such powers may be exercised either in conjunction with, or apart from, the powers contained in other laws without prejudice to the use of procedures and remedies available under such other laws. The Board of Trustees further finds that the sanctions and penalties and remedial measures authorized herein constitute an additional, and appropriate method of law enforcement in response to the proliferation of

public nuisances. The sanctions, penalties and remedial measures are reasonable and necessary in order to protect the health and safety of the people of the village and to promote the general welfare.

§ 127-3. Public nuisance defined.

- A. A public nuisance is declared to exist where behavior in the use of or on the premises unreasonably interferes with the health, safety, peace, comfort or convenience of the general community occurring within a period of six months of such frequency or duration that the continued occupancy of the premises presumes continuation of such unreasonable interference regardless of whether or not any person has been convicted for violation of any provisions of the Penal Law of the State of New York, the New York State Uniform Fire Prevention and Building Code or the Code of the Village of Sodus Point.
- B. A public nuisance is declared to exist whenever, through violations of any of the following provisions resulting from separate incidents at a building, structure or place, 12 or more points are accumulated within a period of six months, or 18 or more points within a period of 12 months, in accordance with the following point system. Where more than one violation occurs during a single incident, the total points for the incident shall be the highest point value assigned to any single violation.
- (1) The following violations shall be assigned a point value of six points:
- (a) Article 220 of the Penal Law: Controlled Substances Offenses.
 - (b) Article 221 of the Penal Law: Offenses Involving Marihuana.
 - (c) Article 225 of the Penal Law: Gambling Offenses.
 - (d) Article 230 of the Penal Law: Prostitution Offenses.
 - (e) Sections 165.40, 165.45, 165.50, 165.52 and 165.54 of the Penal Law: criminal possession of stolen property.
 - (f) The Alcoholic Beverage Control Law.
 - (g) Article 265 of the Penal Law: Firearms and other Dangerous Weapons.
 - (h) Sections 260.20 and 260.21 of the Penal Law: unlawfully dealing with a child.
 - (i) Article 263 of the Penal Law: Sexual Performance by a Child.
 - (j) Section 415-a of the Vehicle and Traffic Law: vehicle dismantlers.
 - (k) Section 175.10 of the Penal Law: falsifying business records.
 - (l) Sections 170.65 and 170.70 of the Penal Law: forgery of and illegal possession of a vehicle identification number.
 - (m) Possession, use, sale or offer for sale of any alcoholic beverage in violation of Article 18 of the Tax Law, or of any cigarette or tobacco products in violation of Article 20 of the Tax Law.
 - (n) Article 158 of the Penal Law: Welfare Fraud.

- (o) Article 178 of the Penal Law: Criminal Diversion of Prescription Medications and Prescriptions.
 - (p) Section 147 of the Social Services Law: food stamp program fraud.
- (2) The following violations shall be assigned a point value of (3) points:
- (a) Chapter 190 of the Village Code: Zoning.
 - (b) Chapter 51 of the Village Code: Adult Entertainment.
 - (c) Chapter 53 of the Village Code: Alcoholic Beverages.
 - (d) Chapter 57 of the Village Code: Animal Control.
 - (e) Chapter 91 of the Village Code: Outdoor Entertainment.
 - (f) Chapter 98 of the Village Code: Firearms and Fireworks.
 - (g) Chapter 102 of the Village Code: Fire Prevention and Building Construction.
 - (h) Chapter 129 of the Village Code: Licensing of Occupations.
 - (i) Chapter 138 of the Village Code: Peace and Good Order.
 - (j) Chapter 141 of the Village Code: Property Maintenance.
 - (k) 9 NYCRR Subtitle S, Chapter I: New York State Uniform Fire Prevention and Building Code.
- (3) For purpose of this section, where a violation is continuous, each week a violation continues shall be deemed a separate violation. A conviction for a violation shall not be required, and such violation shall be established by a preponderance of the evidence. However, a conviction as defined in accordance with the provisions of § 1.20 of the Criminal Procedures Law shall constitute conclusive proof of a violation. Conviction of an attempt to commit a violation of any of the specified provisions shall be considered a conviction for a violation of the specified provision.

§ 127-4. Powers of Board of Trustees.

In addition to the enforcement procedures established elsewhere, the Board of Trustees or the Board of Trustees' designee, after notice and opportunity for a hearing with respect to a public nuisance, shall be authorized:

- A. To order the closing of the building, structure or place to the extent necessary to abate the nuisance; or
- B. To suspend for a period not to exceed six (6) months or revoke for a period of one year a certificate of occupancy issued for such premises and to prevent the operator from obtaining a new certificate of occupancy for another location for the period of suspension or revocation; or
- C. To suspend for a period not to exceed six months or revoke for a period of one year any occupational license or permit issued by the village related to the conduct of a business or

trade at the premises, which suspension or revocation shall also apply to any other locations operated by the holder for which the license or permit is required; or

D. Any combination of the above.

§ 127-5. Service of notice.

Prior to the issuance of orders by the Board of Trustees or the Board of Trustees' designee pursuant to this section, the Board of Trustees or the Board of Trustees' designee shall give notice and opportunity for a hearing to the owner, lessor, lessee and mortgagee of a building, structure or place wherein the public nuisance is being conducted, maintained or permitted. Such notice shall be served upon an owner pursuant to Article 3 of the Civil Practice Law and Rules, upon a lessor or lessee pursuant to § 735 of the Real Property Actions and Proceedings Law and upon a mortgagee by means of certified mail, return receipt requested, sent to the mortgagee's last known address, provided that any service other than delivery to the person to be served shall be complete immediately upon delivery, mailing or posting without the necessity of filing proof of service with the clerk of any court before the hearing. The person in whose name the real estate affected by the orders of the Board of Trustees or the Board of Trustees' designee is recorded in the office of the County Clerk shall be presumed to be the owner thereof. Proceedings shall be commenced by service of the notice and opportunity for a hearing within 60 days after the occurrence of the most recent violation cited in the notice.

§ 127-6. Lack of knowledge no defense.

The lack of knowledge of, acquiescence or participation in or responsibility for a public nuisance on the part of the owners, lessors, lessees, mortgagees and all those persons in possession or having charge of as agent or otherwise, or having any interest in the property, real or personal, used in conducting or maintaining the public nuisance, shall not be a defense by such owners, lessors and lessees, mortgagees and such other persons.

§ 127-7. Enforcement by Police Department.

In the case of orders of the Board of Trustees or the Board of Trustees' designee issued pursuant to this chapter and upon the written directive of the Board of Trustees or the Board of Trustees' designee, officers of the Sodus Point Police Department are authorized to act upon and enforce such orders.

§ 127-8. Time for enforcement.

Five business days after the posting of an order issued pursuant to this chapter and upon the written directive of the Board of Trustees or the Board of Trustees' designee, officers of the Sodus Point Police Department are authorized to act upon and enforce such orders.

§ 127-9. Closing of premises.

Where the Board of Trustees or the Board of Trustees' designee closes a building, structure or place pursuant to this chapter, such closing shall be for such period as the Board of Trustees or the Board of Trustees' designee may direct, but in no event shall the closing be for a period of more than one year from the posting of the order pursuant to the section. If the owner, lessor or lessee shall file a bond in an amount determined by the Board of Trustees or the Board of Trustees' designee, but which may not exceed the value of the property ordered to be closed, and submit proof satisfactory to the Board of Trustees or the Board of Trustees' designee that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the building, structure or place has been directed to be closed by the order of the Board of Trustees or the Board of Trustees' designee, then the Board of Trustees or the Board of Trustees' designee may vacate the provisions of the order that directs the closing of the building, structure or place.

§ 127-10. No presumption of ownership by village.

A closing directed by the Board of Trustees or the Board of Trustees' designee pursuant to this chapter shall not constitute an act of possession, ownership or control by the village of the closed premises.

§ 127-11. Use of closed premises prohibited; penalty.

It shall be a misdemeanor for any person to use or occupy or to permit any other person to use or occupy any building, structure or place, or portion thereof, ordered closed by the Board of Trustees or the Board of Trustees' designee. Mutilation or removal of a posted order of the Board of Trustees or the Board of Trustees' designee shall be punishable by a fine of not more than \$250 or by imprisonment not exceeding 15 days, or both, provided that such orders contain therein a notice of such penalty.

§ 127-12. Penalties for offenses.

Intentional disobedience or resistance to any provision of the orders issued by the Board of Trustees or the Board of Trustees' designee pursuant to this chapter, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than \$1,000 or by imprisonment not to exceed six months, or both.

§ 127-13. Rules and regulations.

The Board of Trustees or the Board of Trustees' designee may promulgate rules and regulations to carry out and give full effect to the provisions of this chapter.

Chapter 129
OCCUPATIONS, LICENSING OF

§ 129-1. License required.

§ 129-2. Licensing; fees.

§ 129-3. Distribution of advertising matter prohibited.

§ 129-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 12-17-1958. Amendments noted where applicable.]

§ 129-1. License required.

The pursuit or exercise without a license as hereinafter provided of any of the following trades or occupations within the Village of Sodus Point is hereby prohibited:

- A. Auctioneering, except for the sale by or in behalf of the owner or tenant of residential real property within the limits of the incorporated Village of Sodus Point, or the executor, administrator or other personal representative of such owner or tenant, of household furniture, fixtures and equipment actually owned and used in and in connection with the enjoyment, use and occupation of such residential real property prior to such sale.
- B. Hawking, peddling, vending, soliciting orders and the crying of goods, wares, merchandise or other commodities in the streets and public places and by going from house to house, except the peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities; provided, however, that nothing herein contained shall be construed to prohibit hawking or peddling by an honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military service of the United States or the holder of a license granted pursuant to § 32 of the General Business Law.
- C. Circuses or other exhibitions or performances; provided, however, that nothing herein contained shall be construed to prohibit exhibitions or performances produced and participated in by religious, charitable, benevolent or educational corporations, associations, societies, bodies or organizations and their members in the furtherance of their religions, charitable, benevolent or educational purposes, where no private person or corporation receives gain from the proceeds of such exhibitions or performances over actual operating expenses.

§ 129-2. Licensing; fees.

- A. Any person intending to engage in the pursuit or exercise of any of the trades or occupations mentioned in § 129-1 may apply to the Mayor for the issuance of a license therefor. Subject to the provisions of law, the Mayor may issue such license, specifying the fee to be paid therefor. Every such license shall be countersigned by the Clerk of the Village, who shall keep a record thereof and of the amount of the fee to be paid therefor;

and upon presentation of such license to the Treasurer of the Village, so signed and countersigned, and the payment to the Treasurer of such fee, the Treasurer shall endorse thereon his receipt of the license fee. The license shall not take effect until the receipt of the Treasurer shall have been endorsed thereon. Any applicant who shall have been refused such license by the Mayor may apply to the Board of Trustees therefor at a meeting thereof; and the same may be granted or refused by the Board. The Mayor may suspend any such license until the next meeting of the Board of Trustees, and thereupon the said license may be revoked or continued by the Board.

- B. The following fees shall be specified and collected for the licenses issued pursuant to the provisions of this section:
- (1) For auctioneering: \$15 for one day and \$7.50 for each succeeding calendar day.
 - (2) For any of the trades or occupations specified in § 129-1B: \$7.50 for each day or \$35 for one calendar year, commencing on the effective date of the license.
 - (3) Circuses: \$35 for each day, provided that during one stand, a circus may organize and conduct one parade without additional fee.
 - (4) For other exhibitions or performances: \$15 for each day.

§ 129-3. Distribution of advertising matter prohibited.

No person or corporation shall throw, cast or distribute or cause or permit to be thrown, cast or distributed any handbill, circular, card, booklet, placard or other advertising matter whatsoever in or upon any street, sidewalk or public place or in a front yard or courtyard or on any stoop, porch, veranda or in the vestibule or any hall of any building or in a letter box therein, or in or upon any motor vehicle or motorcycle, whether the same be in or upon any street, sidewalk or public place or elsewhere; provided, however, that nothing herein shall be deemed to prohibit or otherwise regulate the delivery of any such matter by the United States Postal Service, or prohibit the distribution of sample copies of newspapers regularly sold by the copy or by annual subscription. This section is not intended to prevent the lawful distribution of anything other than commercial and business advertising matter.

§ 129-4. Penalties for offenses.

A violation of any of the provisions of this chapter shall be punishable by a fine not in excess of \$100 for such violation. Where any violation is of a continuous or continuing nature, each day on which such violation shall continue shall be deemed to constitute a separate violation and shall be punishable accordingly. Upon conviction of any violation, the magistrate may require the defendant to pay the costs of the proceedings. Unless the penalty and the costs, if imposed, be paid upon conviction, the magistrate shall commit the defendant to the County Jail of Wayne County for a term not exceeding one day of each dollar of the penalty imposed. Nothing herein contained shall be deemed to deprive the Board of Trustees of the right to enforce obedience to the provisions of this chapter or penalties imposed for violations thereof by any other means provided by law, including but not limited to actions to recover penalties and injunctions.

Chapter 134

PARKS

ARTICLE I General Provisions

§ 134-1. Title.

§ 134-2. General intent.

§ 134-3. Definitions.

ARTICLE II Administration

§ 134-4. Parks Commissioner.

ARTICLE III Operation; Permit Requirements

§ 134-5. Hours.

§ 134-6. Permits; application; insurance requirements.

§ 134-7. Effect of permit.

§ 134-8. Liability.

§ 134-9. Revocation of permit.

ARTICLE IV Use Regulations and Prohibited Acts

§ 134-10. Bicycles.

§ 134-11. Snowmobiles, off-road and limited use vehicles.

§ 134-12. Motor vehicles.

§ 134-13. Wildlife.

§ 134-14. Dogs, cats and other household pets.

§ 134-15. Littering, rubbish, garbage, sewage and noxious materials.

§ 134-16. Violations by minors.

§ 134-17. Games.

§ 134-18. Disorderly conduct.

§ 134-19. Indecent conduct and exposure.

§ 134-20. Unreasonable noise.

§ 134-21. Loitering.

§ 134-22. Weapons.

§ 134-23. Alcoholic beverages.

§ 134-24. Controlled substances.

§ 134-25. Acts prohibited without permission.

§ 134-26. Other activities.

§ 134-27. Rules and regulations.

ARTICLE V Enforcement

§ 134-28. Compliance with orders of parks personnel and law enforcement agencies.

§ 134-29. Powers of law enforcement officers.

§ 134-30. Penalties for offenses.

§ 134-31. Restitution.

§ 134-32. Parents or legal guardians.

§ 134-33. Damages to park property.

[HISTORY: Adopted by the Board of Trustees of the Village of Sodus Point 5-21-1987 by L.L. No. 8-1987. Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 134-1. Title.

This chapter shall be known and may be cited as the “Parks Law of the Village of Sodus Point.”

§ 134-2. General intent.

The intent of this chapter is to regulate the use of all parks under the control, supervision and jurisdiction of the Village of Sodus Point.

§ 134-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTHORIZED PERSONNEL — Any person, department or agency given the right to function by the Board of Trustees of the Village of Sodus Point.

LAW ENFORCEMENT OFFICER — Any police officer, peace officer, sheriff’s deputy, New York State policeman or any other law enforcement official of any other applicable jurisdiction having jurisdiction or authority to enforce this chapter.

PARK — The grounds, buildings thereon, playground equipment and any other property necessary for the operation thereof, which is now or may hereafter be maintained, operated and controlled by the Village of Sodus Point for public park purposes.

PARKING — Any standing of any vehicle, whether occupied or not, unless standing in obedience to traffic regulations or signals or while actively engaged in loading or unloading.

PERMIT — Any written license issued by or under the authority of the Commissioner permitting the performance of a specified act or acts or the conduct of a particular function, program or activity.

PERSON — Any natural person, corporation, company, association, joint-stock association, firm, copartnership or other entity or form of association.

SNOWMOBILE — Any self-propelled vehicle designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats.

VEHICLE — Any device in, upon or by which a person or property is or may be transported or drawn upon a highway, trail or path.

VILLAGE — The Village of Sodus Point.

VILLAGE BOARD — The Board of Trustees of the Village of Sodus Point, Count of Wayne, State of New York.

ARTICLE II
Administration

§ 134-4. Parks Commissioner.

There is hereby established the office of Parks Commissioner of the Village of Sodus Point, New York, which office shall be filled by a Trustee of the Village of Sodus Point appointed by the Mayor to serve as such for a term of one year or until a successor is appointed. The Commissioner shall serve without pay, and shall possess such powers and duties as hereinafter specified in this chapter and such additional powers and duties as may be conferred by rules and regulations promulgated by the Board of Trustees of the Village of Sodus Point by resolution or local law.

ARTICLE III
Operation; Permit Requirements

§ 134-5. Hours.

Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year from 8:00 a.m. to 10:00 p.m., unless otherwise designated by the Village Board.

§ 134-6. Permits; application; insurance requirements.

- A. Groups of 10 or more persons shall apply for a permit at least 14 days prior to the day requested.
- B. Camping is prohibited except by permit issued upon special need and exceptional circumstance.
- C. Applications shall be filed with the Commissioner upon forms to be supplied by him which shall include questions seeking such information as may reasonably be necessary for a fair determination as to whether or not a permit should be issued.
- D. The Commissioner shall issue a permit when he finds that:
 - (1) The applicant is at least 18 years of age.
 - (2) The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
 - (3) The proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (4) The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.
 - (5) The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation.
 - (6) The facilities desired have not been reserved for other use on the day and at the hour requested in the application.

- (7) A refundable deposit is posted as security against damage to park facilities. This deposit may be required at the discretion of the Commissioner in an amount to be determined by him in view of the circumstances of the application.
- E. Liability insurance may be required by the Commissioner for groups using the park facilities on a scheduled basis.
- F. Within seven days after receipt of an application, the Commissioner shall apprise an applicant in writing of his reason for refusing a permit, and any aggrieved person shall have the right to appeal in writing within 10 days to the Village Board, which shall consider the application under the standards set forth herein and sustain or overrule the Commissioner's decision within seven days. The decision of the Village Board shall be final.

§ 134-7. Effect of permit.

- A. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permit.
- B. The permit shall cover use of the described site only and shall not include permission to use any other area.

§ 134-8. Liability.

The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person or persons to whom such permit has been issued. The permittee shall also be responsible for any damage done to any physical properties under the jurisdiction of the village.

§ 134-9. Revocation of permit.

The Commissioner shall have the authority to revoke a permit upon a finding of a violation of any rule, local law or ordinance, or upon good cause shown. Violation of such rule, local law or ordinance shall be grounds for denial of future permits.

ARTICLE IV
Use Regulations and Prohibited Acts

§ 134-10. Bicycles.

Riders of bicycles shall comply with all laws and rules for the regulation of other vehicles. In addition, no person shall ride a bicycle upon the lawns of the village parks.

§ 134-11. Snowmobiles, off-road and limited use vehicles.

- A. No person shall operate any snowmobile within a park.

- B. No person shall operate any motor powered off-road or limited use vehicle in any part of a park. Off-road or limited use vehicles shall include, but are not limited to: four-wheel drive vehicles, vehicles equipped for operation in or on sand, mud, snow, gravel or wetland, dune buggies, motorcycles or minibikes equipped for off-road usage, dirt bikes or any similar type of vehicle or conveyance.

§ 134-12. Motor vehicles.

- A. No person shall drive any automobile, motorcycle or other motorized vehicle upon any part of a village park, except as authorized by the Commissioner for special events.
- B. No person shall cause any bus with or without passengers nor any cart, wagon, truck or trailer or other vehicle carrying goods, merchandise, manure, soil or other articles, or solely in use for the carriage of goods, merchandise, manure or other articles to enter or to be driven in any part of the park. This regulation shall not apply to vehicles engaged in the construction, maintenance or operations of the parks, or to vehicles making deliveries granted special permission by the Commissioner.
- C. It shall be the duty of every person operating an automobile, motorcycle or other motorized vehicle within a park to comply with the New York State Vehicle and Traffic Law, the applicable traffic regulations of the Village of Sodus Point and with all orders, directions and regulations issued by traffic officers or officially displayed on any post, standard, sign or device installed for the regulation of traffic or parking.
- D. No parking shall be allowed on the shoulders or in other park areas which will be designated by signs. No parking shall be allowed in areas during the times prohibited or otherwise regulated by signs posted in such areas. It shall be unlawful for any person to park, stop or leave standing any vehicle in any no parking area, except as permitted under special permission of the Commissioner.
- E. The Parks Commissioner may erect suitable signs on roadways or in parking areas, which signs shall indicate when parking is authorized or not authorized.
- F. No person who is under the influence of alcohol or a controlled substance, as defined in § 134-24, shall operate any vehicle in or on a village park.
- G. No person shall use or shine spotlights or unnecessarily or continuously shine automobile headlights on or into park lands, except under direction of a law enforcement officer or park employee, or except where necessary for the preservation of life or property.
- H. The Commissioner is authorized to promulgate further rules and regulations pertaining to this section pursuant to § 134-27.

§ 134-13. Wildlife.

No person shall kill, injure or unnecessarily disturb any waterfowl, birds or wild animals. No person within the confines of a park shall hunt, pursue with dogs, trap or in any other way molest any wild bird or animal found within the confines of a park, or rob or molest any bird's nest or take the eggs of any bird.

§ 134-14. Dogs, cats and other household pets.

- A. No person shall bring into or keep in the park any cat or other animal destructive of birdlife or wildlife; bring into, have or keep in the park any dog, cat or other pet or domesticated animal of a destructive nature unless the same is on a leash.
- B. Dogs are not permitted in picnic areas.

§ 134-15. Littering, rubbish, garbage, sewage and noxious materials.

- A. No person shall bring into, drop, deposit, dump or leave behind any rubbish, garbage, ashes, paper, cardboard, metal cans or other metallic substances, bottles, glassware or other refuse, waste material or other unwanted material of any kind in any village park, except that any such materials resulting from picnics, camping or other permitted activities shall be deposited in receptacles or other containers provided for that purpose.
- B. No person shall abandon any motor vehicle or other equipment or property of any kind in any village park.
- C. No person shall, either within or outside of a village park, discharge into, throw, cast, lay, drop or leave in any storm sewer or drain flowing into or through such park any substance, matter or thing, either liquid or solid, which may result in pollution or interfere with the conservation of the natural resources of said park, or endanger the health, safety or well-being of visitors in such park.

§ 134-16. Violations by minors.

No parents, guardians or custodians of any minor shall permit or allow him or her to commit any act which would constitute a violation of this chapter.

§ 134-17. Games.

No person shall engage in potentially dangerous games involving thrown or propelled objects such as footballs, baseballs, darts, horseshoes, golf balls or similar objects, except in areas designated for such usage, and then only subject to such rules and regulations as may be promulgated by the Commissioner pursuant to § 134-27 below. All games of any description must be conducted in a safe and orderly manner and no rough or boisterous practices will be allowed.

§ 134-18. Disorderly conduct.

No person with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, shall:

- A. Engage in fighting or violent, tumultuous or threatening behavior while in a park.
- B. Use abusive or obscene language or make an obscene gesture while in a park.
- C. Without lawful authority, disturb any lawful assembly or meeting of persons in a park.

- D. Obstruct vehicles or pedestrian traffic in a park.
- E. Congregate with other persons in a public place and refuse to comply with a lawful order of a law enforcement officer, the Commissioner or other authorized personnel to disperse or leave the park.
- F. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose.

§ 134-19. Indecent conduct and exposure.

No person shall commit, perform or engage in any lewd, lascivious, obscene or indecent act or behavior, appear in a state of nudity or make any indecent exposure of his or her person.

§ 134-20. Unreasonable noise.

- A. No person shall make, continue, cause or permit to be made or continued any unreasonable noise in a park.
- B. No person shall shout, yell, call or whistle in a park so as to cause unreasonable noise.
- C. No person shall operate or use any radio, musical instrument, television, phonograph or other machine or device for the production, reproduction or amplification of sound in such a manner so as to cause unreasonable noise in a park.
- D. No person shall operate or use or cause to be operated or used any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any event, performance, show or display of merchandise in connection with any commercial operation, except with special permission of the Commissioner.
- E. No motor vehicle, other than a police or emergency vehicle, which makes or creates unreasonable noise, shall operate in a park.
- F. No person shall operate a vehicle in such a manner as to cause unreasonable noise by spinning or squealing the tires of such vehicle.
- G. No person shall cause the sounding of any horn or signaling device on any automobile, motorcycle, bicycle or other vehicle except as a danger warning.
- H. "Unreasonable noise" shall be defined as any unusual loud sound which either annoys, disturbs, injures or endangers the health, safety, welfare, peace, quiet, comfort or repose of persons or which cause injury to plant or animal life. Standards to be considered in determining whether unreasonable noise exists in a given situation include, but are not limited to, the following:
 - (1) The volume of the noise.
 - (2) The intensity of the noise.
 - (3) Whether the nature of the noise is usual or unusual.
 - (4) Whether the origin of the noise is natural or unnatural.

- (5) The volume and intensity of the background noise, if any.
- (6) The time of day or night the noise occurs.
- (7) The duration of the noise.
- (8) Whether the noise is recurrent, intermittent or constant.
- (9) Whether the noise is produced by a commercial or noncommercial activity.

§ 134-21. Loitering.¹

No person shall loiter or remain in any park:

- A. For the purpose of begging.
- B. For the purpose of gambling with cards, dice or other gambling devices.
- C. For the purpose of soliciting or engaging in any business, trade or commercial transaction involving the sale of merchandise or services, except as set forth in § 134-25B.

§ 134-22. Weapons.

- A. No person except a law enforcement officer shall carry firearms, switchblade, gravity knife, slingshot or other dangerous weapons on or about his or her person while in a park.
- B. No person except a law enforcement officer shall carry, fire or discharge any rifle, shotgun, handgun or any kind of firearm.
- C. No person except a licensed professional with consent of the Village Board shall discharge fireworks in a village park.

§ 134-23. Alcoholic beverages.²

A person is guilty of unlawful possession of alcoholic beverages when such person:

- A. Possesses or transports or brings beer into a park in a draught dispenser without permission from the Village Board, and without a New York State license for beer sales.
- B. Becomes intoxicated.
- C. Possesses, places in plain view of others or drinks an alcoholic beverage at a time or in a location specifically designated by the Commissioner as a time or an area where alcoholic beverages are prohibited. The Commissioner may prohibit alcoholic beverages during specified times and may designate certain areas as nondrinking areas.
- D. The posting of signs in areas designated as nondrinking areas by the Commissioner shall not be required.

¹ Editor's Note: See also Ch. 122, Loitering.

² Editor's Note: See also Ch. 53, Alcoholic Beverages.

- E. In any proceeding under this section, a container will be presumed to contain an alcoholic beverage when a label affixed thereto indicates the words "beer," "whiskey," "wine," "gin," "liquor," "sherry" or "vodka" or other commonly known types of alcohol or which label designates an alcoholic proof content.

§ 134-24. Controlled substances.

No person shall use, carry, transport or sell within a park any marijuana, narcotic drug, hallucinogen or controlled substance as defined in § 220.00 of the Penal Law, or drug paraphernalia as defined in § 220.50 of the New York State Penal Law. Violators of this regulation will be prosecuted in accordance with the New York State Penal Law.

§ 134-25. Acts prohibited without permission.

- A. No person shall commit any of the following acts without written permission of the Commissioner or some other person duly authorized to act on his behalf:
- (1) Post or display any sign, banner or advertisement of any kind within a park.
 - (2) Picnic or cook in any area not designated by the Commission for that purpose; make or kindle any fire except in places provided therefor, and then subject to such rules and regulations as may be promulgated pursuant to § 134-27.
 - (3) Sleep, camp, lodge or reside in any park except with special permission of the Commissioner and in such places as he so designates for said purposes.
 - (4) Ascend or land with any aircraft, including gliders, balloons or parachutes, or engage in stunt flying or parachute landing, except with special permission of the Commissioner.
 - (5) Construct, repair or relocate utility fixtures, such as sewers, hydrants, posts, lines and conduits or open trenches or make excavations or engage in any construction in or on park lands.
 - (6) Carry any shovel, ax, saw or spade within the parks, violate the regulations of the Commissioner relating to any building or place, damage any notice posted by order of the Commissioner, cut curbs for private drives, locate, grade or construct paths, driveways and roadways across or along any park or deposit materials in or upon any park.
- B. No person shall solicit or engage in any business, trade, commercial, transaction or other activity within a park involving the sale of merchandise or services or for which any fee, payment, donation or other consideration is required or requested; except for duly authorized concession agreements or other agreements for park purposes which shall have been approved or authorized by the Village Board.

§ 134-26. Other activities.

Other activities in village parks not specifically regulated in §§ 134-6 through 134-9 and Article IV shall be subject to rules and regulations promulgated by the Commissioner pursuant to § 134-27 below.

§ 134-27. Rules and regulations.

- A. The Commissioner or authorized personnel is authorized to promulgate rules and regulations concerning the activities described in §§ 134-6 through 134-9 and Article IV (§§ 134-10, 134-11, 134-12, 134-17, 134-23, 134-25 and 134-26) of this chapter; such further rules and regulations as may be necessary to effectuate or implement the provisions of this chapter; and such additional rules and regulations as may be authorized or directed by the Village Board.
- B. All rules and regulations promulgated by the Commissioner shall be approved by the Village Board.
- C. Reasonable efforts shall be made by the Village Board and the Commissioner, within appropriations made available for this purpose, to reproduce, post, make available, distribute and publicize all rules and regulations of this chapter.

ARTICLE V
Enforcement

§ 134-28. Compliance with orders of parks personnel and law enforcement agencies.

- A. No person shall fail or refuse to comply with any reasonable order relating to the regulation of activities hereunder or the enforcement of provisions of this chapter, lawfully given by the Commissioner or his duly authorized agents or representatives, village personnel or any law enforcement officer or other official of a policing agency having jurisdiction.
- B. No person shall willfully resist, obstruct or abuse the Commissioner, his duly authorized personnel, agents or representatives, village personnel or any law enforcement officer or other official or a policing agency having jurisdiction in the execution of their offices and duties.

§ 134-29. Powers of law enforcement officers.

- A. Any law enforcement officer may, without warrant, arrest any person who has violated any of the provisions of this chapter, or any rules or regulations promulgated hereunder, and take the person so arrested before a magistrate having competent jurisdiction.
- B. Any law enforcement officer shall have the right at all times to enter, for the purpose of arresting violators hereof, any park grounds, building, structure or enclosure occupied or used in accordance with the regulations of this chapter, and may use all necessary means to attain that end.

- C. Law enforcement officers are authorized to request the production of a driver's license or other identification in enforcing this chapter.

§ 134-30. Penalties for offenses.

Violation of the rules and regulations in § 134-22 shall constitute a misdemeanor; violation of any rules and regulations of this chapter, with the exception of § 134-24, Controlled substances, shall be subject to the penalties below:

- A. Any person convicted of a violation, as set forth in this chapter, shall be subject to fine and/or imprisonment, as follows:
- (1) First offense: a fine of not less than \$50 nor more than \$250 and/or imprisonment not to exceed 15 days.
 - (2) Second offense: a fine of not less than \$250 nor more than \$500 and/or imprisonment not to exceed 15 days.
 - (3) Third or subsequent offense: a fine of not less than \$500 nor more than \$750 and/or imprisonment not to exceed 30 days.
- B. Any person convicted of a misdemeanor, as set forth in this chapter, shall be subject to a fine of not less than \$500 nor more than \$1,000 and/or imprisonment not to exceed 30 days or as otherwise may be prescribed in the New York State Penal Law.

§ 134-31. Restitution.

Any person convicted of a violation or a misdemeanor, as set forth in this chapter, shall be subject to the provisions of § 65.10 of the New York State Family Court Act relative to making of restitution for loss or damages.

§ 134-32. Parents or legal guardians.

Parents or legal guardians of infants over 10 and less than 18 years of age shall be liable for damages or destruction caused in village parks by such infants, up to the sum of \$1,000, pursuant to the provisions of § 3-112 of the New York State General Obligations Law.

§ 134-33. Damages to park property.

In addition to any penalties prescribed herein, any person causing damage to park property, real or personal, shall be liable to the Village of Sodus Point for such damage in a civil action.

