

**CODE OF THE**

**CITY OF MECHANICVILLE**

**2017**

**OFFICIALS**  
**OF THE**  
**CITY OF MECHANICVILLE, NEW YORK**

**Municipal Building**  
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**2017**

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**City Council**

**Mayor, DENNIS M. BAKER**  
**Acting Commissioner of Accounts, EMILIA FOARD**  
**Commissioner of Finance, JODIE A. GILHEANY**  
**Commissioner of Public Works, DAVID HIGGINS**  
**Commissioner of Public Safety, TIMOTHY HIPWELL**  
**City Attorney, VAL SERBALIK, ESQ.**

## **PREFACE**

The Mechanicville City Code, consisting of the City Charter and general legislation in the form of City Ordinances, was last updated in the year 2013. Prior to then, the last comprehensive update was completed in 2000. The Code, minutes of meetings, and information regarding various City actions and activities are available in print form and online at the City's website ([mechanicvilleny.gov](http://mechanicvilleny.gov)). To insure accuracy and ease of public access, the Code will henceforth be updated online on a periodic basis, upon enactment of revisions and/or amendments. The 2017 Code incorporates the amendments and revisions enacted from the year 2013 through the year 2017. The most recent revisions have been proposed and enacted as a result of consultations, input, and recommendations from elected and appointed City Officials.

**MECHANICVILLE CITY COUNCIL**

# HISTORY

The City of Mechanicville's history is almost as old as the history of the United States. In 1714 the area saw the first Dutch settlers come into the valley. Some came and established a small hamlet which they called "a Borough of Halfmoon." The borough, as it was called, consisted of twelve (12) houses and a schoolhouse and was established along the King's Highway, which is now Main Street. Swatts, Cuerdon, Gates, and Bailey were the family names of the first settlers.

In 1828 the Champlain Canal came to Mechanicville and portions of the canal were opened in 1830. Prosperity came with the canal, as well as many inhabitants. Mechanicville's early growth can be laid, in great part, to the arrival in 1831 of Job B. Viall, who came to the community as Superintendent of the Fairbanks and Bullen Cotton Factory. He purchased some land and erected several houses and a store. He purchased the entire section of land known as "North Mechanicville" (Saratoga Avenue, Viall Avenue, and Round Lake Avenue) and subdivided the area into building lots. By 1835, his lots and his mill had brought many settlers into the community and wealth to the inhabitants.

The village had growing pains in 1859, and a committee of nine men petitioned the Court of General Sessions to incorporate "a village containing 977 inhabitants and consisting of 190 acres" as the Village of Mechanicville. On July 16, 1859, the Village of Mechanicville was incorporated under a general law of the state. Eleven years later, a special charter was passed by the legislature and the first election of officers was held under the new enactment.

## **DIVISION OF CODE**

The Code is divided into two divisions. The first division includes the Charter of the City. The second division includes all legislation as Parts I and II. Part I, Administrative Legislation, contains all City legislation of an administrative nature, such as dealing with the administration of government, establishing or regulating municipal departments, and affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other City legislation of a regulatory nature.

## **RESERVED CHAPTERS**

Space has been provided in the Code for the insertion, alphabetically, of later enactments. In the Table of Contents, the space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

## **APPENDIX**

The Appendix of this Code is reserved for any material that the City Council may wish to include.

## **DISPOSITION LIST**

The Disposition List is a chronological listing of legislation that has been adopted since the publication of the 2017 revisions to the Code. The Disposition List will be updated with each supplement to the Code.

## **SUPPLEMENTATION**

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage.

## **TABLE OF CONTENTS**

### **THE CHARTER**

#### **TITLE**

- I. Short Title; Boundaries; Incorporation**
- II. City Officers; Powers and Duties Generally**
- III. Finances; Taxation; Local Assessments and Improvements**
- IV. Elections**
- V. City Council; Commissioners**
- VI. Miscellaneous Provisions**
- VII. Election Requirements**
- VIII. Tax Levy Override Legislation**

### **THE CODE**

#### **PART 1**

#### **ADMINISTRATIVE LEGISLATION**

#### **PAGE**

1. General Provisions .....	101
2. (Reserved) .....	201
3. (Reserved) .....	301
4. (Reserved) .....	401
5. (Reserved) .....	501
6. Boards and Commissions .....	601
7. (Reserved) .....	701
8. (Reserved) .....	801
9. Building Department .....	901
10. (Reserved) .....	1001
11. (Reserved) .....	1101
12. (Reserved) .....	1201
13. (Reserved) .....	1301
14. (Reserved) .....	1401
15. Election Districts .....	1501
16. (Reserved) .....	1601

17. (Reserved) .....	1701
18. Ethics, Code of .....	1801
19. (Reserved) .....	1901
20. (Reserved) .....	2001
21. Fire Department .....	2101
22. (Reserved) .....	2201
23. (Reserved) .....	2301
24. (Reserved) .....	2401
25. (Reserved) .....	2501
26. (Reserved) .....	2601
27. (Reserved) .....	2701
28. Investment Policy .....	2801
29. (Reserved) .....	2901
30. (Reserved) .....	3001
31. (Reserved) .....	3101
32. (Reserved) .....	3201
33. (Reserved) .....	3301
34. Meetings .....	3401
35. (Reserved) .....	3501
36. (Reserved) .....	3601
37. (Reserved) .....	3701
38. (Reserved) .....	3801
39. Police Department .....	3901
40. (Reserved) .....	4001
41. (Reserved) .....	4101
42. Procurement Policy .....	4201
43. (Reserved) .....	4301
44. (Reserved) .....	4401
45. (Reserved) .....	4501
46. Records .....	4601
47. (Reserved) .....	4701
48. (Reserved) .....	4801
49. (Reserved) .....	4901

50. Salaried Employees .....	5001
51. (Reserved) .....	5101
52. (Reserved) .....	5201
53. Sale of Public Lands .....	5301
54. (Reserved) .....	5401
55. (Reserved) .....	5501
56. (Reserved) .....	5601
57. (Reserved) .....	5701
58. (Reserved) .....	5801
59. (Reserved) .....	5901
60. (Reserved) .....	6001
61. (Reserved) .....	6101
62. Adult Entertainment .....	6201
63. (Reserved) .....	6301
64. Advertising .....	6401
65. (Reserved) .....	6501
66. (Reserved) .....	6601
67. Alcoholic Beverages .....	6701
68. (Reserved) .....	6801
69. (Reserved) .....	6901
70. Animals .....	7001
71. (Reserved) .....	7101
72. (Reserved) .....	7201
73. (Reserved) .....	7301
74. (Reserved) .....	7401
75. (Reserved) .....	7501
76. (Reserved) .....	7601
77. Bingo .....	7701
78. (Reserved) .....	7801
79. (Reserved) .....	7901
80. Building Construction and Fire Prevention.....	8001
81. (Reserved)... ..	8101



82. (Reserved).....	8201
83. Buildings, Unsafe .....	8301
84. Maintenance of Vacant Buildings .....	8401
85. (Reserved) .....	8501
86. Burning, Outdoor .....	8601
87. (Reserved) .....	8701
88. (Reserved) .....	8801
89. (Reserved) .....	8901
90. (Reserved) .....	9001
91. Curfew .....	9101
92. (Reserved) .....	9201
93. (Reserved) .....	9301
94. (Reserved) .....	9401
95. (Reserved) .....	9501
96. (Reserved) .....	9601
97. (Reserved) .....	9701
98. (Reserved) .....	9801
99. Electrical Inspections .....	9901
100. (Reserved) .....	10001
101. (Reserved) .....	10101
102. (Reserved) .....	10201
103. (Reserved) .....	10301
104. (Reserved) .....	10401
105. Fair Housing .....	10501
106. (Reserved) .....	10601
107. (Reserved) .....	10701
108. Firearms, Explosives, and Fireworks .....	10801
109. (Reserved) .....	10901
110. (Reserved) .....	11001
111. Flood Damage Prevention .....	11101
112. (Reserved) .....	11201
113. (Reserved) .....	11301
114. (Reserved) .....	11401

115. Games of Chance .....	11501
116. (Reserved) .....	11601
117. (Reserved) .....	11701
118. Graffiti .....	11801
119. (Reserved) .....	11901
120. (Reserved) .....	12001
121. (Reserved) .....	12101
122. (Reserved) .....	12201
123. (Reserved) .....	12301
124. (Reserved) .....	12401
125. (Reserved) .....	12501
126. (Reserved) .....	12601
127. (Reserved).....	12701
128. (Reserved) .....	12801
129. Littering.....	12901
130. (Reserved) .....	13001
131. (Reserved).....	13101
132. (Reserved).....	13201
133. (Reserved).....	13301
134. (Reserved).....	13401
135. (Reserved).....	13501
136. Noise.....	13601
137. (Reserved) .....	13701
138. (Reserved) .....	13801
139. (Reserved) .....	13901
140. (Reserved) .....	14001
141. (Reserved) .....	14101
142. (Reserved) .....	14201
143. (Reserved) .....	14301
144. Parks and Playgrounds .....	14401
145. (Reserved) .....	14501
146. (Reserved) .....	14601
147. (Reserved) .....	14701

148. Peddling and Soliciting .....	14801
149. (Reserved) .....	14901
150. (Reserved) .....	15001
151. (Reserved) .....	15101
152. (Reserved) .....	15201
153. (Reserved) .....	15301
154. (Reserved) .....	15401
155. (Reserved) .....	15501
156. (Reserved) .....	15601
157. (Reserved) .....	15701
158. Sewers .....	15801
159. (Reserved) .....	15901
160. (Reserved) .....	16001
161. Solid Waste .....	16101
162. Stormwater Management and Erosion & Sediment Control.....	16201
163. Illicit Discharges, Activities and Connections to The City's Storm Sewer System.....	16301
164. Streets and Sidewalks.....	16401
165. (Reserved).....	16501
166. (Reserved).....	16601
167. (Reserved) .....	16701
168. (Reserved) .....	16801
169. Taxation .....	16901
170. (Reserved) .....	17001
171. (Reserved) .....	17101
172. Taxicabs .....	17201
173. (Reserved) .....	17301
174. (Reserved) .....	17401
175. Telecommunications Facilities .....	17501
176. (Reserved) .....	17601
177. (Reserved) .....	17701
178. Trees .....	17801
179. (Reserved) .....	17901

180. (Reserved) .....	18001
181. (Reserved) .....	18101
182. (Reserved) .....	18201
183. Vehicles and Traffic .....	18301
184. (Reserved) .....	18401
185. (Reserved) .....	18501
186. Vehicles, Play .....	18601
187. (Reserved) .....	18701
188. (Reserved) .....	18801
189. Vehicles, Storage of .....	18901
190. (Reserved) .....	19001
191. (Reserved) .....	19101
192. (Reserved) .....	19201
193. (Reserved) .....	19301
194. Water .....	19401
195. (Reserved) .....	19501
196. (Reserved) .....	19601
197. (Reserved) .....	19701
198. (Reserved) .....	19801
199. (Reserved) .....	19901
200. Zoning .....	20001

# **CITY CHARTER**

## **TITLE I**

### **Short Title; Boundaries; Incorporation**

- |  |  |
|--|--|
| § 1. Short title.                                | § 4. City may take and hold property for certain purposes. |
| § 2. Boundaries; powers; rights and liabilities. |  |
| § 3. Name.                                       |  |

## **TITLE II**

### **City Officers; Powers and Duties Generally**

- |   |   |
|---|---|
| § 5. Officers designated; officers to constitute City Council.                                      | § 16. Legislative powers vested in City Council.  |
| § 6. Term limits.   | § 17. Department employees.   |
| § 7. Election of officers.  | § 18. Records and reports.  |
| § 8. City to be governed by Commissioners; quorum; adoption of motions, resolutions and ordinances. | § 19. Newspaper and publication fees.   |
| § 9. Mayor.   | § 20. Meetings of Council; adoption of ordinances and local laws; penalties for offenses. |
| § 10. Commissioner of Accounts.   | § 21. Power of City over streets and public places; eminent domain.                       |
| § 11. Commissioner of Finance.  | § 22. Official newspapers.  |
| § 12. Commissioner of Public Works.   |   |
| § 13. Commissioner of Public Safety.  |   |
| § 14. Civil Service Commission.   |   |
| § 15. Office hours; membership in retirement system.  |   |

## **TITLE III**

### **Finances; Taxation; Local Assessments and Improvements**

- |   |   |
|---|---|
| § 23. Power to raise money.   | § 31. Advertising deemed part of expense.                                   |
| § 24. Duty of property owners as to improvements; failure to perform. | § 32. Council to fix amount of assessment.                                  |
| § 25. Power of Council to contract for improvements.                  | § 33. Preparation of assessment roll.                                       |
| § 26. Special assessments.  | § 34. Assessment of omitted property of proceeding years.                   |
| § 27. Special tax credits and assessments.                            | § 35. Completion of assessment roll; notice.                                |
| § 28. Power of Board of Assessment review.                            | § 36. Hearing of complaints.  |
| § 29. Costs of public improvements; assessment.                       | § 37. Determination of complaints; correction and verification of tax roll. |
| § 30. Discontinuance of streets; petition; procedure.                 |   |

- § 38. Assessment of omitted property of current year.
- § 39. Assessment for local improvements.
- § 40. Filing and confirmation of assessment roll.
- § 41. Delivery of copy of assessment roll to Board of Supervisors.
- § 42. Commissioner of Accounts to apportion tax; confirmation

- § 43. Collection of real property taxes.
- § 44. Acquisition of property for public purposes.
- § 45. Taking of lands by corporations for public use.
- § 46. Power of Council to sell; procedure.
- § 47. Conveyance by Mayor abandonment of use.

#### TITLE IV Elections

- § 48. Date of general election; Council to appoint election officers.

#### TITLE V City Council; Commissioners

- § 49. Compensation.
- § 50. Qualifications.
- § 51. Vacancies.
- § 52. Rules of procedure.
- § 53. Meetings.
- § 54. Absence of members.
- § 55. Ordinances, local laws and resolutions.
- § 56. Publication of ordinances and local laws.
- § 57. Amendment or repeal or ordinances and local laws.
- § 58. Record of ordinances and local laws.
- § 59. Proof of Charter and ordinances.
- § 60. Fiscal year.
- § 61. Banking.
- § 62. Claims against City; audit, allowance and payment.
- § 63. System for receipt and payment public monies; uniform system of accounting.

- § 64. State and county taxes.
- § 65. Supervisor.
- § 66. Department estimates of annual requirements.
- § 67. Annual estimate.
- § 68. Annual budget.
- § 69. Duties of each Commissioner.
- § 70. Water rents and charges; liens; penalties for nonpayment.
- § 71. City Attorney; powers and duties.
- § 72. Oath of office.
- § 73. Certain Commissioners to file bonds.
- § 74. Official books and documents; equipment.
- § 75. Penalty for violation.

**TITLE VI**  
**Miscellaneous Provisions**

**§ 76. Violations by officers;  
removal from office.**

**§ 77. Records to be open for inspection.**

**§ 78. Elections.**

**§ 79. Commissioners may  
meet and act for certain  
purposes before  
taking office.**

**§ 80. Liability of City in  
certain actions.**

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**TITLE I**  
**Short Title; Boundaries; Incorporation**

**§ 1. Short title.**

This Act is a public act and shall be known and may be cited by the short title of "Mechanicville City Charter."

**§ 2. Boundaries; powers, rights and liabilities.**

- A. The City of Mechanicville shall consist of the present Village of Mechanicville, and the boundaries of the City of Mechanicville shall be the present boundaries of the Village of Mechanicville, and said City of Mechanicville for all purposes of local administration and government is hereby declared to be coextensive with the territory of said Village of Mechanicville and described as follows:

Beginning at a point in the westerly bank of the Champlain Canal, over the center of the culvert under said canal, near the late residence of Lyman Dwight, deceased, and running thence due east to the center of the Hudson River; thence southerly, on and along the center of said river, to a point therein due east from the center of the mouth of the creek running under said canal and thence through the farm occupied by Andrew Hart to said river; thence due west to the center of the mouth of said creek; thence westerly up said creek, on and along the center thereof, to the northerly side of the highway known as the Waterford and Whitehall Turnpike; thence westerly, on and along the northerly side of said highway, to the westerly bank of said canal; thence northerly, on and along the westerly bank of said canal, to a point therein due east from a marble post set in the ground at the southeasterly corner of lands of Mrs. Martha Harris; thence due west to said marble post; thence westerly, on and along the southerly line of said Harris' lands, about three hundred and thirty-three feet to the southeasterly corner of lands formerly owned by William Leonard; thence northerly, in a straight line, to the center of the stump of a willow tree standing in the northwesterly corner of the old cemetery adjoining South Street in said village; thence northerly in a straight line to a point in the north side of the highway known as South Street in the Village of Mechanicville, said point being at right

angles to and distant one hundred and fifty feet westerly from the east line of lands of the Hudson Valley Railroad Company produced southerly to said point; thence parallel to the east line of lands of the Hudson Valley Railroad Company and distant one hundred and fifty feet westerly from said line to a point where a line parallel with the westerly line of Eighth Avenue and distant one hundred feet westerly from said westerly line of Eighth Avenue, produced southerly, would intersect said point; thence northerly and parallel to the west line of Eighth Avenue and distant one hundred feet westerly from said westerly line of Eighth Avenue to a point one thousand feet northerly of the north line of Elizabeth Street; thence northerly to the center of the Tenendaho Creek and the center of the bridge crossing said Tenendaho Creek at the northwesterly end of Round Lake Avenue and where said bridge connects Round Lake Avenue with Saratoga Avenue; thence easterly from the center of the bridge to the stone monument at the northwest corner of the old boundary line of the Village of Mechanicville; thence easterly, on a line parallel with and three hundred feet northerly from the northerly side of Saratoga Avenue, to the westerly side of Viall Avenue; thence along the westerly side of said Viall Avenue north, one degree west, one hundred and fifty-nine feet; thence north, twenty-eight degrees and twenty minutes east, five hundred and twenty-eight feet to the southerly line of lands formerly of A. E. Van Vechten, the same being also the division line between lands formerly of Myron Hulin and lands of Mary V. Swartout and sisters; thence along said division line south, sixty-one degrees and fifteen minutes east, fifteen hundred and nine feet to the westerly line of lands of the Boston and Maine Railroad Company; thence southerly along said line to a point three hundred feet northerly from the northerly side of Saratoga Avenue; thence easterly, on a line parallel with and three hundred feet northerly from the north side of Saratoga Avenue to the west bank of the canal; thence northerly, on and along the westerly bank of said canal, to the place of beginning.

- B. The City of Mechanicville is hereby declared to be the successor corporation of said Village of Mechanicville, with all its lawful rights and powers and subject to all its lawful obligations and diminutions or enlargements, except as herein otherwise provided, and all the duties and affairs of the municipal and public corporation of said Village of Mechanicville are hereby devolved upon the Municipal Council of said City of Mechanicville so far as the same are applicable to said City and not herein otherwise specifically provided, to be exercised in accordance with the provisions of this Act.

### **§ 3. Name.**

The City of Mechanicville, and the citizens who may from time to time reside therein, shall continue to be a municipal corporation in perpetuity under the name of the "City of Mechanicville."

### **§ 4. City may take and hold property for certain purposes.**

The corporation may take, purchase, hold and convey real and personal property; it may take, by gift, grant, bequest and devise, and hold real and personal estate in trust for any purposes of education, art, health, charity or amusement, for parks, gardens and grounds for the burial of the dead or other public use and for the erection of statues, monuments and public buildings, upon



such terms as may be prescribed by the grantor or donor and accepted by the corporation; it may provide for the proper execution of such trusts; and it may do everything necessary to carry into effect the powers granted to it.

## **TITLE II**

### **City Officers; Powers and Duties Generally**

#### **§ 5. Officers designated; officers to constitute City Council.**

The officers of the City shall be as follows: the Mayor, Commissioner of Accounts, Commissioner of Finance, Commissioner of Public Works, and Commissioner of Public Safety. The terms of said officers shall be four years. The Mayor and said four Commissioners shall constitute the Council of the City, and said Council shall, except as otherwise provided by this Charter, be vested with all the legislative powers of the City.

#### **§ 6. Term limits.**

- A. It is hereby declared to be the public policy of the City of Mechanicville to limit to eight consecutive years the time elected officials can serve as Mayor or Commissioner so that our elected representatives are citizen representatives who are responsive to the needs of the people and are not career politicians.
- B. Notwithstanding any provision to the contrary contained in this Charter, no person shall be eligible to be elected to or serve in the office of Mayor or Commissioner if that person had previously held the office Mayor and/or Commissioner for two or more full consecutive terms, unless one full term or more has elapsed since that person last held any such office; provided, however, that in calculating the number of consecutive terms a person has served, only terms commencing on or after January 1, 1996, shall be counted.

#### **§ 7. Election of officers.**

- A. All the elective officers of the City shall be chosen at a general municipal election, except as otherwise provided.
- B. The general municipal election shall be held on the first Tuesday succeeding the first Monday in November in every odd-numbered year.

#### **§ 8. City to be governed by Commissioners; quorum, adoption of motions, resolutions, and ordinances.**

Said City shall be governed by the Commissioners so elected, each of whom shall have a right to vote on all questions coming before the Council. Three members shall constitute a quorum, and the affirmative vote of a majority of the entire Council shall be necessary to adopt any motion,

resolution, or ordinance or pass any measure, unless a greater number is provided for under this Act. Every motion, resolution, or ordinance shall be reduced to writing and read before the vote is taken thereon.

**§ 9. Mayor. [Amended by LL No. 1- 2006]**

- A. The Mayor shall be ex-officio Commissioner of Public Affairs and shall be responsible for the enforcement of the laws of the state applicable to the City, the provisions of this Charter, and the ordinances of the City. The Mayor shall preside at the meetings of the Council.
- B. The Mayor shall execute in the name of the City all contracts, bonds, or other instruments requiring the assent of the City, except as otherwise provided in the Local Finance Law. All legal processes against the City shall be served upon the Mayor or, in the Mayor's absence, upon the Commissioner of Accounts.
- C. The Mayor shall be charged with the general oversight of all departments, boards, and commissions of the City. The Mayor shall be an ex-officio member of each board or body created or authorized by this Charter or by the ordinances of the City.
- D. The Mayor shall have the right to vote on all questions coming before the Council. The Mayor shall have such other rights and powers as may be provided by ordinance not in conflict with this Charter.
- E. The Mayor shall supervise all public utilities not owned and managed directly by the City and shall have general supervision of all public affairs otherwise herein provided for. The Mayor shall have the right to administer oaths. The Mayor shall have charge and supervision of the Police and Fire Departments.
- F. For all purposes of this Act, the Mayor shall be considered a Commissioner.
- G. The Mayor shall receive a yearly salary as determined by a majority vote of the City Council at the first regularly scheduled meeting of the City Council in the month of January. Such salary shall be payable monthly.

**§ 10. Commissioner of Accounts. [Amended by LL No. 2- 2006]**

- A. The Commissioner of Accounts shall be Clerk of the Council at all meetings.
- B. The Commissioner of Accounts' office shall be the place for filing of all City documents and records, chattel mortgages, and such other legal papers and instruments required by the law, and the Commissioner of Accounts shall provide proper books, indices, fixtures, and furniture for the suitable use of the public. The Commissioner of Accounts shall perform all the other duties which may or shall be required of the City Clerk.

- C. The Commissioner of Accounts shall be the City Collector and shall be responsible for the proper and prompt collection of all taxes as provided by the laws of the state relating to collections, assessments, water, and other rents, licenses, fees, and all money due to the City from any source whatsoever.
- D. The Commissioner of Accounts may appoint a Deputy Commissioner of Accounts, and such Deputy Commissioner of Accounts shall perform such duties as may be assigned to him/her by the Commissioner of Accounts and shall also have all the powers and fulfill all the duties of the Commissioner of Accounts in the latter's absence. The salary of the Deputy Commissioner of Accounts shall be fixed by resolution of the Council. The Commissioner of Accounts may employ such other assistants as the Council may direct.
- E. The Commissioner of Accounts shall have a vote in the Council on all matters which may come before it. The Commissioner of Accounts shall give a proper surety bond to the City conditioned upon the faithful and honest performance of all of his/her duties. The Commissioner of Accounts shall devote all of his/her time to the business of the City, keeping regular hours, in an office provided by the City, at least 9:00 a.m. until 4:00 p.m. each weekday, except legal holidays, but during the tax collection periods the office shall be open for business on Saturdays, unless that day falls on a legal holiday, from 9:00 a.m. until 12:00 noon.
- F. The Commissioner of Accounts shall deposit all monies of the City in such banking institution in such proportions, in more than one, as may be decided by the Council.
- G. The Commissioner of Accounts shall receive a yearly salary as determined by a majority vote of the City Council at the first regularly scheduled meeting of the City Council in the month of January. Such salary shall be payable in accordance with a schedule approved by the City Council.

**§ 11. Commissioner of Finance. [Amended by LL No. 3- 2006]**

- A. The Commissioner of Finance shall be ex-officio City Treasurer, with the usual duties and powers of that office, and shall, under the power and control of the City Council, have the direct management of the revenue of the City, except as otherwise provided by this Charter or by local law or ordinance and shall have custody of all moneys coming into possession of or belonging to the City.
- B. The Commissioner of Finance shall keep proper books of account so that the Council may at any time inform itself or its members as to the financial status of the City or of any department thereof. The Commissioner of Finance shall make written reports at regular meetings of the Council and special detailed reports upon request from any member of the Council.
- C. Except in the case of welfare grants for home relief, the Commissioner of Finance shall disburse the City funds only upon the order of the Council by certificate of the Commissioner of Accounts, and the Commissioner of Finance shall take and file proper vouchers for the City for all payments made.

- D. The Commissioner of Finance may appoint a Deputy Commissioner of Finance. Such Deputy Commissioner of Finance shall perform such duties that may be assigned to him/her by the Commissioner of Finance and shall also have all the powers and fulfill all the duties of the Commissioner of Finance in the latter's absence.
- E. Except in the case of welfare grants for home relief, all checks or drafts shall be countersigned by the Commissioner of Finance and the Commissioner of Accounts or, in the absence of either, by his/her authorized Deputy Commissioner.
- F. The Commissioner of Finance shall give a proper surety bond to the City conditioned upon the faithful and honest performance of all his/her duties.
- G. The Commissioner of Finance shall receive a yearly salary as determined by a majority vote of the City Council at the first regularly scheduled meeting of the City Council in the month of January. Such salary shall be payable in accordance with a schedule approved by the City Council.
- H. The Commissioner of Finance shall prepare a proposed budget for the ensuing year and present the same to Council.

**§ 12. Commissioner of Public Works. [Amended by LL No. 4-2006]**

- A. The Commissioner of Public Works shall have charge and supervision of all roads, streets, alleys, sidewalks, ditches, and water flowing through, public improvements, waterworks, sewers, street paving, sidewalk construction, gutters, curbing, public buildings, and real and personal property owned, leased, or controlled by the City and not in charge of any other department. The Commissioner of Public Works shall make recommendations to the Council as to paving, sidewalks, and such other improvements as to him/her may seem advisable for the purpose of improving the appearance, comfort, and safety of the City. The Commissioner of Public Works shall take charge of all construction work and shall be the inspector of all sewer, gas, and water pipes and conduits, poles and wires, fixtures, fountains, and fire plugs. The Commissioner of Public Works shall devote all of his/her time to the business of the City, keeping regular hours in an office provided by the City, at least 7:00 a.m. until 3:30 p.m. each weekday, except legal holidays.
- B. The Commissioner of Public Works shall have the power to make arrests and/or issue appearance tickets for offenses against the law and against City ordinances.
- C. The Commissioner of Public Works may appoint a Deputy Commissioner of Public Works. Such Deputy Commissioner of Public Works shall perform such duties as may be assigned to him/her by the Commissioner of Public Works and shall also have the power and fulfill all the duties of the Commissioner of Public Works in the latter's absence. The salary of such Deputy Commissioner of Public Works shall be fixed by resolution of the Council. The Commissioner of Public Works may employ such other assistants as the Council, by resolution, may direct.

- D. The Commissioner of Public Works shall receive a yearly salary as determined by a majority vote of the City Council at the first regularly scheduled meeting of the City Council in the month of January. Such salary shall be payable in accordance with a schedule approved by the City Council.

**§ 13. Commissioner of Public Safety. [Amended by LL No. 5-2006]**

- A. The Commissioner of Public Safety shall have charge and supervision of the Sanitary, Health, and Charity Departments and shall make all rules and regulations for the conduct thereof but not in conflict with the laws of the state or ordinances of the City. The Commissioner of Public Safety shall provide in all ways possible for the peace, safety, health, care, comfort, and protection of the inhabitants of the City and of their property and shall recommend ordinances when advisable or necessary to the Council for such purposes.
- B. The Commissioner of Public Safety shall have the general supervision of all parks, playgrounds, parking, and shade trees of the City and shall have full power to manage, improve, maintain, and beautify the same.
- C. The Commissioner of Public Safety shall have charge and supervision of all youth programs of the City and of the Youth Recreation Committees of the City.
- D. The Commissioner of Public Safety shall receive a yearly salary as determined by a majority vote of the City Council at the first regularly scheduled meeting of the City Council in the month of January. Such salary shall be payable in accordance with a schedule approved by the City Council.
- E. The Commissioner of Public Safety may appoint a Deputy Commissioner of Public Safety. Such Deputy Commissioner of Public Safety shall perform such duties as may be assigned to him/her by the Commissioner of Public Safety and shall also have the powers and fulfill the duties of the Commissioner of Public Safety in the latter's absence. Should the Commissioner of Public Safety appoint a Deputy Commissioner of Public Safety, the Deputy shall receive such salary as affixed by resolution of the Council.

**§ 14. Civil Service Commission.**

The Mayor with the approval of the City Council shall appoint Civil Service Commissioners. The Civil Service Commission shall be subject to the provisions of the New York State Civil Service Law and such amendments as may from time to time be made to it. The Commission shall prescribe, amend, and enforce rules for the classification of the offices, places, and employments in the public service of the City and for the appointments and promotions therein and examination therefore and for the registration and selection of laborers for employment therein.

**§ 15. Office hours; membership in retirement system.**

- A. It shall be the duty of each City Commissioner to maintain regular office hours sufficient for the proper transaction of the City business at such place or places as shall be designated by the Council, and each said Commissioner shall be responsible for the performance of all contract work undertaken by his/her department.
- B. The standard number of hours which constitutes a standard workday for the elected and appointed officials shall be as follows:

**Position Hours**

•	Mayor	7
•	Commissioner of Accounts	7
•	Commissioner of Finance	7
•	Commissioner of Public Safety	7
•	Commissioner of Public Works	8
•	City Attorney	7
•	Code Enforcement Officer	8

- C. The hours as stated above will be the basis for reporting information to the New York State and Local Retirement System for the positions as listed above.

**§ 16. Legislative powers vested in City Council.**

All legislative, executive, and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this Charter shall never be construed as impairing the effect of the general grant of powers of local government. All powers of the City shall, except as otherwise provided in this Charter, be vested in its Council, subject to distribution and delegation of such powers as provided in this Charter or by ordinance.

**§ 17. Department employees.**

Each department shall be entitled to such salaried employees as may be authorized by ordinance. The head of each department shall nominate all employees therein, but the appointments, except for Deputy Commissioners, shall be made by the City Council. The appointment of Deputy Commissioners shall be at the sole discretion of the Commissioner of that Department. Each Commissioner shall have the power of selecting and employing the personnel necessary for his/her department. Any and all employees in any department shall be subject to discharge by the Commissioner as the head of the department at any time, except as otherwise provided in this Charter. The salary or wages of any employee of the City shall cease immediately upon his/her discharge from such employment.

## **§ 18. Records and reports.**

Each of said Commissioners shall keep a record in which shall be recorded a brief but comprehensive record of all department affairs under his/her charge as soon as performed and shall at least annually render to the City Council a full report of all operations of such department. All such records shall be kept open for public inspection. The Council may provide for the publication of such reports as it may deem advisable. Each Commissioner shall also make and keep a complete inventory and permanent record of all the personal property of his/her department and what disposition, if any, has been made of the same.

## **§ 19. Newspaper and publication fees.**

All election notices or lists of candidates for office, department records, ordinances, charters or charter amendments, advertising, publicity of City affairs, or other publications required or authorized by this Charter, by general law or by ordinance of the City of Mechanicville shall be paid for by the City at such rates as shall not in any event exceed the legal rate as fixed by the general law, and all other printing of books, pamphlets, bills, letterheads, or other documents or printed matter required by the City shall be paid for at a price not exceeding the usual business rate therefor.

## **§ 20. Meetings of Council; adoption of ordinances and local laws; penalties for offenses.**

- A. Regular meetings of the Council shall be held at such times as the Council shall prescribe by ordinance.
- B. The Council shall adopt ordinances regulating the method of conducting the different City departments.
- C. The Council shall from time to time enact ordinances and/or local laws, not inconsistent with or forbidden by the general laws of the state, regulating the highways and all other public places, the use to be made of the same and all privileges to be granted therein and is hereby authorized to change the method of such use from time to time as the public convenience demands; also ordinances and/or local laws to promote and preserve the public peace, health, safety and morals of said City and the benefit of trade and commerce; and ordinances and/or local laws regulating the exercise of its corporate powers and the performance of its duties and for licensing and regulating such business as it may deem expedient.
- D. The City Court of the City of Mechanicville shall have jurisdiction of all cases of violation of City ordinances and/or local laws, and the City may prosecute any persons or corporations for said violations, either by civil action or, where the offense is committed in the presence of a police officer, by summary arrest. An ordinance and/or local law imposing a penalty shall not take effect until ten days after its first publication in the official paper.

## **§ 21. Power of City over streets and public places; eminent domain.**

- A. Except as otherwise provided for by law, the City shall have full and complete control over its streets and highways, parks, public waters, and other public places. It shall have power to lay out, enlarge, and alter parks, markets, public grounds, public waters, streets and alleys and may cause them to be repaired, cleaned, and watered. It may construct pavements, sidewalks, culverts, drains, sewers, receivers, aqueducts, wharves, piers, canals, slips, basins, water mains, and gas mains. It may construct and operate a system of waterworks and a lighting plant for the City and its inhabitants. It may light the streets, public places, and public buildings, or contract for the lighting of them. It may acquire land by purchase, gift, or eminent domain for any municipal purpose and erect buildings and other structures and do anything necessary to beautify the City or preserve or add to the safety, comfort, and well-being of the City and its inhabitants. It shall maintain Fire and Police Departments and may maintain a Department of Public Welfare.
- B. The Council may make such prudential rules and regulations in relation to the use and supply of water and the collection of water rents as it shall, from time to time, deem to be necessary and shall establish rates and charges for the use of water.

## **§ 22. Official newspapers.**

The Council shall designate, annually in the month of January and at other times in its discretion, one or more newspapers, circulated in the City of Mechanicville for at least one year prior to the date of such designation and printed in the English language, to be the official newspaper or newspapers, in one or more of which there shall be published any or all local laws, ordinances, notices, and other matter required to be published. In case of the designation of more than one official newspaper, the selection of one or more of such newspapers for the publication of any specific item shall rest in the discretion of the Mayor. If the Council shall fail to make such designation in any year, the official newspapers last designated shall continue to be such until another designation is made by the Council. If any matter shall be required to be published in a greater number of newspapers than those so designated, the Council may designate by resolution an additional newspaper or newspapers for the publication of such matter.

### **TITLE III**

### **Finances; Taxation; Local Assessments and Improvements**

## **§ 23. Power to raise money.**

- A. The City shall have the power to raise money to defray the cost of carrying on of the municipal government, and for doing any of the things authorized by law, by general taxation, and/or by local assessment where authorized and pursuant to the Local Finance Law.



- B. On all taxes, water rents, and assessments not promptly paid the Council shall fix a gradually increasing rate of penalty to be added to the same for nonpayment.

**§ 24. Duty of property owners as to improvements; failure to perform.**

- A. It shall be the duty of the owner or the occupant of any premises in the City, whenever such work shall be ordered by a resolution of the Council, to lay water, sewer and gas service pipes from the main pipes in the street in front of such premises to such point beyond the curb-line as the head of the Department of Public Works may determine.
- B. The Department of Public Works shall notify the owner or occupant of any premises in front of which any work shall be required to be done that if the same is not done by the owner or occupant within ten (10) days the same shall be done by the City and the expense thereof shall be assessed upon such premises. Such notice may be served personally or by mailing the same. In case any such work shall not be done within the time specified in such notice, the Department of Public Works may cause such work to be done, and the expense thereof shall be a charge and lien upon and shall be assessed against said premises, but such notice may be dispensed with if, by agreement between such property holder or holders and the Commissioner of Public Works, such work shall be done and such installment shall be made by the City with the consent of the property holder, in which event such assessment shall be made as aforesaid.

**§ 25. Power of Council to contract for improvements.**

The improvement, grading, regrading, paving, repaving, macadamizing, and graveling of streets and highways or any part thereof; the construction, extension, enlargement, and repair of sewers, drains, wells, fire cisterns, culverts, and bridges; the procuring of pumps and hydrants for fire purposes; erecting pumps and hydrants and laying such water pipes; and any other public improvements in or for said City may be contracted for by the Council as authorized herein.

**§ 26. Special assessments.**

- A. No special assessment shall be made unless prior to the adoption of the ordinance for the improvement the Council shall cause to be published notice of the intention to adopt such ordinance and of a public hearing thereon, which said notice shall state the estimated cost of such improvement and may include the estimated amount of damages to be paid therefore, if any, and the proposed proportion, method and area of such assessment. Such public hearing shall be held at the time and place specified in said notice not less than one week nor more than three weeks after the publication thereof but may be adjourned from time to time by said Council, and thereafter the Council may reject or adopt such ordinance and may change the proportion, method, or area of such assessment as published, and such ordinance when adopted shall be published in the official paper or papers.
- B. The owner of any property affected by such proposed improvement or included within the area of assessment therefore fixed by said ordinance may be heard upon said public

hearing or, if his/her property shall be then or thereafter so affected or included only by a change in the ordinance as adopted from the notice published or by a subsequent amendment, demand a hearing before the Council, and the Council shall grant such hearing within ten (10) days thereafter and shall have power to amend or repeal such ordinance, which, if amended, shall be again published as required by this section.

#### **§ 27. Special tax credits and assessments.**

Section 485-b of the Real Property Tax Law of the state provides certain real property tax exemptions for business improvements for a period of ten (10) years. Subdivision 7 of § 485-b allows a City, by enacting a local law, to reduce the per centum of exemption otherwise allowed pursuant to this section. For real property located in Mechanicville, the exemption granted by the Board of Assessment Review under § 485-b shall be zero percent (0%).

#### **§ 28. Power of Board of Assessment Review.**

The Board of Assessment Review shall have the power and be charged with the duty to carry out the purpose and intent of applicable laws of the state to grant to business facility owners or operators exemption from taxes and special ad valorem levies to the extent provided in aforesaid mentioned New York State laws. The Board of Assessment Review shall determine the assessed value of the exemption pursuant to such state laws and shall grant as an exemption one hundred percent (100%) thereof for a maximum of ten (10) years for each eligible business facility.

#### **§ 29. Costs of public improvements; assessment.**

- A. Upon the completion of any work for which an assessment has been authorized, the Council shall ascertain and determine the cost of any such work and the amount thereof to be assessed, adding thereto the amount of any damages which have been awarded, if any, and shall cause the Commissioner of Accounts to apportion such assessment in accordance with such ordinance.
- B. The Commissioner of Accounts shall make a report, in writing, of the assessment so made and deposit the same in his/her office and cause to be published in the newspaper in which ordinances are directed to be published, once each week for two (2) consecutive weeks, a notice that the report has been completed and so deposited and that the Commissioner of Accounts will, at a time and place therein to be specified, not less than ten (10) days from the first publication of such notice, review and report, and that at such time and place the parties interested can be heard and the Commissioner of Accounts shall at such time and place hear the parties interested and thereafter review the report, correct the same where proper and sign and file the same in his/her office, with all the objections, in writing, which have been left with him/her by the parties interested. The Council shall thereupon confirm such assessment as provided in § 48.
- C. Any error, omission or inefficiency in any assessment or in the amount thereof may be corrected and any further expense properly chargeable thereto may be assessed by a

reassessment or supplemental assessment in manner and form as aforesaid. In the event that any assessment or any part thereof shall be set aside by the court or be found or deemed to be illegal or incorrect, the Council may proceed in the manner provided by § 30 to adopt an ordinance for a reassessment of the amount deemed necessary to be reassessed upon the property equitably chargeable therefor, and it may, by ordinance, ascertain and determine the amount so to be assessed, and the Commissioner of Accounts shall proceed thereunder to make such reassessment and the same shall thereafter be confirmed by the Council in the manner above provided in this action, and the Council shall also have the power to compromise and to cancel in whole or part such assessment as may be found or deemed to be illegal or incorrect as above provided.

### **§ 30. Discontinuance of streets; petition; procedure.**

- A. Upon a petition of the owners of a majority of the front feet of land fronting upon any street or portion thereof, the Council may discontinue such public street or highway or portion thereof as shall appear to be unnecessary. Such petition must contain a description of the street or highway or part thereof proposed to be discontinued and be accompanied by a map showing the street or highway proposed to be discontinued and its connection with other streets or highways or, if only a part of a street or highway, then its connection with the remaining portion. Before acting thereon, such petition and map must be deposited with the Commissioner of Accounts, and the Council must cause to be published in the newspapers in which ordinances are directed to be published, once a week for three (3) successive weeks, a notice that such petition has been received and that a map showing the proposed discontinuance and a description of the street or part of street proposed to be discontinued has been deposited with the Commissioner of Accounts and that, upon a day to be stated in such notice, at least twenty (20) days after the first publication thereof, it will, if it deems proper, order such discontinuance to be made.
- B. Unless a majority in foot frontage of the owners of land fronting on such street shall on or before the day specified in said notice remonstrate against such discontinuance, the Council may, upon the day specified in said notice or upon a subsequent day to which the matter may be postponed, direct such discontinuance by an order, in writing, signed by at least four (4) members, sealed with the Corporate Seal, and filed in the office of the Commissioner of Accounts with the map accompanying such petition. The lines of the street shall thereupon conform to the change made by such discontinuance. The Council may, as a condition for the granting of such order of discontinuance, require the owners of the land within the street or part thereof to be discontinued to pay the expense of such proceeding.

### **§ 31. Advertising deemed part of expense.**

The expense of advertising and printing, and compensation of all persons other than salaried City officers and employees necessarily employed in any proceeding under this title, is part of the expense thereof and shall be assessed as such.

**§ 32. Council to fix amount of assessment.**

The Council shall, unless otherwise provided by this Act, estimate and fix the amount of money to be raised by assessment.

**§ 33. Preparation of assessment roll. [Amended by LL No. 1-2017]**

The Assessor shall cause to be prepared, in manner and form as nearly as may be prescribed by the tax laws of the state, an assessment roll of all property within the City, and the Assessor shall, in addition to the information required by law, state separately the value of the land exclusive of the improvements thereon and the value of the land with the improvements thereon. The valuation date upon which the value of property is established shall be July 1 of each year.

**§ 34. Assessment of omitted property of preceding years.**

The Assessor shall, upon his/her own motion or upon the application of any taxpayer of the City, enter in the assessment roll of the current year any property shown to have been omitted from the assessment roll of the preceding year at the valuation of that year or, if not then valued, at such valuation as the Assessor shall determine for the preceding year. Assessments of special franchises that were omitted shall be entered at the valuation fixed and equalized by the Tax Commission.

**§ 35. Completion of assessment roll; notice. [Amended by LL N0. 2-2017]**

The Taxable Status Date shall be the first day of March each year. The Assessor shall complete the assessment roll on or before the first day of May in each year and shall deposit said roll in his/her office and cause to be published in an official newspaper a notice that the assessment roll is completed and on deposit in his/her office and that it may there be examined during the hours said office is regularly open for business during the ten (10) days next after the publication of said notice, and that the Board of Assessment Review will meet in relation to the assessments of real property on the fourth Tuesday in May of each year. The hours of such meeting as fixed by the Board of Assessment Review. A statement that a publication containing procedures for contesting an assessment is available in the Assessor's office. The Final Assessment roll date will be July 1 of each year.

**§ 36. Hearing of complaints.**

- A. The Board of Assessment Review or majority thereof shall attend at the place and during the times specified in such notice and hear and determine all complaints in relation to such assessments brought before it, and for those purposes it may adjourn from time to time. Such complainants shall file with the Assessor or Board of Assessment Review a statement, under oath, specifying the respect in which the assessment complained of is incorrect, which statement must be made by the person assessed or whose property is

assessed or by some person authorized to make such statement and who has knowledge of the facts stated therein. The Board of Assessment Review may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, the Board of Assessment Review may require the person assessed, or his/her agent or representative, or any other person, to appear before it and be examined concerning such complaint and to produce any papers relating to such assessment with respect to his/her property or his/her residence for the purpose of taxation.

- B. The Board of Assessment Review shall, after said examination, fix the value of the property of the complainant and for that purpose may increase or diminish the assessment thereof. If any such person, or his/her agent or representative, shall willfully neglect or refuse to attend and be so examined or to answer any material question put to him/her, such person shall not be entitled to any reduction of his/her assessments. Minutes of the examination of every person examined by the Board of Assessment Review upon the hearing of any such complaint shall be taken and filed in the office of the Assessor.

### **§ 37. Determination of complaints; correction and verification of tax roll.**

The Board of Assessment Review shall determine all complaints in relation to such assessments brought before it, and the Assessor shall correct and revise the assessment roll in accordance with the determinations of the Board of Assessment Review not later than five (5) days after the closing of such hearings. Each revision shall be made in ink and shall be initialed by the Assessor. No erasure shall be made upon the assessment roll. Upon the closing of such hearings and the making of such corrections and revisions, the Assessor shall verify the assessment roll.

### **§ 38. Assessment of omitted property of current year.**

During the time of the reviewing of said roll and the hearing of complaints, the Assessor shall have the power to add to or insert in such assessment roll any property liable to assessment, and the valuation thereof, which may have been omitted from such roll, upon giving to the owner thereof or his/her agent personal notice of not less than three (3) days to attend at the time and place therein stated to show cause why such assessment, correction of addition should not be made.

### **§ 39. Assessment for local improvements.**

The Board of Assessment Review shall in like manner assess the cost of local improvements ordered by the Council or other competent authority where the cost of such local improvement or any part thereof is made a charge upon the property deemed by it to be benefited thereby.

### **§ 40. Filing and confirmation of assessment roll.**

Upon verifying the assessment roll, the Assessor shall forthwith cause it to be filed in the office of the Commissioner of Accounts. The Council shall confirm said assessment roll, which shall thereupon be the assessment roll of the City. It is further provided that the assessments contained in said assessment roll shall be subject to review by certiorari as provided by the Tax Law.

**§ 41. Delivery of copy of assessment roll to Board of Supervisors.**

Upon confirming the assessment roll, the Council shall cause a copy thereof to be prepared and provided for the use of the Board of Supervisors of the County of Saratoga. The Council shall cause an abstract of said assessment roll to be prepared in form acceptable to said Board of Supervisors and delivered to the Supervisor of the City, who shall present it to said Board of Supervisors at the next succeeding meeting of said Board.

**§ 42. Commissioner of Accounts to apportion tax; confirmation.**

When the Council shall have fixed a tax or approved the amount of an assessment, the Commissioner of Accounts shall cause to be apportioned and extended the amount thereof opposite the several valuations of real property appearing in the assessment roll, in conformity as near as practicable with the provisions of law in respect to apportionment and extending of taxes by supervisors. When such apportionment shall be completed the Council shall confirm the same, and the day, hour and minute of such confirmation shall be entered in its ordinance book, and from the moment of such confirmation, the taxes so embraced in such roll, as apportioned, shall be the first lien upon the property of franchises respectively against which the same is levied.

**§ 43. Collection of real property taxes.**

- A. The collection and enforcement of real property taxes shall be in accordance with the provisions of Real Property Tax Law Article 11.
- B. The City shall allow the payment of delinquent taxes in accordance to the provisions set forth in Real Property Tax Law § 1184 or subsequent applicable statute.
- C. Effective date. This amendment shall take effect after the public hearing, publishing and filing required by law.

**§ 44. Acquisition of property for public purposes.**

The City shall have power to take lands for public buildings, parks, public grounds, squares, streets, alleys, fountains, canals, basins, slips, and other public water docks, and for any other corporate purpose or object and to take proceedings to perfect its title where title has been acquired or attempted to be acquired and has been found to be invalid or defective, and the latter proceeding may be joined with any new proceeding for acquiring lands for a similar purpose.

#### **§ 45. Taking of lands held by corporations or for public use.**

Whenever any work or improvement authorized by this Act shall be undertaken, the City may take for the purpose thereof, as provided in this Act, lands held or used for public purposes by any corporation having the power of eminent domain or otherwise held or used for public purposes, but in such case only such interest or easement shall be taken as may be necessary for carrying out such work or improvement, and to that extent such taking is hereby authorized.

#### **§ 46. Power of Council to sell; procedure. [Amended by LL No. 1-2013]**

Sales of parcels of real estate, other than parcels or portions thereof as described in subsection A, belonging to the City may by resolution, of the Council be sold by the Commissioner of Accounts, at public auction to the highest bidder after due notice published once a week for three (3) weeks in the official City newspaper. The Council may, by resolution, direct the minimum bid which will be accepted for any parcel thus sold and that at least fifteen percent (15%) of the amount bid shall be paid in cash at the time of the sale as security for the payment of the purchase price and that the balance of the amount bid shall be paid within ten (10) days after the sale when the deed will be ready for delivery and that all sales shall be made subject to the approval of the Mayor.

- A. The City Council, by four fifths (4/5) approval vote, after public hearing, may elect to sell, lease, option, or otherwise convey any interest or portion thereof, in City owned real property by sale, other than by public auction to the highest bidder, on such terms it deems beneficial to the City, if such real property is subject to New York State Department of Environmental Conservation:
  - (1) environmental site management plan or plans;
  - (2) liens, encumbrances, easements;
  - (3) environmental Remediation Orders;
  - (4) provisions of Record of Decisions; and
  - (5) other Orders or Directives of the Department.
- B. The Council may, by resolution, direct the sale of any lot or parcel of land acquired by the City at a tax sale. Such lot or parcel of land so directed to be sold shall thereafter be offered at public auction to the highest bidder. Notice of the time and place of such sale, together with a short description of the property, shall be published once a week for three (3) weeks in an official paper of the City. At the time specified, the Commissioner of Accounts shall begin to offer such property for sale and shall continue so to do from day to day until the whole thereof shall be offered for sale. Each parcel shall be tentatively struck off to the highest bidder, subject to the approval of the Council, which shall have the power to accept or reject the highest bid. The highest amount bid for each parcel shall be reported by the Commissioner to the Council and shall be entered in the record of proceedings of the Council. No such parcel shall thereafter be sold for a sum not exceeding the amount of such highest bid, except at a subsequent auction held as herein

provided. If an amount subsequently offered, in writing, for any such parcel shall be greater than the highest amount theretofore bid for such parcel at any auction conducted pursuant to the provisions of this section, the Council may, by a four-fifths (4/5) vote without further proceedings, accept such offer and direct the sale and conveyance of such parcel. The deed of conveyance of any such parcel shall be executed by the Mayor.

**§ 47. Conveyance by Mayor; abandonment of use.**

In cases, however, where assessments have been offset against awards for the value of the property taken, the Council may authorize the release and conveyance, by deed to be executed by the Mayor and under the Seal of the City, of such lands or parts thereof to the parties interested therein who are equitably entitled to such conveyance, upon payment by them to the City of the moneys expended by the City in the purchase or the taking of said lands or ratably in proportion to such parts thereof with interest thereon from the time of such expenditures, or upon such other terms and conditions as the Council shall deem best for the interests of the City. In case the City of Mechanicville shall at any time abandon the public use of any lands appropriated by it for public use or shall be about to abandon such use, the Council, by not less than a four-fifths (4/5) vote, may authorize the conveyance, under the hand of the Mayor and the Corporate Seal of said City, of any such lands or any part thereof so abandoned or about to be abandoned in exchange for other lands substantially of equal value required by said City for a like public use.

**TITLE IV  
Elections**

**§ 48. Date of general election; Council to appoint election officers.**

- A. There shall be a general municipal election held on the Tuesday next succeeding the first Monday in November 1925, and every odd-numbered year thereafter there shall be held on the Tuesday next succeeding the first Monday in November a general municipal election.
- B. The Council shall appoint the Inspectors of Election and such other officers as are now required by the general law of the State of New York to conduct general elections, and in all things the General Election Law of the State of New York shall govern as applicable to cities of like size, except as herein otherwise provided. Such Inspectors of Election and other officers so appointed shall perform all the duties required by the election officers at the general municipal election and at the municipal primary election.

**TITLE V  
City Council; Commissioners**

**§ 49. Compensation.**

None of any such Commissioners shall receive any further compensation for any service such Commissioner may render the City during his/her term of office, other than his/her salary as



Commissioner, except the salary, fees, or compensation allowed and paid to the Mayor while Acting Supervisor, as provided in § 73. All fees or other moneys coming into his/her hands by virtue of his/her office shall be accounted for and paid over forthwith to the City, except as provided in this section.

#### **§ 50. Qualifications.**

No person shall be eligible to the office of any such Commissioner unless said person is a qualified elector of the City, in accordance with the provisions of this Charter.

#### **51. Vacancies.**

If a vacancy occurs in the office of any such Commissioner, the Council shall appoint an eligible person to fill such vacancy until the next general municipal election, and any such vacancy shall then be filled by the election for the unexpired term. A vacancy shall exist when an elective officer fails to qualify for ten (10) days after notice of his/her election, dies, resigns, removes from the City, absents himself/herself from his/her duties without permission of the Council for more than twenty (20) consecutive days, is convicted of a felony or is judicially declared mentally unfit.

#### **§ 52. Rules of procedure.**

The Council shall conduct meetings and follow procedures in accordance with Robert's Rules of Order and may punish its members for disruptive conduct and compel their attendance at the Council meetings.

#### **§ 53. Meetings.**

The Council shall prescribe the time and place of its meetings and the manner in which special meetings thereof may be called. The Commissioner of Accounts shall be the Clerk of the Council and shall, with the Mayor, sign and attest all ordinances and resolutions. A majority of all the members shall constitute a quorum to do business, but a fewer number may adjourn. The Council shall sit with open doors at all legislative sessions and shall keep an accurate journal of its proceedings in detail, which shall be a public record.

#### **§ 54. Absence of members.**

Whenever any member of the City Council is unable to perform his/her duties by reason of sickness, absence from the City or for any reason, the Mayor shall designate himself/herself or some member of the City Council to perform the administrative duties of said member until such member shall return to his/her duties.

#### **§ 55. Ordinances, local laws, and resolutions.**

- A. In legislative sessions the Council shall act by ordinance, local law, resolution, or motion.
- B. The ayes and nays shall be taken upon the passage of all ordinances, local laws and resolutions and entered upon the journal of its proceedings. Upon the request of any member, the ayes and nays shall be taken and recorded upon any motion. Every member when present must vote, and every ordinance or local law passed by the City Council shall require on final passage the affirmative vote of a majority of all members of the Council.
- C. No ordinance or local law shall be passed finally on the date it is introduced except in cases of special emergency, for the preservation of the public peace, health, or safety and then only by unanimous vote of all members of the Council present. No ordinance or local law making a grant of any franchise or special privilege shall ever be passed as an emergency measure.
- D. The enacting clause of all ordinances passed by the Council shall be in these words: "Be it ordained by the Council of the City of Mechanicville."

**§ 56. Publication of ordinances and local laws.**

- A. Every proposed ordinance or local law shall be published once in an official newspaper of the City of Mechanicville, New York, at least ten (10) days before its final passage. It shall not be necessary that the full text of the ordinance or local law be published. It shall be sufficient that said publication conveys the main purposes and intentions of the proposed ordinance or local law.
- B. After its final passage by the City Council, a brief statement of the ordinance (or local law, as amended and passed) shall again be published once in an official newspaper within ten (10) days, except in case of an emergency ordinance or local law, which may be passed as heretofore provided and which shall take effect upon passage and be so published within seven (7) days thereafter.

**§ 57. Amendment or repeal of ordinances and local laws.**

No ordinance or local law or section thereof shall be amended or repealed except by an ordinance or local law regularly adopted.

**§ 58. Record of ordinances and local laws.**

A true copy of every ordinance or local law when adopted shall be numbered and recorded in a book marked "Ordinance Record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signatures of the Mayor and Clerk. The ordinances and local laws adopted by the vote of the qualified electors of the City shall be separately numbered and recorded, commencing with "Ordinance No. 1."

**§ 59. Proof of Charter and ordinances.**

This Charter or any ordinance may be proved by a copy thereof, certified to by the City Clerk under the Seal of the City, or when printed in book or pamphlet form and purporting to be printed by authority of the City, the same shall be received in evidence in all courts without further proof.

**§ 60. Fiscal year.**

The fiscal year of the City shall commence on the first day of January.

**§ 61. Banking.**

The cash balance of the City in the hands of the City Commissioner of Finance for deposit in the banks shall be kept on deposit in any designated bank by a majority vote of the City Council.

**§ 62. Claims against City; audit, allowance, and payment.**

No claim against the City, except for the regular or stated compensation of officers or employees in any City department, for the principal or interest on a bonded or funded debt or other loan or for a fixed salary shall be audited, allowed, or paid unless it shall be in writing, dated, and sufficiently itemized to identify the expenditure and shall first be approved by the Commissioner at the head of the department having jurisdiction thereof.

**§ 63. System for receipt and payment of public moneys; uniform system of accounting.**

The Council shall, by ordinance, provide a system for the collection, custody and disbursement of all public moneys and a system of accounting for the City, establishing as nearly as may be a uniform system of municipal accounting, such system to be in accord with the provisions of this Charter.

**§ 64. State and county taxes.**

The Board of Supervisors shall certify to the Commissioner of Finance the amount of taxes for state and county purposes assessed upon the City. The Commissioner of Finance shall pay to the County Treasurer of Saratoga County on account of such taxes as follows: within forty (40) days after the beginning of the collection of taxes in each year, a sum of money which shall bear the same relation to the entire amount of taxes collected during the first thirty (30) days of collection as the amount so certified by the Board of Supervisors shall bear to the entire amount of the current budget to be raised by taxation, including the amount so certified; and, within six (6) months after the beginning of the collection of taxes in each year, the balance of the amount so certified by the Board of Supervisors. Any and all penalties collected by the Commissioner of

Accounts on delinquent taxes shall be the property of the City, free from any right or claim of the state or county.

**§ 65. Supervisor. [Amended by LL No. 2-2006]**

The Supervisor shall represent the City in the County Board of Supervisors. The Supervisor shall be chosen for a (4) four year term at the City general election and shall receive the same salary as the other Supervisors of the County of Saratoga and the same fees and compensation except as otherwise provided. At all elections of the Supervisor, the votes in the several election districts shall be canvassed in the manner provided by this Act. In case of a vacancy in the office of Supervisor, the Council shall fill such vacancy by appointment for a period which shall expire with the commencement of the political year next succeeding the first annual City election after the filling of the vacancy. Such four (4) year term shall commence January 1, 2008.

**§ 66. Department estimates of annual requirements.**

On or before the first day of November in each year, all heads of departments and officers empowered by law or by City ordinance to control or authorize expenditures shall furnish to the Commissioner of Finance estimates, in writing, of the amount of expenditures for the next fiscal year in their respective departments or offices, specifying in detail the objects thereof and including a statement of the salaries of all their subordinates.

**§ 67. Annual estimate.**

On or before the second Monday in December in each year, the Commissioner of Finance shall submit to the Council an estimate of the probable expenditure of the City government for the next ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the City and the warrants of all departments of the municipal government in detail and showing specifically the amount necessary to be provided for each fund and department and also an estimate of the probable income from fines, licenses, water rents, and all other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxes to defray all expenses and liabilities of the City.

**§ 68. Annual budget.**

The Council shall meet annually, prior to fixing the tax levy, and make a budget of the estimated amounts required to pay the expenses of conducting the business of the City government for the next ensuing fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office, board, or commission as the Council may deem advisable.

**§ 69. Duties of each Commissioner.**

Each Commissioner shall keep such books of account as are required by this Charter and make an annual full-detail report of all the assets and liabilities, receipts, and expenditures of the Commissioner's department, including cost of maintenance, extension, and improvements. The Commissioner shall not let the work for any extension or new construction on contract unless directed by the Council, but the same shall be done directly by the City procuring the necessary labor and material. The character of any extensions to be undertaken and the extent thereof shall be determined by the City Council.

**§ 70. Water rents and charges; liens; penalties for nonpayment.**

- A. The City Council shall, by resolution and/or ordinance, establish regulations for the use of water by consumers and provide for the orderly administration of the Water Department.
- B. All water rents for water used or supplied to real property from the municipal water system shall, immediately upon the entry of such rents in the water roll in the office of the Commissioner of Accounts, become a lien upon said real property, and said rents, together with penalties and interest accruing thereon, shall remain a lien upon said real property until paid in full. All charges for installation, repairs and replacements of pipes running from water mains to or upon private premises, charges for labor performed, or materials supplied in connection with the installation, repair, replacement, maintenance, and improvement of pipes running from water mains to or upon private premises and charges for the installation, repair, replacement, and maintenance of water meters used in connection with the regulating, measuring, and supplying of water shall, immediately upon the entry of such charges in the Water Department record of miscellaneous charges in the office of the Commissioner of Accounts, become a lien upon the real property supplied with water by means of or in connection with such pipes or meters and shall, together with penalties and interest accruing thereon, remain a lien on said property until paid in full.
- C. The following scale of penalties is hereby prescribed for the neglect to pay water rents and charges which have become liens upon real property pursuant to the provisions of this chapter: any amount, while remaining due and unpaid, shall be increased by two percent (2%) on the first day of May and November and an additional one percent (1%) each month thereafter until such outstanding amount is received onto the City and county property tax bill. The Council, by ordinance, may proscribe additional penalties for delinquent outside water users.
- D. The Council shall have the power to shut off and to stop the supply of water from the municipal water system to any real property when water rents for water supplied to said property or charges for installation, repairs and replacements of pipes running from water mains to or upon said property, charges for labor performed or materials supplied in connection with the installation, repair, replacement, maintenance and improvement of pipes running from water mains to or upon said property or charges for the installation, repair, replacement and maintenance of water meters used in connection with the regulating and supplying of water are unpaid and the period during which they might have been duly paid without penalty has expired.

- E. As soon as practicable after the first day of April and the first day of October in each year, the Commissioner of Accounts shall mail to the owner or to one or more of the owners of each parcel of real property to which water from the municipal water system has been supplied a statement setting forth the quantity of water supplied during the preceding period and the amount of water rents due therefore, together with arrears and penalties thereon. The mailing of such statement shall be deemed to be a demand for the payment of such water rents and shall be deemed to be a compliance with those provisions of the general laws which require every collector to call at least once on the person taxed and demand payment of the taxes charged to him/her on his/her property, and the Commissioner of Accounts annually may include the water rents and penalties thereon unpaid up to the first day of April of each year in the annual City tax roll, and if so included in said roll said unpaid water rents and penalties shall be collected in the same manner as is provided by this Charter for the collection of unpaid taxes.

#### **§ 71. City Attorney; powers and duties.**

The City Attorney shall be the head of the Department of Law. The City Attorney shall be an attorney and counselor at law, duly licensed and admitted to the practice thereof by the State of New York. The City Attorney shall be and act as the legal advisor of the Council and of the several officers, boards and departments of the City. The City Attorney shall appear for and protect the rights and interests of the City in all actions, suits and proceedings brought by or against it or any of the City officers, boards or departments. Counsel and experts may be employed by the City Attorney to assist the City Attorney in the conduct of actions or proceedings in which the City is interested or is a party, with the consent of the Council, which shall also fix the compensation to be paid for such assistance.

#### **§ 72. Oath of office.**

Every officer or salaried employee shall, before such officer or employee enters upon the duties of his/her office, take, subscribe and file with the City Clerk the constitutional oath of office.

#### **§ 73. Certain Commissioners to file bonds.**

The Commissioner of Accounts and the Commissioner of Finance, before entering upon the duties of their offices, shall file a bond in the office of the Mayor in an amount fixed by the Council. The Council, in its discretion, may increase or decrease at any period of the year the amount of the bond of other officials. The premium on any bond or bonds required by any official of the City may be paid by the City.

#### **§ 74. Official books and documents; equipment.**

- A. All books, records, papers, computer files and other electronic media of any type of each office, department, board or Commissioner are City property and must be kept as such by the proper official or employee during his/her continuance in office and delivered to

his/her successor, who shall give duplicate receipts therefore, one of which shall be filed with the City Clerk. The failure to so deliver such books, records, papers, computer files, and other electronic media of any type shall be a misdemeanor.

- B. Certified copies or extracts from the books, records and files, except as otherwise provided by law, shall be made in accordance with the Freedom of Information Law (Article 6 of the Public Officers Law) and Chapter 46, Records, Article II, Public Access to Records, of the Code of the City of Mechanicville.
- C. All equipment, collections, models, materials, construction tools, and implements which are collected, maintained, used, or kept by the City or by the department, board, or commission shall be City property and be turned over by the custodian thereof to his/her successor or duly accounted for.

#### **§ 75. Penalty for violation.**

Any person who shall violate any of the provisions of this Charter, for the violation of which no other punishment has been provided in the Code, shall be deemed guilty of a violation and, upon conviction, shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a maximum period of fifteen (15) days for each violation, or by both such fine and imprisonment.

### **TITLE VI Miscellaneous Provisions**

#### **§ 76. Violations by officers; removal from office.**

- A. Any person elected or appointed under this Act to any office or place who shall, upon the expiration of the term for which he/she was elected or appointed or upon his/her removal from such office or place, refuse to deliver the books, papers and effects pertaining to the office or place to his/her successor shall be guilty of a misdemeanor and may also be proceeded against in the manner provided in the Public Officers Law.
- B. Every officer of the City and every person employed by the City or by any office of the City who shall lend or convert to his/her use or to the use of another money or property belonging to the City shall be guilty of larceny.
- C. Any officer who shall willfully neglect his/her duty shall be guilty of a misdemeanor.
- D. The Mayor or any other member of the Council may be removed by a unanimous vote of the other four Council members after charges have been preferred, in writing, for incompetence, neglect of duty, or dishonesty and after a public hearing has been held with an opportunity for the Commissioner against whom charges have been preferred to defend either in person or by attorney, at least twenty (20) days' notice having been given the accused Commissioner of the charges and of the time and place of the hearing. The

City Judge may be removed for cause by the Appellate Division of the Supreme Court sitting in the Judicial Department in which the City is situated. All other officers or appointees, except as otherwise provided, may be removed by the Council.

**§ 77. Records to be open for inspection.**

The books, documents, maps, rolls, and papers in the office of any City officer shall, at all reasonable times, be open to the inspection and examination of the public, except as otherwise provided by law.

**§ 78. Elections.**

A. A general municipal election shall be held in the City of Mechanicville on the Tuesday succeeding the first Monday in November in every odd-numbered year, beginning with the year 1925. The Commissioners provided for in this Charter shall be elected in at such elections. Every such election shall be known as the "general municipal election." Every other municipal election held under the provisions of this Charter shall be known as a "special municipal election."

- (1) The successor of the Commissioner of Public Safety shall be elected at the general municipal election in the year 1925 for a full term of four (4) years beginning on the first day of January in the year 1926, and every fourth year thereafter at the general municipal election there shall be elected a Commissioner of Public Safety for a full term beginning on the first day of January following such election.
- (2) The successor to the Commissioner of Public Works shall be elected at the general municipal election in the year 1925 for a full term of four (4) years, beginning on the first day of January 1926, and every fourth year thereafter at the general municipal election there shall be elected a Commissioner of Public Works for a full term beginning on the first day of January following such election.
- (3) The successor to the Commissioner of Finance shall be elected at the general municipal election in the year of 1925 for a full term of four (4) years, beginning on the first day of January 1926, and every fourth year thereafter at the general municipal election there shall be elected a Commissioner of Finance for a full term beginning on the first day of January following such election.
- (4) The successor to the Mayor shall be elected at the general municipal election in the year 1925 for a full term of four (4) years, beginning on the first day of January 1926, and every fourth year thereafter at the general municipal election there shall be elected a Mayor for a full term of four years beginning on the first day of January following such election.
- (5) The successor to the Commissioner of Accounts shall be elected at the general municipal election in the year 1927 for a full term of four (4) years beginning on



the first day of January thereafter, and every four years thereafter at the general municipal election there shall be elected a Commissioner of Accounts whose term of office shall begin on the first day of January following such election.

- B. No officer whose term shall have expired shall cease to hold office until such officer's successor shall have qualified.
- C. The Council of the City, together with the Supervisor, shall constitute the Board of Canvassers for all municipal elections.

**§ 79. Commissioners may meet and act for certain purposes before taking office.**

The Commissioners elected under the provisions of the preceding section are authorized, between the date of their election and the date of their assumption of office, from time to time, to meet, formulate and adopt such ordinance or code of ordinances as may in their opinion be necessary to provide for carrying out the provisions of this Act and to enable the Council and its members to undertake the government of the City. Such ordinance or code of ordinances may be adopted in its entirety by said Council on the date of its assumption of office and shall become operative immediately and shall be entered in the ordinance book and signed; provided, however, that said ordinance or code of ordinances shall be published once in a newspaper printed in said City of Mechanicville. For such purposes only, the terms of Commissioners shall be considered to commence before they assume office, but they shall not be entitled to any compensation for the period prior to assumption of office.

**§ 80. Liability of City in certain actions.**

- A. No civil action shall be maintained against the City for damages or injury to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk, crosswalk, or public building being defective, out of repair, unsafe, dangerous, or obstructive unless it appears that written notice of the defective, dangerous, unsafe or obstructive condition of such street, highway, bridge, culvert, sidewalk, crosswalk, or public building was actually given to the Commissioner of Public Works and there was a failure or neglect within a reasonable time after the giving of such notice to remedy, repair or remove the defect, danger or obstruction complained of.
- B. No civil action shall be maintained against the City for damages or injury to person or property sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk, or street unless written notice thereof relating to the particular complaint was actually given to the Commissioner of Public Works and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe, within a reasonable time after the receipt of such notice.
- C. All claims against the City for damages or injuries to persons or property or invasion of personal or property rights, of every name and nature whatsoever, whether casual or continuing, continuing and continuous trespasses, continuing and continuous invasions of property or continuing and continuous invasions of property rights, and all other claims

for damages or injuries to persons or property arising at law or in equity and enforceable or sought to be enforceable or sought to be enforced at law or in equity alleged to have been caused or sustained in whole or in part by or because of misfeasance, nonfeasance, negligence, omission of duty, wrongful act, fault or neglect on the part of the City or any of its agents, officers or employees must be initiated in compliance with the provisions of the General Municipal Law.

- D. The City Council shall have the power to pay, compromise or settle any such claim which may be made against the City for damages.

## **TITLE VII Election Requirements**

### **§ 81. Qualified voters.**

Qualified voters of the City of Mechanicville for the City primary are those whose names appear upon the general registration of voters used at the last general election, with those whose names may be subsequently added thereto as herein provided. Qualified voters for the City election are those who have registered for voting at a general election as provided by the Election Law.

### **§ 82. Application of Election Law.**

In all respects, the provisions of the General Election Law, Chapter 100 of the Laws of 1945 of the State of New York, as amended, shall apply to City primary and general elections.

## **TITLE VIII Tax Levy Override Legislation**

### **§ 83. Authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c. [Adopted by LL No. 1-2011]**

- A. **Legislative Intent.** It is the intent of this local law to allow the City of Mechanicville to adopt a budget for the fiscal year commencing 2012 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.
- B. **Authority.** This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of the governing body.
- C. **Tax Levy Limit Override.** The City Council of the City of Mechanicville, is hereby authorized to adopt a budget for the fiscal year commencing 2012 that requires a real

property tax levy in excess of the amount otherwise prescribed in General Municipal Law § 3-c.

- D. **Severability.** If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm, or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.
- E. **Effective date.** This local law shall take effect immediately upon proper filing in compliance with the Mechanicville City Charter and New York State Law.

# THE CODE

## PART I ADMINISTRATIVE LEGISLATION

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### Chapter 1 ARTICLE I [Adopted 10-2013]

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|--|--|
| § 1-1. Legislative Intent                                  | § 1-9. Sale of Code book; supplementation.                         |
| § 1-2. Continuation of existing provisions.                | § 1-10. Penalties for tampering with Code.                         |
| § 1-3. Repeal of enactments not included in Code.          | § 1-11. Changes in previously adopted legislation; new provisions. |
| § 1-4. Enactments saved from repeal; matters not affected. | § 1-12. Incorporation of provisions into Code.                     |
| § 1-5. Severability.                                       | § 1-13. When effective.  |
| § 1-6. Copy of Code on file.                               |  |
| § 1-7. Amendments to Code.                                 |  |
| § 1-8. Code book to be kept up-to-date. Online posting.    |  |
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#### § 1-1. Legislative intent.

In accord with the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the City of Mechanicville, consisting of the Charter and Chapters 1 through 200, together with an Appendix, shall be known collectively as the "Code of the City of Mechanicville," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the City of Mechanicville" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number where such legislation appears in the Code, as if such local law, ordinance or resolution had been formally amended to so read.

#### § 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the amendment of the Code by this local law, are intended as a continuation of the local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are continued in full force and effect and are reaffirmed as to their adoption by the City Council, and it is the intention of the Council that each provision contained within the Code is reaffirmed as it appears in the Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed by the provisions of §§ 1-3 below.

### **§ 1-3. Repeal of enactments not included in Code.**

All local laws and ordinances of a general and permanent nature of the City of Mechanicville in force on the date of the adoption of this local law and not contained in the Code or recognized and continued in force by reference are repealed from and after the effective date of this local law.

### **§ 1-4. Enactments saved from repeal; matters not affected.**

The repeal of local laws and ordinances provided for in §§ 1– 3 of this local law shall not affect the following classes of local laws, ordinances, rights, and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued, or incurred under any legislative provision of the City prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the City of Mechanicville or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit, or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the City of Mechanicville.
- D. Any agreement entered into or any franchise, license, right, easement, or privilege granted or conferred by the City of Mechanicville.
- E. Any local law or ordinance of the City providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance, or vacation of any right-of-way, easement, street, road, highway, park, or other public place within the City of Mechanicville or any portion thereof.
- F. Any local law or ordinance of the City appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the City or other instruments or evidence of the City's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement, or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.

- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for city employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the city.
- N. Personnel policies and amendments thereto.

#### **§ 1-5. Severability.**

If any clause, sentence, paragraph, section, article, chapter, or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, article, chapter, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **§ 1-6. Copy of Code on file.**

- A. A copy of the Code, in loose-leaf form, has been filed in the office of the City Clerk and available on line at the City's official web site and shall remain for use and examination by the public. The copy shall be certified to by the City Clerk by impressing the Seal of the City. A certified copy shall remain on file in the office of the City Clerk to be made available to persons desiring to examine. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be considered to be due and legal publication of all provisions of the Code for all purposes.
- B. A copy of the Code, less resolutions, shall also be made available online at the City's official web site.

#### **§ 1-7. Amendments to Code.**

Any and all additions, deletions, amendments, or supplements to any of the local laws, ordinances, and resolutions known collectively as the "Code of the City of Mechanicville" or any new local laws, ordinances, or resolutions, when enacted or adopted in such form as to indicate the intention of the City Council to be a part thereof, shall be deemed to be incorporated into the Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments, or supplements to local laws or ordinances shall be enacted or adopted, they shall be printed and inserted in the loose-leaf book and posted online within sixty (60) days of enactment as amendments and supplements. Resolutions may be kept and catalogued

separately. Nothing contained in this local law shall affect the status of any local law, ordinance, or resolution and such local laws, ordinances, or resolutions may be amended, deleted, or changed from time to time as the City Council deems desirable.

#### **§ 1-8. Code book to be kept up-to-date. Online posting.**

It shall be the duty of the City Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in the office of the City Clerk and update online amendments. All changes in the Code and all local laws, ordinances, and resolutions adopted by the City Council subsequent to the enactment of this local law in such form as to indicate the intention of said City Council to be a part of the Code shall, when finally enacted or adopted, be included by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to the Code book, at which time such supplements shall be inserted therein.

#### **§ 1-9. Sale of Code book; supplementation.**

Copies of the Code, or any chapter or portion of it, may be purchased from the City Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

#### **§ 1-10. Penalties for tampering with Code.**

Any person who, without authorization from the City Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the City of Mechanicville or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the City of Mechanicville to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for a term of not more than fifteen (15) days, or both.

#### **§ 1-11. Changes in previously adopted legislation; new provisions.**

- A. In compiling and preparing the local laws and ordinances for publication as the Code of the City, no changes in the meaning or intent of the local laws, ordinances, and resolutions have been made, except as provided for in Subsections B. In addition, certain grammatical changes and other minor non-substantive changes were made in one (1) or more pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the local laws, ordinances, and resolutions had been previously formally amended to read as such.
- B. The following amendments and/or additions are to become effective upon the effective

date of this local law. (Chapter and section number references are to the local laws and ordinances as they have been renumbered and appear in the Code.)

### **Charter Amendments**

**(Section numbers have been changed to reflect deleted sections)**

§11, §12, §13, §15, §16, §71, §84,

### **Section Deletions**

Former §5. – Assumption of Village Debts.

Former §7. – Fund Transfer from Village to City.

### **Code Amendments**

**(Section numbers have been changed to reflect deleted sections)**

§1-1, §1-2, §1- 3, §1-4, §1-5, §1-6, §1-7, §1-8, §1-9, §1- 10, §1-11, §1- 12, §1-13, §21-2, §21-4, §21-7, §21-6, § 34-3, §39-9, §39-10 §46-6, §46-9, §53-1, §70-9, §80-6, §80-12. §86-1, §86-2, §86-3, §86-4, §86-5, §86-6, §136-5, §144-24, §161-2, §161-10, §161-19, §164-5, §164-16, §178-2, §194-13, §194-21, §194-28, §200-6, §200-8, §200-23, §200-51, §200-62, §200-74, §200-75, §200-79, 200-87, §200-88, §200-92, §200-93, §200-94, §200-95, §200-96.

### **Sections Deletions**

§86-7, §161-20, §161-21, §161-22, §164-15

### **§ 1-12. Incorporation of provisions into Code.**

The provisions of this local law are made Article I of Chapter 1 of the Code of the City of Mechanicville, such local to be entitled “General Provisions, Article I, Adoption of Code,” and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

### **§ 1-13. When effective.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.



# **Chapter 6**

## **BOARDS AND COMMISSIONS**

### **ARTICLE I**

#### **Board of Assessment Review**

**[Adopted 10-1971]**

#### **§ 6-1. Creation; membership.**

#### **§ 6-2. Terms of office; appointments.**

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#### **§ 6-1. Creation; membership.**

A Board of Assessment Review is hereby created and shall consist of five members.

#### **§ 6-2. Terms of office; appointments.**

The term of office of members of the Board of Review shall be five (5) years, and the appointment to the Board shall be in accordance with the provisions of Real Property Tax Law § 1524.

## Chapter 9

### BUILDINGS, DEPARTMENT OF

- |        |   |        |   |
|--------|---|--------|---|
| § 9-1. | Department created; appointment of Code Enforcement Officer/Building Inspector. | § 9-4. | Restrictions on employees.  |
| § 9-2. | Acting Code Enforcement Officer/Building Inspector.                             | § 9-5. | Powers and duties of Code Enforcement Officer/Building Inspector. |
| § 9-3. | Appointment of Inspectors.  | § 9-6. | Records and Reports.  |
|        |   | § 9-7. | Cooperation of other departments.                                 |

[Adopted 11-1968]

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#### **§ 9-1. Department created; appointment of Code Enforcement Officer/Building Inspector.**

There is hereby created in the City of Mechanicville a Department of Buildings which shall be administered by a public official to be known as the "Code Enforcement Officer/Building Inspector," who shall be appointed by the Mayor with the consent of the City Council at a compensation to be fixed by it.

#### **§ 9-2. Acting Code Enforcement Officer/Building Inspector.**

In the absence of the Code Enforcement Officer/Building Inspector or in the case of his/her inability to act for any reason, the Mayor shall have the power, with the consent of the City Council, to designate a person to act in behalf of the Code Enforcement Officer/Building Inspector and to exercise all the powers conferred upon him/her by this chapter.

#### **§ 9-3. Appointment of inspectors.**

The Mayor may appoint one building inspector or more, with the consent of the City Council, as the need may appear, to act under the supervision of the Code Enforcement Officer/Building Inspector and to exercise any portion of his/her powers and duties. The compensation of such building-plumbing inspectors shall be fixed by the City Council.

#### **§ 9-4. Restrictions on employees.**

No officer or employee of the Building Department shall engage in any activity inconsistent with his/her duties or with the interest of the Building Department, nor shall he/she, during the term of

his/her employment, be engaged, directly or indirectly, in any building business, in the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building or in the preparation of plans or specifications thereof within the City of Mechanicville, except that this section shall not prohibit any employee from such activities in connection with the construction of a building or structure owned by him/her and not constructed for sale.

#### **§ 9-5. Powers and duties of Code Enforcement Officer/Building Inspector.**

- A. Except as otherwise specifically provided by law, ordinance, or regulation or except as herein otherwise provided, the Code Enforcement Officer/Building Inspector shall administer and enforce all of the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal, and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.
- B. He/she shall have the power to adopt rules, with the consent of the City Council, to secure the intent and purposes of this chapter and a proper enforcement of the laws, ordinances, and regulations governing building construction.
- C. He/she shall receive applications and issue permits for the erection, alteration, removal, and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of ensuring compliance with laws, ordinances, and regulations governing building construction.
- D. He/she shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances and regulations. He/she shall make all inspections which are necessary or proper for the carrying out of his/her duties, except that he/she may accept written reports of inspection from building-plumbing inspectors or other employees of the Department of Buildings or from generally recognized and authoritative service and inspection bureaus, provided that the same are certified by a responsible official thereof.
- E. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances, and regulations covering building construction, he/she may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

#### **§ 9-6. Records and reports.**

- A. The Code Enforcement Officer/Building Inspector shall keep permanent official records of all transactions and activities conducted by him/her, including all applications received, permits and certificates issued, fees charged and collected, inspection reports,

and notices and orders issued. All such records shall be public records open to public inspection during business hours.

- B. The Code Enforcement Officer/Building Inspector shall annually submit to the City Council a written report and summary of all business conducted by the Department of Buildings, including permits and certificates issued, fees collected, orders, and notices promulgated, inspections and tests made, and appeals or litigation pending.

**§ 9-7. Cooperation of other departments.**

The Code Enforcement Officer/Building Inspector may request and shall receive, so far as may be necessary in the discharge of his/her duties, the assistance and cooperation of the Police, Fire, and Health Departments and of all municipal officials exercising any jurisdiction over the construction, use, or occupancy of buildings or the installation of equipment therein.

# Chapter 15

## ELECTION DISTRICTS

**§ 15-1. First Election District.**

**§ 15-2. Second Election District.**

**§ 15-3. Third Election District.**

**§ 15-4. Fourth Election District.**

**§ 15-5. Fifth Election District.**

**§ 15-6. Sixth Election District.**

**[Adopted 11-1968]**

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### **§ 15-1. First Election District.**

The First Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the point where the center line of Park Avenue is intersected by the center line of South Central Avenue and running thence easterly on and along the center line of Park Avenue to the east side of Main Street; thence southerly along the east side of South Main Street to the north line of the lands on which School No. 1 is situated; thence easterly on and along said north line to the center of the Hudson River and the east corporation line or boundary; thence southerly, on and along said corporation line, to a point in said river due east from the center of the mouth of the creek which empties into said river near Bennington Avenue; thence due west to the center of the mouth of said creek; thence westerly up said creek, on and along the center thereof, to the northerly side of the highway, known as the Mechanicville-Waterford Highway, and the corporation line; thence northwesterly, along said corporation line, to a point formerly in the west bank of the abandoned Champlain Canal; thence northerly, on and along the line of what was formerly the west bank of said canal, to a point therein due east from a marble post set in the ground at the southeast corner of lands formerly of Martha Harris; thence due east to the center of said canal; thence northerly on and along the center line of said canal to the south line of South Street; thence northerly to the intersection of the north line of South Street and the center line of South Central Avenue; thence northerly on and along the center line of South Central Avenue to the place of beginning.

### **§ 15-2. Second Election District.**

The Second Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the point where the center line of Park Avenue is intersected by the center line of North Central Avenue and running thence northerly on and along the center line of North Central Avenue to a point fifty feet southerly from the south line of Saratoga

Avenue; thence easterly and parallel to the south line of Saratoga Avenue on and along a course fifty feet southerly therefrom to the center of Greenwood Avenue; thence northerly on and along the center line of Greenwood Avenue to the south line of Saratoga Avenue; thence northerly to the intersection of the north line of Saratoga Avenue and the center line of Fitchburgh Avenue; thence northerly on and along the center line of Fitchburgh Avenue and the projection northerly thereof in the same course to the north corporation line; thence northerly and easterly on and along said north corporation line to the center of the Hudson River and the east corporation line; thence southerly, on and along said east corporation line, to the point where said line would be intersected by the projection easterly of the north line of lands on which School No. 1 is situated; thence westerly on and along said projected line and the said north line of School No. 1 to the east side of South Main Street; thence northerly along the east side of South Main Street to the center line of Park Avenue; thence westerly on and along the center line of Park Avenue to the place of beginning.

### **§ 15-3. Third Election District.**

The Third Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the point in the center line of the right-of-way of the Boston and Marine Railroad, which point is three hundred feet northerly from the north side of Saratoga Avenue, and running thence easterly on and along the north corporation line, parallel with and three hundred feet northerly from the north side of Saratoga Avenue to a point formerly in the west bank of the Champlain Canal; thence northeasterly along said north corporation line to a point where said line would be intersected by the projection northerly of the center line of Fitchburgh Avenue; thence southerly on and along said projected line and said center line of Fitchburgh Avenue to the north line of Saratoga Avenue; thence southerly to the intersection of the south line of Saratoga Avenue and the center line of Greenwood Avenue; thence southerly on and along the center line of Greenwood Avenue to a point fifty feet southerly from the south side of Saratoga Avenue; thence westerly and parallel with the south line of Saratoga Avenue on and along a course fifty feet southerly therefrom to the center line of North Central Avenue; thence southerly on and along the center line of North Central Avenue to the center of the Tenendaho Creek; thence westerly up said creek, on and along the center thereof, to the center of the bridge crossing said Tenendaho Creek at the west end of Round Lake Avenue; thence easterly from the center of the bridge to the stone monument at the northwest corner of the old boundary line of the Village of Mechanicville; thence easterly, on a line parallel with and three hundred feet northerly from the north side of Saratoga Avenue, to the west side of Viall Avenue; thence along the west side of said Viall Avenue north, one degree west, one hundred fifty-nine feet; thence north, twenty-eight degrees and twenty minutes east, five hundred twenty-eight feet to a point; thence easterly on and along the north corporation line to the west line of lands of the Boston and Maine Railroad; thence southerly on and along said line to a point three hundred feet northerly from the north side of Saratoga Avenue; thence easterly on and along a line parallel with said Saratoga Avenue to the place of beginning.

#### **§ 15-4. Fourth Election District.**

The Fourth Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the point in the center line of North Central Avenue at the center of the culvert over Tenendaho Creek and running thence southerly on and along the center line of North Central Avenue to the center line of Park Avenue; thence westerly on and along the center line of Park Avenue to the center of the right-of-way of the Delaware and Hudson Railroad Corporation; thence northerly on and along the center line of said railroad's right-of-way to a point where said center line would be intersected by the projection easterly of the center line of Chestnut Street; thence westerly on and along said projected line and said center line of Chestnut Street to the west corporation line; thence northerly, parallel to the west line of North Eighth Avenue and distant one hundred feet westerly therefrom, to a point one thousand feet northerly of the north line of Elizabeth Street; thence northerly to the center of the Tenendaho Creek and the center of the bridge crossing said creek at the west end of Round Lake Avenue; thence easterly down said creek, on and along the center thereof, to the place of beginning.

#### **§ 15-5. Fifth Election District.**

The Fifth Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the intersection of the center line of the right-of-way of the Delaware and Hudson Railroad Corporation and the center line of Park Avenue and running thence westerly on and along the center line of Park Avenue and the projection westerly thereof to the west corporation line; thence on and along said corporation line northwesterly and northerly to a point where said corporation line is intersected by the center line of Chestnut Street; thence easterly on and along the center line of Chestnut Street and the projection easterly thereof to the center line of the right-of-way of the Delaware and Hudson Railroad Corporation; thence southerly on and along the center line of said railroad's right-of-way to the place of beginning.

#### **§ 15-6. Sixth Election District.**

The Sixth Election District of the City of Mechanicville shall be coextensive with the territory of which the following is a description:

- Beginning at the point where the center line of Park Avenue is intersected by the center line of South Central Avenue and running thence southerly on and along the center line of South Central Avenue to the north line of South Street; thence southerly to the intersection of the south line of South Street and the center line of the abandoned Champlain Canal; thence southerly on and along the center line of said Champlain Canal to a point due east from a marble post set in the ground at the southeasterly corner of

lands formerly of Martha Harris; thence due west to said marble post; thence westerly on and along a line which was formerly the south line of said lands of Martha Harris about three hundred thirty-three feet to the southeast corner of lands formerly owned by William Leonard; thence northerly on and along the west corporation line to a point where said line would be intersected by the center line of Park Avenue, projected westerly; thence easterly along said projected line and the center line of Park Avenue to the place of beginning.



# Chapter 18

## ETHICS, CODE OF

§ 18-1. Purpose.

§ 18-2. Definitions.

§ 18-3. Standards of conduct.

§ 18-4. Filing of claims or demands.

§ 18-5. Distribution.

§ 18-6. Penalties for offenses.

[Adopted 09-1970]

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### § 18-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the City Council of the City of Mechanicville recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the City of Mechanicville. These rules shall serve as a guide for official conduct of the officers and employees of the City of Mechanicville. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

### § 18-2. Definitions.

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

**INTEREST** – A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

- A. His/her spouse, minor children, and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

**MUNICIPAL OFFICER OR EMPLOYEE** – An officer or employee of the City of Mechanicville, whether paid or unpaid, including members of any administrative board, commission, or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.

**§ 18-3. Standards of conduct.**

Every officer or employee of the City of Mechanicville shall be subject to and abide by the following standards of conduct:

- A. **Gifts.** He/She shall not, directly or indirectly, solicit any gift having a value of seventy-five dollars (\$75) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her, or could reasonably be expected to influence him/her, in the performance of his/her official duties or was intended as a reward for any official action on his/her part.
- B. **Confidential information.** He/She shall not disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interest.
- C. **Representation before one's own agency.** He/She shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he/she is an officer, member or employee or of any municipal agency over which he/she has jurisdiction or to which he/she has the power to appoint any member, officer or employee.
- D. **Representation before any agency for a contingent fee.** He/She shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his/her municipality, whereby his/her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. **Disclosure of interest in legislation.** To the extent that he/she knows thereof, a member of the City Council and any officer or employee of the City of Mechanicville, whether paid or unpaid, who participates in the discussion or gives official opinion to the City Council or any other official board or agency on any legislation or matter before the City Council of the City of Mechanicville or any other official board or agency of the City of Mechanicville shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- F. **Investments in conflict with official duties.** He/She shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.

G. **Private employment.** He/She shall not engage in, solicit, negotiate for or promise to accept private employment, or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his/her official duties.

H. **Future employment.** He/She shall not, after the termination of service or employment with such municipality, appear before any board or agency of the City of Mechanicville in relation to any case, proceeding, or application in which he/she personally participated during the period of his/her service or employment or which was under his/her active consideration.

#### **§ 18-4. Filing of claims or demands.**

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand, or suit against the City of Mechanicville or any agency thereof on behalf of himself/herself or any member of his/her family arising out of any personal injury or property damage for any lawful benefit authorized or permitted by law.

#### **§ 18-5. Distribution.**

The Mayor of the City shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the City of Mechanicville within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code or the enforcement provisions thereof.

#### **§ 18-6. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended, or removed from office or employment, as the case may be, in the manner provided by law.

# Chapter 21

## FIRE DEPARTMENT

- |         |  |         |                                  |
|---------|--|---------|----------------------------------|
| § 21-1. | Fire Chief.                                    | § 21-4. | Additional duties.               |
| § 21-2. | Deputy Fire Chief.                             | § 21-5. | Absence of Fire Chief.           |
| § 21-3. | Right of Council to create additional offices. | § 21-6. | Assistant Fire Chief.            |
|         |  | § 21-7. | Appointment and terms of office. |

[Adopted 11-1968]

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### § 21-1. Fire Chief.

- A. **Office created.** The office of the Fire Chief is hereby created, and the salary for such office shall be established by resolution of the City Council.
- B. **Duties.** The duties of such office shall be to supervise generally in all respects concerning the Fire Department and the equipment of such Department and perform such other and further services in regard to the protection of the community from fire as may be required of him/her by the Council or the Mayor of the City of Mechanicville.
- C. **Responsibility; authority.** Under the Mayor he/she shall be the head of the Fire Department. The various members of such Department shall be subject to his/her control and authority.

### § 21-2. Deputy Fire Chief. [Amended 10-2013]

**Office created.** The office of Deputy Fire Chief is hereby created. The salary for such office shall be established by resolution of the City Council.

- A. **Duties.** The duties of such officer shall be to perform all the duties of the Fire Chief in case of the absence or inability of the Fire Chief to act. It shall be the further duty of the Deputy Fire Chief to assist generally in the performance of the duties required of the Fire Chief and to perform such other duties as may be required of him/her by the Council or the Mayor of the City of Mechanicville.

### § 21-3. Right of Council to create additional offices.

- A. The Council of the City of Mechanicville may from time to time as may be required create other and further offices as may be necessary.
- B. Any person hereinafter appointed to any of the offices hereby created may also be the recipient of any such office, whether all said offices to which he/she is appointed are under the same or different departments and subject to the control of the same or different Commissioner, and when appointed to two (2) or more City offices, the recipient thereof shall draw the salary herein provided for all of said offices to which he/she may be appointed.

**§ 21-4. Additional duties. [Amended 10-2013]**

- A. In addition to the duties heretofore prescribed for the Fire Chief, it shall be the further duty of the Fire Chief of the City of Mechanicville to do the following:
  - (1) He/She shall have charge of and be responsible for all fire apparatus of every kind and description.
  - (2) He/She shall have general supervision over and be responsible for the proper care and preservation of all buildings owned by the City in which fire apparatus is housed or stored, with the exception, however, of the Municipal Building.
  - (3) It shall be the duty of the Fire Chief and he/she shall have the power to direct the Captains and Lieutenants to report to him/her, at such times and in such detail as the Fire Chief shall prescribe, as to the condition of fire apparatus and as to the method of preserving the same.
  - (4) No debts shall be hereinafter incurred chargeable to the Fire Department unless ordered by the Fire Chief, and the bills chargeable to the Fire Department shall be approved by the Fire Chief before the same are audited. Nothing in this subsection contained shall apply to fuel.
  - (5) From the first sounding of the fire alarm of the Fire Department until the blowout of said alarm is given, the Fire Chief shall be and is hereby empowered with absolute control of all fire personnel and fire apparatus. He/She shall also have the power to exercise exclusive police authority over and the control of the building or buildings burning or threatened with fire. He/She is hereby further given the authority to mark off a fire zone adjacent to such burning premises. Such fire zone shall be of such size as in the opinion of the Fire Chief shall be necessary for the prevention of further conflagration.
  - (6) The Captains of the Department shall be responsible to the Fire Chief for the care of the emergency apparatus assigned to their command.

**§ 21-5. Absence of Fire Chief.**

In the absence of the Fire Chief or his/her inability to act, the Assistant Fire Chief is hereby empowered with all the authority, powers, and duties heretofore prescribed or herein given to the Fire Chief.

**§ 21-6. Assistant Fire Chief. [Amended 10-2013]**

- A. **Office created.** The office of Assistant Fire Chief is hereby created.
- B. **Duties.** The duties of the Assistant Fire Chief shall be to perform all the duties of the Fire Chief and Deputy Fire Chief in case of the absence or inability of the Fire Chief and Deputy Fire Chief to act. It shall be the further duty of the Assistant Fire Chief to assist generally in the performance of the duties required of the Fire Chief and Deputy Fire Chief and to perform such other duties within the Fire Department as directed by the Fire Chief, Deputy Fire Chief or the Mayor.
- C. **Salary.** The salary of the Assistant Fire Chief shall be determined by resolution of the City Council.

**§ 21-7. Appointment and terms of office. [Amended 10-2013]**

- A. The Chief, Deputy Chief, and Assistant Chief shall be appointed by the Mayor. Their terms of office shall be for two (2) years, unless terminated sooner by the Mayor.
- B. The term of office for the Fire Chief shall be restricted to two (2) consecutive terms, except such person may again be eligible for appointment two (2) years after the expiration of the second term.
- C. Any person terminated for cause from the office of Fire Chief shall not be eligible for future reappointment as Fire Chief.

# Chapter 28

## INVESTMENT POLICY

§ 28-1.	Scope.	§ 28-8.	Collateralizing of deposits.
§ 28-2.	Objectives.	§ 28-9.	Security and custodial agreements.
§ 28-3.	Delegation of authority.	§ 28-10.	Permitted investments.
§ 28-4.	Participants to act responsibly; conflicts of interest.	§ 28-11.	Authorized financial institutions and dealers.
§ 28-5.	Diversification.	§ 28-12.	Purchase of investments.
§ 28-6.	Transfer of funds to Commissioner of Finance; internal controls.	§ 28-13.	Repurchase agreements.
§ 28-7.	Designation of depositories.		Appendix A, Schedule of Eligible securities.

[Adopted 08-1995, amended 01-1997]

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### § 28-1. Scope.

This investment policy applies to all moneys and other financial resources available for investment on the City's own behalf or on behalf of any other entity or individual.

### § 28-2. Objectives.

The primary objectives of the local government's investment activities are, in priority order:

- A. To conform to all applicable federal, state and other legal requirements (legal);
- B. To adequately safeguard principal (safety);
- C. To provide sufficient liquidity to meet all operating requirements (liquidity); and
- D. To obtain a reasonable rate of return (yield).

### § 28-3. Delegation of authority.

The governing board's responsibility for administration of the investment program is delegated to the Commissioner of Finance, who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability, based on a

database or records incorporating description and amounts of investments, transaction dates and other relevant information, and regulate the activities of subordinate employees.

**§ 28-4. Participants to act responsibly; conflicts of interest.**

- A. All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the City of Mechanicville to govern effectively.
- B. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the safety of the principal as well as the possible income to be derived.
- C. All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair their ability to make impartial investment decisions.

**§ 28-5. Diversification.**

It is the policy of the City of Mechanicville to diversify its deposits and investments by financial institution, by investment instrument and by maturity scheduling.

**§ 28-6. Transfer of funds to Commissioner of Finance; internal controls.**

- A. It is the policy of the City of Mechanicville for all moneys collected by any officer or employee of the government to be transferred to the Commissioner of Finance within ten (10) days of deposit or within the time period specified in law, whichever is shorter.
- B. The Commissioner of Finance is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly and are managed in compliance with applicable laws and regulations.

**§ 28-7. Designation of depositories.**

Banks and trust companies designated by the City Council as depositories are authorized for the deposits of moneys up to a maximum amount of five million dollars (\$5,000,000). Authorization for the deposits of moneys into any bank and trust companies shall be by the majority vote of the City Council.

**§ 28-8. Collateralizing of deposits.**



In accordance with the provisions of General Municipal Law § 10, all deposits of the City of Mechanicville, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- A. By a pledge of eligible securities with an aggregate market value, as provided by General Municipal Law § 10, equal to the aggregate amount of deposits from the categories designated in Appendix A to this policy.
- B. By an eligible irrevocable letter of credit issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed ninety (90) days with an aggregate value equal to one hundred forty percent (140%) of the aggregate amount of deposits and the agreed-upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk based capital requirements.
- C. By an eligible surety bond payable to the government for an amount at least equal to one hundred percent (100%) of the aggregate amount of deposits and the agreed-upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the high rating category by at least two nationally recognized statistical rating organizations.

**§ 28-9. Security and custodial agreements.**

- A. Eligible securities used for collateralizing deposits shall be subject to security and custodial agreements.
- B. The security agreement shall provide that eligible securities are being pledged to secure local government deposits, together with agreed-upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted, or released and the events which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the designated depositories of the City of Mechanicville.
- C. The custodial agreement shall provide that securities held by the bank or trust company as agent of and custodian for the local government will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include

all provisions necessary to provide the local government a perfected interest in the securities.

**§ 28-10. Permitted investments.**

A. As authorized by General Municipal Law § 11, the City of Mechanicville authorizes the Commissioner of Finance to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- (1) Special time deposit accounts;
- (2) Certificates of deposit;
- (3) Obligations of the United States of America;
- (4) Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
- (5) Obligations of the State of New York;
- (6) Obligations issued pursuant to Local Finance Law § 24.00 or 25.00 (with approval of the State Comptroller) by any municipality, school district or district corporation other than the City of Mechanicville;
- (7) Obligations of public authorities, public housing authorities, urban renewal agencies, and industrial development agencies where the general state statutes governing such entities or whose specific enabling legislation authorized such investments;
- (8) Certificates of participation (COP's) issued pursuant to General Municipal Law § 1209-b; and/or
- (9) Obligations of this local government, but only with any moneys in a reserve fund established pursuant to General Municipal Law § 6-c, 6-d, 6-e, 6-g, 6-h, 6-j, 6-k, 6-l, 6-m or 6-n.

B. All investment obligations shall be payable or redeemable at the option of the City of Mechanicville within such time as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the City of Mechanicville within two (2) years of the date of purchase.

**§ 28-11. Authorized financial institutions and dealers.**

The City of Mechanicville shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate age limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local

government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the City of Mechanicville. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers. The City of Mechanicville is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners, and custodians. Such listing shall be evaluated at least annually.

#### **§ 28-12. Purchase of investments.**

A. The Commissioner of Finance is authorized to contract for the purchase of investments:

- (1) Directly, including through a repurchase agreement, from an authorized trading partner;
- (2) By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5(G) of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46 and the specific program has been authorized by the governing board;
- (3) By utilizing an ongoing investment program with an authorized tracking partner pursuant to a contract authorized by the governing board.

B. All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed, in writing, to the City of Mechanicville by the bank or trust company. Any obligation held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law § 10.

#### **§ 28-13. Repurchase agreements.**

Repurchase agreements are authorized subject to the following restrictions:

- A. All repurchase agreements must be entered into subject to a master repurchase agreement;
- B. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers;
- C. Obligations shall be limited to obligations of the United States of America and obligations of agencies of the United States of America where principal and interest are guaranteed by the United States of America;

- D. No substitution of securities will be allowed;
- E. The custodian shall be a party other than the trading partner.

## **Appendix A**

### **Schedule of Eligible Securities:**

- i.* Obligation issued or fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation.
- ii.* Obligations partially insured or guaranteed by any agency of the United States of America at a proportion of the market value of the obligation that represents the amount of the insurance or guaranty.
- iii.* Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of such state or obligations of any public benefit corporation which under a specific state statute may be accepted as security for deposit of public moneys.
- iv.* Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- v.* Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- vi.* Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- vii.* Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- viii.* Any mortgage-related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- ix.* Zero coupon obligations of the United States government marketed as treasury strips.

# Chapter 34

## MEETINGS

**§ 34-1. Documents to be provided.**

**§ 34-3. Manner of addressing Council;**

**§ 34-2. Tape recordings.**

**Rules of order.**

**[Adopted 03-1995]**

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**§ 34-1. Documents to be provided. [Amended 11-2017]**

The City Council of the City of Mechanicville hereby directs the City Stenographer/Secretary to the Mayor to provide the following documents no later than one (1) week from the date of any regular or special City Council meeting to each Council member and to make them available to other city officials upon request:

- A. A typed transcription of the minutes of the meeting, including a summarization of the comments of city officials and a brief summarization of comments from the members of the general public;
- B. A summary sheet entitled "Legislative Index" that indicates any and all legislation for said meeting, including but not limited to resolutions, local laws, ordinances ("introduced only" or for "final consideration"), public hearings, etc.;
- C. A final typed copy of the final agenda for the City Council meeting;
- D. A final copy of any legislation (resolutions, ordinances, local laws, etc.) indicating Council's actual voting record on the same.

**§ 34-2. Tape recordings. [Amended 11-2017]**

The City Stenographer/Secretary to the Mayor is hereby directed and ordered to maintain the actual taped recordings of the meetings for review for a four (4) month period from the date of transcription of the minutes of the meeting.

**§ 34-3. Manner of addressing Council; rules of order. [Amended 10-2013]**

The Mayor, who presides at the Council meetings, is authorized and directed to:

- A. Enforce a five-(5) minute limit for each member of the general public who addresses the City Council during the Council meetings.

- B. Ensure that Robert's Rules of Order are followed, as established at the City's annual organizational meeting, and ensure that order remains at City Council meetings.

# Chapter 39

## POLICE DEPARTMENT

### ARTICLE I Personnel

- § 39-1. Chief of Police.
- § 39-2. Police Lieutenant.
- § 39-3. Police Sergeant.
- § 39-4. Patrolmen.
- § 39-5. Right of Council to create additional offices.

### ARTICLE II Police-Civilian Internal Affairs Review Commission

- § 39-6. Purpose and scope.
- § 39-7. Membership; terms of office; Meetings; and officers.
- § 39-8. Powers and duties.
- § 39-9. Powers designated to Chief of Police.
- § 39-10. Establishment; availability of funds.

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### ARTICLE I Personnel [Adopted 11-1968]

#### § 39-1. Chief of Police.

- A. **Office created.** The office of the Chief of Police is hereby created, and the salary shall be established by resolution of the City Council. The Chief of Police shall be appointed by the Mayor from an established eligible list certified for the office of Chief of Police by the Mechanicville Civil Service Commission.
- B. **Duties.** The duties of such officer shall be to preserve order in the community, to make such arrests as may be provided for by the laws of the state and the ordinances of the city, to enforce obedience to said laws and to said ordinances, and to perform such other and further services concerning the policing of said city as may be required of him/her by said Council or Mayor.
- C. **Responsibility; authority.** The Chief of Police shall be subject to the direction of the Mayor, and, in behalf of the Mayor and acting in the place, the Chief of Police shall have charge of the Police Department. The various members of the Police Department shall be subject to his/her control and authority. He/She shall be the peace officer of the city.

#### § 39-2. Police Lieutenant.

- A. **Office created.** The office of Police Lieutenant shall be and the same hereby is created. The Police Lieutenant shall be appointed by the Mayor from an established eligible list certified for the office of Police Lieutenant by the Mechanicville Civil Service Commission.
- B. **Duties.** The duties of such office shall be to preserve order in the city, to make such arrests as may be authorized by law, to perform such other and further services concerning the policing of the city as may be required of him/her by the Council or the Mayor and to have charge of the Police Department in the absence of the Chief of Police and Mayor.
- C. **Salary.** The annual salary of the Police Lieutenant shall be established by resolution of the City Council.

#### **§ 39-3. Police Sergeant.**

- A. **Office created.** The office of Police Sergeant shall be and the same is hereby created. The Police Sergeant shall be appointed by the Mayor from an established eligible list certified for the office of Police Sergeant by the Mechanicville Civil Service Commission.
- B. **Duties.** The duties of such office shall be to preserve order in the community, to make such arrests as may be provided for in the laws of the State of New York and the ordinances of the city, to enforce obedience of such laws and such ordinances, to perform such other and further services concerning policing of the city as may be required of him/her by the City Council or the Mayor, to have charge of the Police Department in the absence of the Chief to take such action as he/she may deem necessary and to receive and arraign prisoners, and to make entries on the police blotter. The Police Sergeant shall be subject to the Mayor and Chief of Police and, in the absence of either the Mayor or Chief of Police, shall have charge of the Police Department. The various members shall be subject to his/her control and authority. He/She shall be a peace officer of the city.
- C. **Salary.** The incumbent of said office shall receive a salary as established by resolution of the City Council.

#### **§ 39-4. Patrolmen.**

- A. **Offices created.** The offices of patrolmen are hereby created, and the duties of such incumbents of such offices shall be to assist the Mayor and the Chief of Police in requiring obedience to the laws of the state and the ordinances of this city and to maintain order with regard to the maintenance of law and order as may be required of them by the Council or by the Mayor or by the Chief of Police. Each patrolman shall be a peace officer of the city. Except in emergencies to be determined by the Mayor, the Council or the Chief of Police, no patrolman shall be on duty more than forty (40) hours in any one week. Patrolmen shall receive a salary as established by resolution of the City Council.



- B. **Number; appointment.** Full-time patrolmen shall not exceed ten (10) in number and shall be appointed by the Mayor from an established eligible list certified for the office of patrolman by the Mechanicville Civil Service Commission.
- C. **Special officers.** In addition to the foregoing, the Chief of Police is hereby authorized to appoint, with the consent of the City Council, a number of special officers as determined by the Mayor to ensure public safety, to be assigned by the Chief of Police to such duties and at such times as may be deemed necessary to further promote the efficiency of the Police Department. The compensation to be paid said special officers shall be subject to the determination of the Council of the City of Mechanicville and shall be established by resolution of said Council. The compensation to be paid patrolmen shall be paid on the first (1<sup>st</sup>) day and fifteenth (15<sup>th</sup>) day of each month hereafter.

#### **§ 39-5. Right of Council to create additional offices.**

The Council of the City of Mechanicville may from time to time, as may be required, create other and further offices as may be necessary. Any person hereinafter appointed to any of the offices hereby created may also be the recipient of any such office, whether all said offices to which he/she is appointed are under the same or different departments and subject to the control of the same or different Commissioner, and when appointed to two (2) or more city offices the recipient thereof shall draw the salary herein provided for all of said offices to which he/she may be appointed.

### **ARTICLE II Police-Civilian Internal Affairs Review Commission [Adopted 01-1997]**

#### **§ 39-6. Purpose and scope.**

- A. In order to assure the public that police services are delivered in a lawful and nondiscriminatory manner, the public should be accorded participatory oversight of the police and their interaction with the citizenry. To this end, the Mayor and Council wish to structure citizen involvement as set forth in this article so that in the event that complaints are received regarding police activities such complaints are reviewed and processed with the participation of citizen representatives. Citizen review, in conjunction with the police, of complaints against officers will assure that complaints are dealt with fairly and with due regard for officers and citizens equally.
- B. The Commission shall review all complaint investigations concerning members of the Police Department who are certified by the New York State Department of Municipal Police completed by the Internal Affairs Unit of the Police Department and subsequent investigations thereof related to alleged acts of excessive force, inappropriate use of firearms, discrimination, poor public relations and such other complaints as may be referred to it by the Mayor and/or the Chief of Police. The Commission shall also collect

and review summary data on complaints received and report to the Mayor and Council any patterns which may merit further examination.

**§ 39-7. Membership; terms of office; meetings; officers.**

- A. There is hereby created a Police-Civilian Internal Affairs Review Commission consisting of seven (7) voting members to be appointed by the Mayor with consent of the Council. All members shall be residents of the City. Six (6) members shall be citizen members and one (1) shall be a member of the Mechanicville Police Benevolent Association (PBA) who shall be recommended by the PBA to the Mayor for appointment. Members shall, to the extent possible, be representative of the City's diversity of neighborhoods, races, and cultures, abilities, incomes and sexual orientations. No City Council members shall serve on the Commission.
- B. The original appointments to the Commission by the Mayor of the six (6) citizen members shall be for terms of one (1), two (2) and three (3) years, as designated by the Mayor. Thereafter, citizen members shall be appointed for a three (3)-year term.
- C. The original appointment to the Commission by the Mayor of the Mechanicville Police Benevolent Association representative shall be as recommended by a majority PBA vote, and he or she will serve one two-year term. No PBA member shall serve more than two (2) consecutive terms. No member of the PBA or his or her immediate family shall be eligible to serve as a citizen member.
- D. The Commission shall meet a minimum of quarterly and up to twice a month as determined by a majority of the Commission. The Commission shall elect a Chair and Vice Chair to preside over its proceedings and shall also elect a Secretary who will be responsible for the minutes of Commission meetings. The Commission Chair shall be elected from among the citizen members. Any costs associated with Commission minutes or paperwork involved will be borne by the Department of Public Safety.

**§ 39-8. Powers and duties.**

- A. **Conduct of meetings.** The Commission shall conduct all of its meetings consistent with and subject to all city ordinances and published policy directives. Further, the Commission shall be subject to statutes regarding government data practices, open meetings, peace officers' bill of rights and related law.
- B. **Training required; termination of appointments.** Each member of the Commission shall, prior to assuming official duties, participate in a training program which shall include topics related to police work, investigation, relevant law, cultural diversity, gender, sexual orientation, disability, and the emotional impact of abuse. They shall also participate in ride-alongs with an officer on actual patrol duties. Failure to complete the training program shall constitute cause to terminate a member's appointment by the Mayor as recommended by the Chief of Police. Any and all training will be provided by the Chief of Police at no cost to the city. Additionally, a violation of law regarding

government data practices or nonattendance at more than three (3) meetings in a year by a member shall also constitute cause to terminate a member's appointment by the Mayor as recommended by the Chief of Police.

- C. **Requests for appearances and gathering of additional information.** The Commission may request that individuals appear before it to state facts to supplement files. The Commission may also request Internal Affairs staff to gather such additional information as may be needed for a determination by the Commission.
- D. **Recommendations.** The Commission, after review and deliberation of an investigation, shall, by majority vote, and make its recommendation on the case. Such recommendation by the Commission shall be upon a finding that the complaint be sustained; or that the complaint not be sustained; or that the officer be exonerated; or that the complaint is unfounded; or that the matter does not involve guilt or lack thereof but rather a failure of a departmental policy to address the situation. The Commission shall also, by majority vote, make a recommendation as to any action to be taken concerning an involved officer.
- E. **Determination and disposition of investigation by Chief of Police and Mayor.** Failure of the Commission to reach a majority decision shall cause the investigation to proceed directly to the Chief of Police and Mayor for determination and disposition.
- F. **Chair to inform Chief and Mayor in writing.** If a majority decision is obtained, the Chair of the Commission shall, in writing, inform the Chief of Police and Mayor of the recommendation along with the rationale therefor.
- G. **Action when Chief, Mayor, and Commission disagree.** In the event that the Chief of Police and Mayor disagree with the action recommended by the Commission, the Chief shall notify the Commission, in writing, of the action the Chief and Mayor intend to impose. The Commission Chair, Chief of Police, and Mayor shall have five (5) working days to discuss any concerns they may have before any action is finalized. This provision does not prohibit the Chief of Police and Mayor from taking immediate action in any case.

#### **§ 39-9. Powers delegated to Chief of Police.**

The powers granted to the Mayor of the City of Mechanicville pursuant to § 209-M. of the General Municipal Law relating to the requesting and granting of police assistance from and to other local governments is hereby delegated to the Chief of Police.

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

**CHIEF OF POLICE** – Includes any police officer in command of the Police Department of the City of Mechanicville during the absence, illness, or disability of the Chief of Police.

#### **§ 39-10. Establishment; availability of funds. [Adopted 10-2013]**

A Police Investigation Cash Fund in the sum of one thousand dollars (\$1,000.00) is hereby established and shall be available in advance to members of the Police Department in such amount as may be authorized by the Chief of the Department for expenses incurred or to be incurred in investigating and obtaining information concerning criminal matters, subject, however, to the following:

- A. An itemized and verified accounting, in such form as shall be prescribed by the Chief of Police in concert with the Commissioner of Finance shall be made or vouchers submitted for all such expenditures to the Chief of Police.
- B. Such expenditures shall be audited by the Finance Commissioner, and upon approval by the City Council, such Police Investigation Cash Fund shall be reimbursed from the appropriate budgetary item.
- C. Any such expenditures or portion of any such expenditure as shall be disallowed upon audit shall be the personal liability of the official responsible for the use of the petty cash fund from which payment on account thereof was made, and such official shall forthwith reimburse such petty cash fund in the amount of such disallowances.
- D. The Police Investigation Cash Fund shall be administered by the Investigator and/or Chief of Police. The Finance Commissioner of the City of Mechanicville may require an accounting of the monies in such fund at any time.

# Chapter 42

## PROCUREMENT POLICY

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| § 42-1. Purpose.                                      | § 42-7. Purchase to be formally bid.                           |
| § 42-2. Evaluation of purchase.                       | § 42-8. Purchases and contracts requiring quotes or proposals. |
| § 42-3. Authority and administration.                 | § 42-9. Award of purchase or contract.                         |
| § 42-4. Expenditures not to exceed appropriations.    | § 42-10. Inability to obtain proposals.                        |
| § 42-5. Contracts and requisitions exceeding \$2,500. | § 42-11. Exceptions.   |
| § 42-6. Public access to procurement information.     | § 42-12. Unintentional failure to comply.                      |
|   | § 42-13. Ethics in awarding contracts.                         |
|   | § 42-14. Annual review.  |

[Adopted 09-1997]

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### § 42-1. Purpose.

The purpose of the procurement policy is to protect public interest by encouraging the solicitation of competition for small procurements in a reasonable, cost-effective manner when competitive bidding is not required by law and to foster a greater degree of public accountability on the part of public officials in accordance with Chapter 413 of the Laws of 1991, enacting General Municipal Law § 104-b, effective January 1, 1992.

### § 42-2. Evaluation of purchase.

Every prospective purchase of goods or services shall be evaluated to determine the applicability of General Municipal Law § 103. Alternative proposals or quotations will be secured by request for proposals and written or verbal quotes. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

### § 42-3. Authority and administration.

All procurement preparation shall be administered by the head of the department or officer empowered by law or city ordinance to control or authorize expenditures of his respective department or office.

### § 42-4. Expenditures not to exceed appropriations.

No expenditure shall be made and no contract liability shall be incurred for any fiscal year beyond the appropriations for such year, except as provided by the Local Finance Law.

**§42-5. Contracts and requisitions exceeding \$10,000.00. [Amended 10-2012]**

No contract or requisition for supplies exceeding ten thousand dollars (\$10,000.00) shall be made without prior Council approval, except that in case of emergency, such requisition shall have the endorsement of one other Commissioner.

**§ 42-6. Public access to procurement information.**

Procurement information shall be a matter of public record to the extent provided in the New York State Freedom of Information Act and shall be available to the public as provided in that statute.

**§ 42-7. Purchase to be formally bid. [Amended 10-2012]**

All purchases of supplies or equipment which will exceed twenty thousand dollars (\$20,000.00) in the fiscal year or public works contracts over thirty five thousand dollars (\$35,000.00) shall be formally bid pursuant to General Municipal Law § 103.

**§ 42-8. Purchases and contracts requiring quotes or proposals. [Amended 10-2012]**

**A. Estimated purchase.**

- (1) All estimated purchases of less than twenty thousand dollars (\$20,000.00) but greater than five thousand dollars (\$5,000.00) require a quote from three vendors.
- (2) All estimated purchases of less than five thousand dollars (\$5,000.00) but greater than two thousand dollars (\$2,000.00) require an oral request for the goods and oral quotes from two vendors. Oral requests include but are not limited to telephone logs or other records recording at a minimum the date, item or service desired, price quoted, name of vendor, and name of vendor representative.
- (3) All estimated purchases of less than three thousand dollars (\$3,000.00), are left to the discretion of the purchaser.

**B. Estimated public works contracts.**

- (1) All estimated public works contracts of less than thirty five thousand dollars (\$35,000.00) but greater than twenty thousand dollars (\$20,000.00) require written proposals from three vendors.

- (2) All estimated public works contracts of less than twenty thousand dollars (\$20,000.00) but greater than five thousand dollars (\$5,000.00) require a written proposal from two (2) contractors.
  - (3) All estimated public works contracts of less than five thousand dollars (\$5,000.00) are left to the discretion of the purchaser.
- C. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/oral quotes are offered. All information gathered in complying with this procedure shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

#### **§ 42-9. Award of purchase or contract.**

The lowest responsible proposal or quote shall be awarded the purchase or public works contract, unless the purchaser prepares a written justification providing reasons why it is in the best interest of the City of Mechanicville and taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

#### **§ 42-10. Inability to obtain proposals.**

A good-faith effort shall be made to obtain the required number of proposals, and the purchaser shall document the attempt made. In no event shall the inability to obtain the proposals be a bar to the procurement.

#### **§ 42-11. Exceptions.**

Except when directed by the City Council, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. New York State contract;
- B. Acquisition of professional services;
- C. Emergencies;
- D. Sole source situations;
- E. Goods purchased from agencies for the blind or handicapped;
- F. Goods purchased from correctional facilities; and/or
- G. Goods purchased at auction.

#### **§ 42-12. Unintentional failure to comply.**

The unintentional failure to fully comply with the provisions of General Municipal Law § 104-b shall not be grounds to void action taken or give rise to a cause of action against the City of Mechanicville or any elected or appointed official.

#### **§ 42-13. Ethics in awarding contracts.**

The City of Mechanicville shall adhere to the following code of conduct, consistent with applicable state or local law:

A. **Conflict of interest.** No city official, employee or agent of the City of Mechanicville shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:

- (1) A city official, employee, or agent involved in making the award;
- (2) His/Her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepsister, half-brother, or half-sister);
- (3) His/Her partner; or
- (4) An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

B. **Gratuities, kickbacks and use of confidential information.** City employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontractors and shall not knowingly use confidential information for actual or anticipated personal gain.

#### **§ 42-14. Annual review.**

The City of Mechanicville shall annually review these policies and procedures.



# **Chapter 46**

## **RECORDS**

### **ARTICLE I Retention and Disposition**

#### **§ 46-1. Adoption of Schedule MU-1.**

### **ARTICLE II Public Access to Records**

#### **§ 46-2. Purpose.**

#### **§ 46-3. Designation of Records Access Officer.**

#### **§ 46-4. Location of records.**

#### **§ 46-5. Hours for public inspection.**

#### **§ 46-6. Requests for access to records.**

#### **§ 46-7. Fees.**

#### **§ 46-8. Grant or denial of access to records.**

#### **§ 46-9. Appeals.**

[Adopted as indicated in article histories.]

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### **ARTICLE I Retention and Disposition [Adopted 02-1995]**

#### **§ 46-1. Adoption of Schedule MU-1.**

A. Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

B. In accordance with Article 57-A:

- (1) Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- (2) Only those records will be disposed of that do not have sufficient administrative fiscal, legal, or historical value to merit retention beyond established time periods.

### **ARTICLE II Public Access to Records**

**[Adopted at time of adoption of 2000 Code]**

**§ 46-2. Purpose.**

The purpose of this article is to set forth the methods and procedures governing the availability, location, and nature of those records of the City of Mechanicville subject to the provisions of Article 6 of the Public Officers Law, known as the "Freedom of Information Law."

**§ 46-3. Designation of Records Access Officer.**

- A. The City Council is responsible for ensuring compliance with the regulations herein and designates the following person as Records Access Officer: the City Clerk, City of Mechanicville, New York.
- B. The Records Access Officer is responsible for ensuring appropriate agency response to public request for access to records pursuant to the provisions of the Freedom of Information Law. The designation of the Records Access Officer shall not be construed to prohibit officials who have, in the past, been authorized to make records or information available to the public from continuing to do so.

**§ 46-4. Location of records.**

Records shall be available for public inspection and copying at the city offices, City of Mechanicville, New York.

**§ 46-5. Hours for public inspection.**

Requests for public access to records shall be accepted and records shall be produced during the hours that the City Clerk's office is regularly open for business.

**§ 46-6. Requests for access to records. [Amended 10-2013]**

- A. A written request may be required, but oral requests may be accepted when records are readily available.
- B. A response shall be given in accord with the provisions of Article 6 of the Public Officers Law (FOIL).
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations, or other information that may help to describe the records sought.

- D. If the Records Access Officer does not provide or deny the documents pursuant to Article 6, he/she shall furnish a written acknowledgment of the receipt of the request and a statement of the approximate date when the request will be granted or denied.
- E. If the request is granted, the Records Access Officer shall provide a copy of such record to the person requesting the same upon payment of the fee prescribed and shall certify to the correctness of such copy if requested to do so. Alternatively, the Records Access Officer shall certify that he/she does not have possession of such record or that such record cannot be located after a diligent search.

#### **§ 46-7. Fees.**

The fee for copies of records shall be twenty-five cents (\$0.25) per page not exceeding nine (9) inches by fourteen (14) inches in size or the maximum fee permitted under the Freedom of Information Law as it may from time to time be amended. The fees for other types of copies or transcripts and for certificates shall be the reasonable amounts as the Records Access Officer shall establish. The fees charged by the Records Access Officer for records shall not exceed the actual cost of reproducing such record, except when a different fee is otherwise prescribed by law.

#### **§ 46-8. Grant or denial of access to records.**

The Records Access Officer shall, in accordance with this article, make available for public inspection and copying all records, except that the Records Access Officer may deny access to records or portions thereof which are not subject to disclosure in accordance with the provisions of Subdivision 2 of § 87 of the Public Officers Law or any other applicable state or federal statute, unless the Records Access Officer determines that to grant the application would adversely affect the public interest.

#### **§ 46-9. Appeals. [Amended 10-2013]**

- A. Denial of access to records shall be in writing.
- B. Appeals of denials of access to records shall be heard pursuant to the provisions of the Freedom of Information Law.

# **Chapter 50**

## **SALARIED EMPLOYEES**

### **ARTICLE I**

#### **Stenographer/Secretary to the Mayor**

**§ 50-1. Position created; appointment.**

**§ 50-3. Salary; hours.**

**§ 50-2. Duties.**

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### **ARTICLE I**

#### **Stenographer/Secretary to the Mayor**

**[Adopted 11-1968]**

**§ 50-1. Position created; appointment. [Amended 11-2017]**

The salaried position of City Stenographer/Secretary to the Mayor is hereby created in and for the City of Mechanicville. The Mayor shall appoint a fit person to occupy said position.

**§ 50-2. Duties.**

The City Stenographer/Secretary to the Mayor shall act as Secretary to the Mayor and, as requested, to other Boards.

**§ 50-3. Salary; hours.**

- A. The City Stenographer/Secretary to the Mayor will receive a salary as set by the Mayor subject to the majority vote of the Council.
- B. The hours of the City Stenographer/Secretary to the Mayor shall be between 9:00 a.m. and 4:00 p.m., Monday through Friday.

# **Chapter 53**

## **SALE OF PUBLIC LANDS**

### **ARTICLE I Land Acquired by Tax Sale**

#### **§ 53-1. Procedure.**

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### **ARTICLE I Land Acquired by Tax Sale [Adopted 11-1968]**

#### **§ 53-1. Procedure. [Amended 10-2013]**

Any interest in real property acquired by said City at, or as a consequence of, any tax sale conducted in said city shall be sold in accord with Title 4 of the In Rem Tax Foreclosure Provisions of the Real Property Tax Law by the Commissioner of Accounts, who shall, at the option of such purchaser, assign to said purchaser the tax certificate owned by the City or execute and deliver to such purchaser a tax deed with a notation therein that such real property was purchased by the City at such tax sale as assigned to such purchaser.

## **PART II**

# **GENERAL LEGISLATION**

# Chapter 62

## ADULT ENTERTAINMENT

§ 62-1. Legislative intent.

§ 62-2. Definitions.

§ 62-3. License required; fee.

§ 62-4. Application for license.

§ 62-5. Restrictions.

§ 62-6. Applicability of zoning requirements.

§ 62-7. Action on application.

§ 62-8. Revocation of license.

§ 62-9. Penalties for offenses.

[Adopted 04-1995]

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### § 62-1. Legislative intent.

In order to promote the health, safety, and general welfare of the residents of the City of Mechanicville and to protect the image of the city; this chapter is intended to regulate the location and manner of adult entertainment enterprises within the City of Mechanicville.

### § 62-2. Definitions.

As used in this chapter, the following uses shall constitute adult entertainment enterprises and have the meanings indicated:

**ADULT BOOKSTORE** – An adult entertainment enterprise having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides, and videotapes.

**ADULT ENTERTAINMENT CABARET** – An adult entertainment enterprise which presents topless dancers, strippers, male or female impersonators or exotic dancers, or other similar performers.

**ADULT ENTERTAINMENT ENTERPRISE** – Any business which is open to the general public but excludes patrons under the age of eighteen (18) years.

**ADULT THEATER** – An adult entertainment theater that customarily presents motion pictures, films, videotapes, or slide shows.

**PEEP SHOW** – An adult entertainment theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged.

### § 62-3. License required; fee.

No person shall engage in an adult entertainment enterprise unless he or she shall first have obtained a license to do so from the City Clerk no later than two (2) business days before the first date of business. The fee for an adult entertainment enterprise license shall be as set from time to time by resolution of the City Council (see fee schedule on file in the city offices). Every licensee must carry the license with him or her when conducting his or her adult entertainment enterprise business.

#### **§ 62-4. Application for license.**

An application for an adult entertainment enterprise license shall be accompanied by a nonrefundable application fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices) and shall provide the following information:

- A. Name, age, and address of applicant's place of residence.
- B. The firm or firms he/she represents, together with copies of documents establishing the firm's residence and address, form of organization, officers of the organization, ownership and qualifications to do business in the State of New York. If a corporation, the names and addresses of all officers and directors shall also be provided.
- C. A brief description of the nature of the business and the type of entertainment to be provided.
- D. The place where the applicant proposes to provide such entertainment and the time during which such entertainment is to be conducted.
- E. Prior criminal convictions of the applicant, other than minor traffic violations.
- F. Whether or not an adult entertainment enterprise license issued to the applicant under this chapter has ever been revoked.
- G. Such other information as may be required by the City Clerk to promote the purposes of this chapter.

#### **§ 62-5. Restrictions.**

- A. The uses as defined in § 62-2 are to be restricted as to location in the following manner. Any of the above uses shall not be located within a radius of:
  - (1) One thousand (1,000) feet of any area zoned for residential use;
  - (2) One-half (½) mile of another said use; and/or
  - (3) One thousand (1,000) feet of any school, church or other place of religious worship, park, playground, or playing field.



- B. Any enterprise providing adult entertainment cabaret shall provide a stage for the performance of such entertainment, which stage shall be used by all performers at all times during such performance.
- C. There shall be no audience participation at any time during the performance of any live adult entertainment at an adult entertainment cabaret.
- D. **Exposure by individuals.** It shall be unlawful for a female at an adult entertainment cabaret to expose that portion of her breast below the top of the areola or to appear before or come in contact with the patrons with the portion of her breast below the top of the areola not covered with a fully opaque covering or for any person, male or female, to show the lower part of the torso uncovered or so thinly covered or draped as to appear uncovered or to appear in any scene, sketch, act, or entertainment with breasts (in case of a female) or the lower part of the torso uncovered or so thinly draped as to appear uncovered.
- E. **Promoting exposure.** It shall be unlawful for any person conducting, maintaining, or operating an adult entertainment cabaret, bar and/or lounge, dance hall or discotheque enterprise, or any other place of public assembly within the City of Mechanicville to suffer or permit any waitress, barmaid, entertainer, or other person who comes in contact with or appears before or is likely to come in contact with or appear before patrons with breasts uncovered in such a manner that the portion of the breast below the top of the areola is not covered with a fully opaque covering or the lower part of the torso uncovered or so thinly covered or draped as to appear uncovered or to appear in any scene, sketch, act, or entertainment with breasts or the lower part of the torso uncovered or so thinly draped as to appear uncovered.
- F. **Reference to breasts in this section refers to females only.** Reference to the lower part of the torso refers to both male and female.

#### **§ 62-6. Applicability of zoning requirements.**

Chapter 200, [Zoning], of the Code of the City of Mechanicville shall apply to all activities for which licenses are sought or granted under this chapter. The city reserves the right to revoke any license which violates such chapter.

- A. Upon receipt of the application, the City Clerk must either approve the application and issue a license, or reject the application, or forward it to the City Council for action. The City Clerk must act upon each license application received within ten (10) days of receipt.
- B. The City Council, upon receipt of the license application from the City Clerk, may either approve the application or direct the City Clerk to issue a license or reject the application. Any application rejected by the City Clerk or forwarded by the City Clerk to the City Council shall be reviewed by the City Council at its next regular monthly meeting or at a special meeting thereof.

- C. When the application is forwarded by the City Clerk to the City Council for action, the City Council, at the time of its review of the application, may in its discretion schedule a public hearing to be held upon it. In this event, the City Council shall have an additional thirty (30) days within which to hold the public hearing and to either approve the application or direct the City Clerk to issue a license or reject the application. Notice of the public hearing shall be published at least once not less than fifteen (15) days before the date of hearing in a newspaper of general circulation within Saratoga County. The notice shall state the name of the applicant, the name of the proposed business, the type of the proposed business, the general location of the proposed business and the date, time and place of the hearing.
- D. In approving or rejecting an application, the City Council and/or the City Clerk shall consider the following criteria but shall in no way be limited thereby:
  - (1) The character of the neighborhood in which the applicant proposes to carry on the adult entertainment enterprise;
  - (2) The changes that the business would bring to the and whether these changes would be to the benefit or detriment of the public good, welfare, health, safety, or morals;
  - (3) The nuisance, refuse, litter, noise, and adverse health conditions that the business might or will create;
  - (4) The requirements of police protection and traffic control; and/or
  - (5) The criminal record of the person(s) applying for the license.
- E. A license issued pursuant to this chapter shall expire on December 31 in the year in which it is issued.

**§ 62-7. Action on application.**

- A. Upon receipt of the application, the City Clerk must either approve the application and issue a license, reject the application, or forward it to the City Council for action. The City Clerk must act upon each license application received within ten (10) days of receipt.
- B. The City Council, upon receipt of the license application from the City Clerk, may either approve the application or direct the City Clerk to issue a license or reject the application. Any application rejected by the City Clerk or forwarded by the City Clerk to the City Council shall be reviewed by the City Council at its next regular monthly meeting or at a special meeting thereof.
- C. When the application is forwarded by the City Clerk to the City Council for action, the City Council, at the time of its review of the application, may in its discretion schedule a public hearing to be held upon it. In this event, the City Council shall have an additional

thirty (30) days within which to hold the public hearing and to either approve the application and/or direct the City Clerk to issue a license or reject the application. Notice of the public hearing shall be published at least once not less than fifteen (15) days before the date of hearing in a newspaper of general circulation within Saratoga County. The notice shall state the name of the applicant, the name of the proposed business, the type of the proposed business, the general location of the proposed business, and the date, time, and place of the hearing.

D. In approving or rejecting an application, the City Council and/or the City Clerk shall consider the following criteria but shall in no way be limited thereby:

- (1) The character of the neighborhood in which the applicant proposes to carry on the adult entertainment enterprise.
- (2) The changes that the business would bring to the neighborhood and whether these changes would be to the benefit or detriment of the public good, welfare, health, safety, or morals.
- (3) The nuisance, refuse, litter, noise, and adverse health conditions that the business might or will create.
- (4) The requirements of police protection and traffic control.
- (5) The criminal record of the person(s) applying for the license.

E. A license issued pursuant to this chapter shall expire on December 31 in the year in which it is issued.

#### **§ 62-8. Revocation of license.**

The City Council, upon complaint of violation of this chapter or other ordinance or any law by the licensee and a hearing upon five (5) days prior notice to the licensee, may revoke any license for good cause, including without limitation:

- A. Fraud, misrepresentation or false statement contained in the application for the license;
- B. Fraud, misrepresentation or false statement made in the course of carrying on the adult entertainment enterprise;
- C. Conviction of any crime, misdemeanor, or violation of any local law; and/or
- D. Conducting the adult entertainment enterprise in any unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety, or general welfare of the public.

#### **§ 62-9. Penalties for offenses.**

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a term of imprisonment of up to one year and/or fined not less than two hundred dollars (\$200.00) nor more than one thousand (\$1,000.00) for each offense. Every day or part of a day that a violation of this chapter shall continue shall constitute a separate and distinct offense. Notwithstanding any other provision of this chapter, the license shall be automatically revoked upon conviction of a violation of any provision of this chapter.

# **Chapter 64**

## **ADVERTISING**

**§ 64-1. Use of poles and trees prohibited.**

**§ 64-2. Penalties for offenses.**

**[Adopted 11-1968]**

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**§ 64-1. Use of poles and trees prohibited.**

It shall be unlawful for any person, organization, agency, group, or association to place, install or affix upon any telephone pole, light pole, or tree within the limits of the City of Mechanicville any posters, placards or advertisements of any nature whatsoever at any time, except those posters required pursuant to the Election Law.

**§ 64-2. Penalties for offenses.**

Any person, organization, agency, group, or association convicted of violating this chapter shall be deemed guilty of an offense and shall be subject to a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

# Chapter 67

## ALCOHOLIC BEVERAGES

§ 67-1. Definitions.

§ 67-2. Possession and consumption on public lands.

§ 67-3. Exceptions.

§ 67-4. Penalties for offenses.

§ 67-5. Prohibition against consumption of alcoholic beverages by minors on private property.

[Adopted 02-1970. Amended in its entirety at time of adoption of 2000 Code.]

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### § 67-1. Definitions.

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

**INTENT TO CONSUME** – Drinking from the container, with alcohol on the breath of the possessor and/or any circumstances evidencing an intent to ultimately consume on any public lands.

**OPEN CONTAINER** – A container with the contents exposed to the atmosphere or the seal thereof broken.

### § 67-2. Possession and consumption on public lands.

No person shall have in his possession any open container containing liquor, beer, wine, or other alcoholic beverages with the intent of the possessor or another to consume said beverage, or shall actually consume liquor, beer, wine, or other alcoholic beverages, while such person is on any public highway, public street, public sidewalk, public parking area, or in any vehicle or public place, except those premises duly licensed for sale and consumption of alcoholic beverages on the premises.

### § 67-3. Exceptions.

- A. The prohibitions of § 67-2 shall not apply in the event of a fair, picnic or other community gathering for which special written permission has been granted by the city.
- B. The prohibitions of § 67-2 shall not apply to the transportation of an unsealed but not open container across public lands of the city from one point to another, with no intent to consume the contents of such open container while upon public lands.

#### **§ 67-4. Penalties for offenses.**

A violation of this chapter shall constitute an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or by imprisonment in the Saratoga County Jail for not exceeding fifteen (15) days, or by both such fine and imprisonment.

#### **§ 67-5. Prohibition against consumption of alcoholic beverages by minors on private property. [Adopted 06-2008]**

A. **Legislative intent.** It is the purpose of this section to protect the public interest, welfare, health, and safety within the City of Mechanicville by prohibiting the service to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private residences or social gatherings located in the City. The City Council finds that the occurrence of social gatherings at private residences where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health, and safety. The City Council finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that such service and/or consumption will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings.

B. **Definitions.** For the purpose of this section, the following terms shall be defined as follows:

**ALCOHOLIC BEVERAGES** – any, liquor, wine, beer, spirits, cider, or other liquid or solid, patented or not composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person; except that confectionary containing alcohol as provided in Subsection 12 of 200 Agriculture and Markets Law shall not be considered alcoholic beverage within the meaning of this section.

**CONTROL** – the authority an ability to regulate, direct or dominate.

**DRUG** – any substance listed in Section 3306 of the Public Health Law.

**MINOR** – any person under the age of twenty-one (21).

**OPEN HOUSE PARTY** – a social gathering or otherwise, at a residence or other private property with minors present.

**PERSON HAVING CONTROL** – an owner, resident, tenant, or manager, whether human or corporate, of the residential premises.

**RESIDENCE** – any home, apartment, condominium, co-operative unit, or other dwelling unit of any kind, including yards and open areas adjacent thereto.

C. **Prohibition:** No person having control of any residence shall allow an open house party to take place at said residence if such person knows or has reason to know that any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by a minor at said residence.

D. **Exceptions:** The provisions of this section shall not apply to:

- (1) The possession or consumption of an alcoholic beverage by persons lawfully permitted to do so pursuant to Section 65-c of the New York State Alcohol Beverage Control Law, or any other applicable law; or
- (2) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by other applicable law.

E. **Inconsistency with other laws:**

- (1) If any part or provision of this section is inconsistent with any federal or state statute, law, rule, or regulation, then such statute, law, rule or regulation shall prevail.
- (2) If any part or provision of this section or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

F. **Penalties for offenses.** Failure to comply with subsection C above shall constitute a misdemeanor, punishable by a fine which shall not exceed One Thousand Dollars (\$1,000.00) or imprisonment not exceeding twenty (20) days, or a combination of such fine and imprisonment as shall be fixed by the Court

G. **Effective Date.** This local law shall take effect immediately.



# **Chapter 70**

## **ANIMALS**

### **ARTICLE I**

#### **Dogs**

- |   |   |
|---|---|
| § 70-1. Purpose.                                    | § 70-6. Potentially rabid dogs.           |
| § 70-2. Definitions.                                | § 70-7. Complaints; appearance tickets.   |
| § 70-3. Running at large; noise; disposal of feces. | § 70-8. Interference with City personnel. |
| § 70-4. Seizure and impounding.                     | § 70-9. Penalties for offenses.           |
| § 70-5. Dangerous dogs.                             | § 70-10. Enforcement.                     |

### **ARTICLE II**

#### **Licensing and Identification of dogs**

- |  |                                  |
|--|----------------------------------|
| § 70-11. Purpose.  | § 70-15. License fees.           |
| § 70-12. Application.                                    | § 70-16. Identification of dogs. |
| § 70-13. Definitions.                                    | § 70-17. Change of ownership.    |
| § 70-14. Licensing of dogs, rabies vaccination required. | § 70-18. Seizure of dogs; fees.  |
| § 70-15. License fees.                                   | § 70-19. Violations.             |

### **ARTICLE III**

#### **Farm Animals**

- |                     |                                    |
|---------------------|------------------------------------|
| § 70-20. Purpose.   | § 70-23. Savings clause.           |
| § 70-21. Violation. | § 70-24. Ordinance to take effect. |
| § 70-22. Penalties. |                                    |

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### **ARTICLE I**

#### **Dogs**

**[Adopted at time of adoption of 2000 Code]**

### **§ 70-1. Purpose.**

The purpose of this article is to preserve the public peace and good order in the City of Mechanicville and to contribute to the public welfare and the preservation and protection of the property and the person of the inhabitants of said city by deciding and enforcing certain regulations and restrictions on the activities of dogs within the city.

### **§ 70-2. Definition.**

As used in this article, unless the context otherwise indicates, the following terms shall have the meanings indicated:

**ANIMAL CONTROL OFFICER** – A person authorized by the City Council to enforce the provisions of this article. The Animal Control Officer shall have all the powers of a constable or peace officer in the execution of the provisions of this article, including the service of a summons and the service of an appearance ticket pursuant to § 124 of the Agriculture and Markets Law of the State of New York, and shall be under the supervision of the Department of Public Safety.

**AT LARGE** – Elsewhere than on the premises of the owner or on the premises of another person without the knowledge, consent and approval of said other person.

**DANGEROUS DOG** – Any dog which chases, jumps at or onto, snaps at or bites or has bitten any person, or which chases vehicles of any kind in the streets or public places or which is an unconfined, un-spayed female dog in time of heat or which runs with a pack of dogs.

**DOG** – Both male and female dogs, both licensed and unlicensed.

**OWNER** – Any person, firm, association or corporation owning, harboring, keeping, or having the custody or control of any dog.

### **§ 70-3. Running at large; noise; disposal of feces.**

- A. **Leash required.** No person owning, harboring, or having the care, custody, or charge of any dog, whether male or female, whether licensed or not, shall allow or permit such dog at any time to run at large within the City of Mechanicville unless such dog shall be effectively restrained by a chain or leash not exceeding eight feet in length and by a competent person.
- B. **Noisy dogs.** No owner of a dog or of a duly approved kennel within the City of Mechanicville shall suffer or permit any dog or dogs to create any unreasonably loud or disturbing noise of such an intensity and duration as to be detrimental to the life, health or welfare of any individual, and the violation hereof is prohibited and deemed to be a public nuisance, and such dog or dogs shall be so housed and confined in a place so constructed as to prevent such disturbing and unnecessary noise as may result from the habitual or continual barking of such dog or dogs. The provisions of this subsection shall

be liberally construed to prevent excessive, unreasonable, disturbing and unnecessary noise, with due consideration being given to the circumstances, time of day and particular location of each violation and the demands of the public health, safety and welfare.

C. **Disposal of feces.** No person owning, harboring, keeping, or in charge of any dog shall cause, suffer or allow such dog to soil, defile, defecate on, or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park, or any place where people congregate or walk or upon any private property without the permission of the owner of said property. The restriction in this subsection shall not apply to that portion of the street lying between the curb lines, which shall be used to curb such dog under the following conditions:

- (1) The person who allows the dog to defecate shall immediately remove all feces deposited by such dog.
- (2) The feces removed from the aforementioned designated area shall be disposed of by the person owning, harboring, keeping, or in charge of any dog curbed by flushing the same down a sanitary sewer system or by use of a chemical container causing disintegration. In the event that a chemical container is used, ultimate disposal must be made in accordance with Department of Environmental Conservation regulations concerning solid waste disposal.

D. **Playgrounds.** No dogs shall be allowed in city playgrounds.

#### **§ 70-4. Seizure and impounding.**

Any dog running at large within the City of Mechanicville contrary to the provisions of § 70-3 (a) of this article or which is a dangerous dog as defined in § 70-2 or which is a noisy dog as defined in § 70-3 (b) shall be subject to seizure and impounding by the Animal Control Officer, any police officer or by any other person or agency designated by the city or authorized by law to seize and impound such dog, and any such Animal Control Officer, police officer, other person, or agency so seizing such dog hereunder shall be empowered to exercise such degree of force as shall be necessary to effect such seizure. Dogs seized shall be remanded to the Saratoga County Animal Shelter.

#### **§ 70-5. Dangerous dogs.**

Any dog which shall attack any person or domestic animal within the meaning of Article 7 of the Agriculture and Markets Law of the State of New York shall be dealt with in accordance with Article 7 of said Agriculture and Markets Law.

#### **§ 70-6. Potentially rabid dogs.**

The Animal Control Officer or any peace officer is hereby authorized to seize or direct the confinement of any dog which is reported to have attacked or injured a human being. Any such

dog shall be confined by the owner for such length of time as may be necessary for the purpose of determining whether such dog is affected by rabies, and, if so affected, it may be disposed of in accordance with the laws of New York State.

**§ 70-7. Complaints; appearance tickets.**

- A. Any person who observes or has knowledge of a dog violating any provision of this article may file a signed complaint under oath with the Animal Control Officer, specifying the objectionable conduct of the dog, the date thereof, the description of the dog and the name and address, if known, of the owner or other person harboring said dog.
- B. Upon receipt by the Animal Control Officer of any such complaint or in the event that any dog is found by the Animal Control Officer to be in violation of any provision of this article, the Animal Control Officer shall, if possible, seize and take into custody said dog and, in any event, issue or deliver to the owner of said dog an appearance ticket pursuant to §114, Subdivision 4, of the Agriculture and Markets Law of the State of New York, detailing the violations and instructing the owner to appear before the City Court of the City of Mechanicville or to answer such appearance ticket by registered or certified mail, return receipt requested, within five days of the date of such violation. If said appearance ticket is disregarded by such person, the Animal Control Officer or complainant may file an information with said Court, which Court shall then issue a warrant for the arrest of such person.

**§ 70-8. Interference with City personnel.**

No person shall hinder, resist, or oppose the Animal Control Officer or any police officer, agent or employee, or representative of the city in the performance of his or her duties under this article.

**§ 70-9. Penalties for offenses.**

Unless otherwise provided by Article 7 of the Agriculture and Markets Law, any person who violates or fails or refuses to comply with this article shall be liable to pay a fine not exceeding one thousand dollars (\$1000.00) or to be sentenced to imprisonment for a term of not more than fifteen (15) days, or both.

**§ 70-10. Enforcement.**

The provisions of this article shall be enforced by the Animal Control Officer.

**ARTICLE II**  
**Licensing and Identification of Dogs**  
**[Adopted 10-2010]**

**§ 70-11. Purpose.**

The purpose of this Ordinance is to provide for the licensing and identification of dogs.

**§ 70-12. Application.**

- A. This Article shall apply to the entire City.
- B. This Article shall not apply to any dog confined to the premises of any public or private hospital.
- C. This Article shall not apply to any dog confined to the premises of any person or entity engaged in the business of breeding or raising dogs for profit.
- D. Any dog harbored within the City which is owned by a resident of the City and has been licensed by another municipality shall be exempt from licensing for a period of thirty (30) days, computed from the date the dog has been harbored within the City.

**§ 70-13. Definitions.**

- A. **Identification tag** – the tag issued by the City setting forth: The City of Mechanicville, State of New York, contact information including telephone number.
- B. **Owner** – the person in whose name any dog was last registered, except that if any license is issued on application to a person less than eighteen (18) years of age, the owner of record shall be deemed the parent or guardian of such person. If it cannot be determined in whose name the dog was last registered, the owner of record shall be the person whom harbors and controls such dog, except if such person is less than eighteen (18) years of age, the owner shall be deemed the parents or guardian.

**§ 70-14. Licensing of dogs, rabies vaccination required.**

- A. The owner of any dog of four (4) months or older, shall immediately make application to the City Clerk for a dog License.
- B. Except as otherwise provided, the license shall be issued for a one (1)-year period, and expire on the last day of the last month of the period for which issued.
- C. Proof of rabies vaccination shall be required prior to the issuance of any license.
- D. The owner of each dog required to be licensed shall obtain, complete and return to the City Clerk a dog license application, together with the license application fee, any applicable license surcharges and such additional fee as established by the City.

**§ 70-15. License fees.**

- A. The City Council, by resolution, shall set the applicable fees and charges for the implementation of this Article and the licensing fees. The license fee for a neutered dog shall be at least five dollars (\$5.00) less than the fee for an un-neutered dog.
- B. The license issued shall not be transferable.
- C. Excepted from payment of the license fees are applications submitted for a dog license for any guide, hearing, service, search, detection, police, and therapy dogs.
- D. In addition to the license fee, each applicant shall pay a surcharge as determined by New York State Animal Population Control Fund, which is currently established at one dollar (\$1.00) for altered dogs and three dollars (\$3.00) for unaltered dogs.
- E. In addition to the license fee imposed by this ordinance, the City may impose at a future date, a surcharge as determined by the City Council, such fees to be used to defray the cost of administration and cost of providing replacement identification tags.

**§ 70-16. Identification of dogs.**

Each licensed dog shall be assigned at time of licensing a municipal identification number. The identification tag shall be affixed to a collar on the dog at all times.

**§ 70-17. Change of ownership.**

In the event of a change of ownership of any licensed dog, the owner of record shall within ten (10) days file with the City Clerk, a written change of ownership. The owner of record shall be liable for any violation of this article until such filing is made or until the dog is licensed in the new owners name.

**§ 70-18. Seizure of dogs; fees.**

- A. The animal Control Officer shall have the power to issue appearance tickets pursuant to the Criminal Procedure Law and to serve a summons and execute any other order or process in the execution of the provisions of this article. The Animal Control Officer, Peace Officer, or Police Officer may seize:
  - (1) Any dog which is not identified and which is not on the owner's premises;
  - (2) Any dog which is not licensed, whether on or off the owner's premises; and/or

(3) Any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog owners or custodian if there is probable cause to believe that the dog is:

(a) A dangerous dog and there is probable cause to believe the dog is a threat to public safety.

B. Any and all impoundment fees and fees associated with the seizure of any dog shall be the responsibility of the owner.

#### **§ 70-19. Violations.**

A. It shall be a violation punishable as provided in Section B of this section for:

- (1) Any owner to fail to license any dog;
- (2) Any owner to fail to have any dog identified as required by this article;
- (3) Any person to knowingly affix to any dog any false or improper identification tag;
- (4) Any person to furnish any false or misleading information on any form required to be filed by the City; and/or
- (5) Any owner to fail to notify the City of a change of ownership.
- (6) An initial violation of this section shall be punishable by a fine not exceeding Two hundred fifty dollars (\$250.00).
- (7) A subsequent violation of this section within a period of two (2) years shall be punishable by a fine not exceeding five hundred dollars (\$500.00).

### **ARTICLE III Farm Animals [Adopted 12-2010]**

#### **§ 70-20. Purpose.**

The purpose of this Article is to protect the residents of the City of Mechanicville from nuisance by animals usually known as farm animals or fowl. The keeping or harboring of farm animals within the City of Mechanicville is incompatible with urban life.

#### **§ 70-21. Violation.**

No person shall keep, harbor, or shelter any farm animal or fowl within the City of Mechanicville. For purposes of this Article, farm animal or fowl shall include cows, cattle, horses, ponies, donkeys, mules, pigs, goats, sheep, chickens, ducks, geese, or other animals, or fowl usually known as farm animals or fowl, but not solely limited to the aforementioned and not including common household pets.

**§ 70-22. Penalties.**

Any person violating any provision of the Article shall, upon conviction, be punishable by a maximum fine of one thousand dollars (\$1000.00) or by imprisonment for not more than fifteen (15) days or both.

**§ 70-23. Savings clause.**

In the event that this ordinance or any provisions of it shall be deemed by a court to be in conflict with a provision of the New York State Constitution or with a general law, or if adherence to or enforcement of any section of this ordinance shall be restrained by a court, the remaining provisions of this local law shall not be affected.

**§ 70-24. Ordinance to take effect.**

This ordinance shall take effect thirty (30) days after its adoption into law.



# **Chapter 77**

## **BINGO**

**§ 77-1. Conduct authorized.**

**§ 77-2. Sunday games.**

**[Adopted 11-1968. Amended in its entirety at time of adoption of 2000 Code.]**

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**§ 77-1. Conduct authorized.**

It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the City of Mechanicville, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.

**§ 77-2. Sunday games.**

Any game of bingo conducted within the City pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."

# **Chapter 80**

## **BUILDING CONSTRUCTION AND FIRE PREVENTION**

### **ARTICLE I Adoption of State Code**

### **ARTICLE II Building Permits**

- |                                     |                                 |
|-------------------------------------|---------------------------------|
| § 80-1. Applicability of standards. | § 80-4. Compliance required.    |
| § 80-2. Issuance; when required.    | § 80-5. Enforcement.            |
| § 80-3. Action on denial.           | § 80-6. Penalties for offenses. |

### **ARTICLE III Property Maintenance**

- |  |                                  |
|--|----------------------------------|
| § 80-7. Cutting of brush, grass, and<br>weeds; drainage. | § 80-10. Building demolition.    |
| § 80-8. Notice of violation.                             | § 80-11. Stockade-type fencing.  |
| § 80-9. Costs to become lien.                            | § 80-12. Penalties for offenses. |

### **ARTICLE IV Fire Inspector**

- |                                 |   |
|---------------------------------|---|
| § 80-13. Position created.      | § 80-16. Right of entry.                        |
| § 80-14. Rules and regulations. | § 80-17. Considerations.                        |
| § 80-15. Powers and duties.     | § 80-18. Dangerous conditions and<br>materials. |

### **ARTICLE V Landlords [Adopted 10-2009]**

- |                                     |                               |
|-------------------------------------|-------------------------------|
| § 80-19. Registration of landlords. | § 80-20. Failure to register. |
|-------------------------------------|-------------------------------|
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## **ARTICLE I**

### **Adoption of State Code**

[A resolution accepting the applicability of the State Building Construction Code was adopted by the City Council of the City of Mechanicville on July 11, 1962. The State Building Construction Code [(now the Uniform Fire Prevention and Building Code) adopted for the City of Mechanicville is available in the office of the Commissioner of Accounts.]

## **ARTICLE II**

### **Building Permits**

**[Adopted 08-1990]**

#### **§ 80-1. Applicability of standards.**

The City of Mechanicville possesses building codes within the city applying to all districts for all construction to any building, whether business, private organization, or private home.

#### **§ 80-2. Issuance; when required.**

Building permits are issued through the Building Department in City Hall, with the following applying to all construction or demolition. Building permits must be obtained for:

- A. All types of construction, alterations and additions where the use is being changed, but not for painting.
- B. All swimming pools, whether in the ground or above the ground.
- C. All fencing, sidewalks, garages, and sheds.
- D. Any demolition of any building within the city.

#### **§ 80-3. Action on denial. [Amended 08-2014]**

All construction or use which requires site plan approval, a variance, a special use permit or other action requiring any approvals not within the jurisdiction of the Building Department and which has been denied by the Building Department must be directed to the ZBA/Planning Commission for review and approval.

#### **§ 80-4. Compliance required.**

All applicants or property owners must comply with all building codes and conditions within the city according to the Building Department enforcement officers.

**§ 80-5. Enforcement.**

Authorization is given to the Building Department enforcement officers to cite all violations.

**§ 80-6. Penalties for offenses. [Amended 10-2013]**

Any person, firm, or corporation upon whom a notice has been served who fails, neglects, or refuses to comply with an order or who shall violate any of the provisions of this chapter or who shall resist or obstruct the Code Enforcement Officer/Building Inspector shall, upon conviction therefore, be subject to a fine of no more than two hundred fifty dollars (\$250.00) or to imprisonment for no more than fifteen (15) days, or to both such fine and imprisonment, and each day on which such violation continues shall constitute a separate offense.

**ARTICLE III**  
**Property Maintenance**  
**[Adopted at time of adoption of 2000 Code]**

**§ 80-7. Cutting of brush, grass, and weeds; drainage.**

- A. Each owner or occupant of any parcel of land in the city which shall be located within five hundred (500) feet from any dwelling house or which shall abut on any public thoroughfare of the city shall cause to be cut and removed all rank growth of weeds, bushes, etc., except shade trees and cultivated shrubs and plants, at least once each month during the spring, summer, and autumn months.
- B. Each owner or occupant of any premises in the city shall cut or cause to be cut all rank growth of grass, weeds and bushes, etc., except shade trees and cultivated shrubs and plants, which shall grow between the sidewalk and the curblin for a distance of six (6) feet back from the sidewalk at least twice a month during the spring, summer and autumn months.
- C. Each owner or occupant of any premises within the City shall drain any stagnant pools of water located on said premises and shall fill in any depression in which water accumulates and which is not properly drained.
- D. The area along public rights-of-way adjacent to or on the property, including but not limited to the area between the front property line or sidewalk and the curb or street pavement, is to be maintained in a reasonably clean and sanitary condition, free of garbage and/or solid waste, with any grass, weeds and brush in said area cut or trimmed. The planting of annuals and perennials in these areas shall not be permitted without the approval of the Commissioner of Public Works. Premises situated at street intersections,

or on curved streets shall be kept in such a condition as to provide a clear and unobstructed view of the intersection.

**§ 80-8. Notice of violation.**

The Code Enforcement Officer/Building Inspector or the County Health Department is hereby authorized and empowered to notify any owner or occupant of any premises within the city which shall be in any unsightly and unsanitary condition and which shall not conform to the provisions of this article, which notice shall direct the owner or occupant to remedy the conditions and abide by the terms of this article, and, in the event that the conditions shall not be remedied within twenty-four (24) hours thereafter, the person so disregarding such notice shall be deemed guilty of an offense and, upon conviction thereof, shall be subject to a penalty as set forth in § 80-12.

**§ 80-9. Costs to become lien.**

If city employees and/or personnel are forced to take remedial action under this article because of the property owner's failure to do so, the cost incurred by the City thereby shall become a lien against the property and be added to and appear on the next city tax bill for said property.

**§ 80-10. Building demolition.**

- A. No existing building or any part thereof shall be demolished until a permit therefor has been obtained from the Code Enforcement Officer/Building Inspector.
- B. Where application is made for a permit for the demolition of a building or part thereof which building or part thereof abuts upon a public street, the permit shall not be issued unless the applicant furnishes the Code Enforcement Officer/Building Inspector with certain evidence that the applicant has obtained a policy of liability insurance issued by an insurance company authorized to do business in the state covering the work to be performed under the permit and insuring against personal injury and property damage occasioned by the acts or omissions of the person to whom such permit is issued or his agents or employees in limits of not less than one hundred thousand dollars (\$100,000.00) to cover the injury to or death of any one person and not less than three hundred thousand dollars (\$300,000.00) to cover the injury to or death of more than one (1) person in any one (1) occurrence, together with property damage coverage of not less than twenty-five thousand dollars (\$25,000.00), which said insurance coverage shall be maintained in full force and effect until the work covered by the permit has been fully completed to the satisfaction of the Code Enforcement Officer/Building Inspector.
- C. A permit issued pursuant to this section may be revoked without notice if, in the opinion of the Code Enforcement Officer/Building Inspector, the demolition of the building is being conducted in a dangerous or unsafe manner.

### **§ 80-11. Stockade-type fencing.**

Construction/erection of stockade-type fencing requires that the finished wood side of the fence face out or away from the property, where applicable and appropriate, and the fence side with posts and cross-support members face in or towards the property.

### **§80-12. Penalties for offenses. [Amended 10-2013]**

Any person, firm, or corporation upon whom a notice has been served who fails, neglects, or refuses to comply with an order or who shall violate any of the provisions of this chapter or who shall resist or obstruct the Code Enforcement Officer/Building Inspector shall, upon conviction thereof, be subject to a fine of no more than two hundred fifty dollars (\$250.00) or to imprisonment for no more than fifteen (15) days, or to both such fine and imprisonment, and each day on which such violation continues shall constitute a separate offense.

## **ARTICLE IV Fire Inspector [Adopted at time of adoption of 2000 Code]**

### **§ 80-13. Position created.**

- A. The position of Fire Inspector is hereby created and is hereby charged with the administration and enforcement of the State Uniform Fire Prevention and Building Code within the City of Mechanicville.
- B. The Fire Inspector shall be appointed by the Mayor with the approval of the majority vote of the City Council.

### **§ 80-14. Rules and regulations.**

- A. The Fire Inspector may adopt rules and regulations for the administration and enforcement of the State Uniform Fire Prevention and Building Code. Such rules and regulations shall not conflict with the Uniform Code, this article or any other provision of law.
- B. The Fire Inspector shall publish all rules and regulations at least ten (10) days prior to the effective date thereof in a newspaper of general circulation within the City of Mechanicville.

### **§ 80-15. Powers and duties.**

It shall be the duty of the Fire Inspector to enforce all laws relating to the prevention of fires, the installation and maintenance of automatic and other private fire alarm systems and fire-extinguishing equipment and the means and adequacy of exits in case of fire from factories,

schools, hotels, lodging houses, hospitals, churches, halls, theaters, and all other places in which numbers of persons work, live, or congregate from time to time for any purpose.

**§ 80-16. Right of entry.**

The Fire Inspector or the Code Enforcement Officer/Building Inspector at all reasonable hours may enter any buildings or premises for the purpose of making any inspection or investigation necessary under the provisions of this article or under the Multiple Residence Law of the State of New York or under any applicable law, ordinance, or regulation.

**§ 80-17. Considerations.**

In exercising the discretion entrusted to them by this article, the Fire Inspector and Code Enforcement Officer/Building Inspector shall give due regard, among other things, to the following:

- A. The nature or construction of the building or occupancy;
- B. The nature and extent of the uses, accessory uses or operations conducted therein;
- C. The character of the neighborhood and adjoining occupancies;
- D. The number of employees, occupants, transients, or others frequenting the premises;
- E. The character and amount of materials, goods, and equipment kept, stored or maintained therein; and
- F. Any unusual or extraordinary features of the building or the operations conducted therein which affect the fire hazard.

**§ 80-18. Dangerous conditions and materials.**

Dangerous or hazardous conditions or materials shall include the following:

- A. Dangerous or unlawful amounts of combustible, explosive, or otherwise hazardous materials;
- B. Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials;
- C. Dangerous accumulations of rubbish, wastepaper, boxes, shavings, or other highly flammable materials;
- D. Accumulations of dust or waste material in air-conditioning or ventilating systems, or of grease in kitchen, or other exhaust ducts;

- E. Obstructions to or on fire escapes, stairs, passageways, doors, or windows, which obstructions are liable to interfere with the operations of the Fire Department or egress of occupants in case of fire; and
- F. Any building or other structure which, for want of repairs or lack of adequate exit facilities, automatic or other fire alarm apparatus, or fire-extinguishing equipment or by reason of age or dilapidated condition or from any other cause, creates a hazardous condition.

**ARTICLE V**  
**Landlords**  
**[Adopted 10-2009]**

**§ 80-19. Registration of landlords.**

- A. There shall be a Residential Rental Dwelling Unit Registry. It shall be the responsibility of all residential landlords within the City to register as such with the Code Enforcement Department. The Code Enforcement Officer shall promulgate regulations and procedures to effectuate said Registry and make same available to the public.
- B. Within the Rental Dwelling unit Registry, shall be a provision for Registration of Agents. All landlords who own residential rental dwelling units within the City of Mechanicville, but live outside of Saratoga County or an adjoining county, shall appoint an agent for service and register the agent with the Department of Code Enforcement. The agent must live or have a place of business within Saratoga County or an adjoining county. Service of an appearance ticket as defined in the NYS Criminal Procedure Law upon the agent for service shall constitute good and sufficient service as if the landlord had been served himself within Saratoga County or an adjoining county.

**§ 80-20. Failure to register.**

Failure to register may result in a fine of up to one thousand dollars (\$1000.00) or imprisonment for a period of up to 15 days.



# Chapter 83

## BUILDINGS, UNSAFE

§ 83-1. Definitions.

§ 83-2. Order to repair or remove;  
notice.

§ 83-3. Unlawful use of premises.

§ 83-4. Appeals.

§ 83-5. Removal or repair by City;  
collection of costs.

§ 83-6. Emergencies.

§ 83-7. Penalties for offenses.

[Adopted 11-1968]

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### § 83-1. Definitions.

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

**BUILDING** – Any structure having a roof with a sheltered housing or enclosure of persons, animals, chattels, or property of any kind.

**DANGEROUS OR UNSAFE BUILDING OR STRUCTURE** – A building or structure which is structurally unsound, unsanitary or not provided with adequate ingress or egress or which constitutes a fire hazard or which has become unsafe by reason of damage by fire, the elements, age or general deterioration, or which, in relation to an existing use, constitutes a hazard to public health, safety, or welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or which is otherwise dangerous to human life.

**PERSON** – Includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies, and all other entities capable of being sued.

**STRUCTURE** – Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground.

### § 83-2. Order to repair or remove; notice.

- A. Whenever in the opinion of the Code Enforcement Officer/Building Inspector and/or the Fire Chief any building or structure or a part thereof in the City of Mechanicville is, for want of repair or by reason of age or dilapidated condition or for any other cause, either structurally unsafe or especially liable to fire and thereby endangers life or property, he shall have authority to order any owner, agent or person in possession, charge or control of such building or structure or part thereof to put the same in a safe condition or take down the same or any part thereof within such reasonable time as may be determined by the order.

- B. Notice that such order has been served upon the owner shall be given by the Code Enforcement Officer/Building Inspector and/or the Fire Chief to all tenants occupying the building. Whenever the Code Enforcement Officer/Building Inspector and/or the Fire Chief shall be unable to find the owner of such building, structure or part thereof or any agent or person in possession, charge or control thereof upon whom such notice may be served, he/she shall address, stamp, and mail such notice to such person at his last known address and, in addition thereto, shall place or cause to be placed the notice herein provided for upon such building or structure at or near its principal entrance and shall also post or cause to be posted in a conspicuous place at each entrance to such building or structure in large letters a notice as follows:

**NOTICE THIS BUILDING IS IN A DANGEROUS CONDITION AND HAS BEEN CONDEMNED BY THE CODE ENFORCEMENT OFFICER/BUILDING INSPECTOR AND/OR THE FIRE CHIEF**

- C. Such notice shall remain posted until the required changes have been made. It shall be unlawful for any person to remove, deface, or destroy such notice without permission of the Code Enforcement Officer/Building Inspector and/or the Fire Chief.

**§ 83-3. Unlawful use of premises.**

- A. If the owner, agent, or person in possession, charge, or control of such building or structure or part thereof, when so notified, shall fail, neglect or refuse to place such building, structure or part thereof in a safe condition and to adopt such precautionary measures as shall have been ordered by the Code Enforcement Officer/Building Inspector and/or the Fire Chief within the time specified in such notice, in such case, at the expiration of such time, it shall be unlawful for any person to occupy or to use such building or structure or part thereof until it is placed in a safe condition in compliance with the order of the Code Enforcement Officer/Building Inspector and/or the Fire Chief.
- B. In any case when a building or structure or part thereof is in a dangerous or unsafe condition and has not been placed in a safe condition within the time specified and as required in the notice of the Code Enforcement Officer/Building Inspector and/or Fire Chief, such building or structure or part thereof shall be forthwith vacated, and it shall be unlawful for any person to enter the same except for the purpose of making repairs or changes required by the Code Enforcement Officer/Building Inspector and/or the Fire Chief.

**§ 83-4. Appeals.**

The owner of any building or the agent, or person in possession, charge, or control who is ordered to put the same in a safe condition or take down the same may, within twenty-four hours (24) hours after the service of such order, appeal to the City Council from such order, setting forth his objections thereto, and the Council shall review such order and file its decision thereon, and its determination shall be final.

### **§ 83-5. Removal or repair by City; collection of costs.**

If, at the expiration of the time specified in such notice or order as finally determined by the City Council, such order shall not have been complied with, the Council is hereby authorized to proceed forthwith to make or cause such repairs to be made as are necessary to put such building or structure in a safe condition or to tear down or destroy the same or such part thereof as may be provided in the final order.

- A. The expense of making such repairs or taking down such building or structure or part thereof shall be charged to the owner of such building. The cost and expense of such labor performed and materials used in repairing such building or structure or part thereof or demolishing the same, under and by the direction of the Council, shall, when properly certified by the Council, be audited and paid by the city in the same manner as other claims against the city are audited and paid. A bill for the expense incurred thereby shall be presented to the owner personally or by leaving the same at his residence or, if he is a nonresident, by mailing the same to him at his last known place of residence or, if the name of such owner or his place of residence cannot be ascertained after due diligence, by posting the same in a conspicuous place on the premises.
- B. If such owner shall fail to pay the same within ten (10) days thereafter, the Council shall file, immediately preceding the time for making the annual assessment roll, a certificate of the actual cost of the work and materials furnished with a statement as to the property upon which the work was performed and for which the materials were furnished, the repairs made and the buildings or other obstructions removed, as the case may be, with the Assessor of the city, who shall, in the preparation of the last assessment roll of general city taxes, assess such amount upon such property, and the same shall be levied, collected and enforced in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as the general city tax and as a part thereof.
- C. The imposition and collection of any fine or penalty prescribed herein shall not bar the right of the city to collect the cost of the removal or repair of any unsafe building or structure or part thereof as herein prescribed.

### **§ 83-6. Emergencies.**

In cases of great emergency, where the delay of proceeding as hereinbefore provided would result in probable loss of life or property, the Mayor shall have the power to direct the Code Enforcement Officer/Building Inspector and/or the Fire Chief to proceed at once to take such action as is needed to guard the safety of persons and property. In such cases the Code Enforcement Officer/Building Inspector and/or the Fire Chief shall have full power and authority to provide all necessary means therefor, and all expenses therefor shall be paid and collected as provided in §83-5.

**§ 83-7. Penalties for offenses.**

Any person upon whom a notice as provided in this chapter has been served who fails, neglects or refuses to place such building or structure or part thereof in a safe condition as designated in such notice or who shall violate any of the provisions of this chapter or orders given pursuant thereto or who shall resist or obstruct the Code Enforcement Officer/Building Inspector and/or the Fire Chief or his/her employees in carrying out the provisions of this chapter shall, upon conviction therefore, be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250.00) or to imprisonment for not less than ten (10) days nor more than fifteen (15) days, or to both such fine and imprisonment, and each day on which such violation continues shall constitute a separate offense.

# Chapter 84

## MAINTENANCE OF VACANT BUILDINGS

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|--|--|
| § 84-1. Title.                                 | § 84-12. Plumbing.                               |
| § 84-2. Legislative Intent.                    | § 84-13. Elevators, dumbwaiters, and escalators. |
| § 84-3. Scope.                                 | § 84-14. Exterior property areas.                |
| § 84-4. Entry.                                 | § 84-15. Legislative findings and purpose.       |
| § 84-5. Exterior protection.                   | § 84-16. Definitions.                            |
| § 84-6. Railings and parapet walls.            | § 84-17. Vacant building.                        |
| § 84-7. Interior protection.                   | § 84-18. Exemptions.                             |
| § 84-8. Garbage and refuse; infestation; junk. | § 84-19. Inspection.                             |
| § 84-9. Chimneys.                              | § 84-20. Quarterly reports.                      |
| § 84-10. Fuel gas.                             | § 84-21. Penalties for offenses.                 |
| § 84-11. Fuel oil.                             | § 84-22. Ordinance shall take effect.            |

[Adopted 10-2009]

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### § 84-1. Title.

This article shall be known as “Maintenance of Vacant Buildings” and is supplementary to applicable provisions of the New York State Fire Prevention and Building Code.

### § 84-2. Legislative Intent.

This article provides standards governing the facilities and the condition and maintenance of vacant premises to safeguard the safety, health, and welfare of the community.

### § 84-3. Scope.

This article shall be applicable to the following:

- A. Lots, plots, or parcels of land on which buildings designed for or developed for residential use or occupancy, mixed- occupancy buildings, non-residential occupancy, or accessory structures are located; and
- B. Buildings designed for or developed for residential use or occupancy, including one and two family dwellings and multiple dwellings, mixed occupancy buildings, non-residential occupancy, and accessory structures.

**§ 84-4. Entry.**

Provision for safe and continuous entry shall be provided to the interior of a building or structure from the exterior, at a street or to a yard, court or passageway leading to a public open area for purposes of required maintenance or inspection.

**§ 84-5. Exterior protection.**

- A. Exterior walls, including foundations, shall be maintained so that ground and surface water does not penetrate into basement, cellars, or other interior wall areas.
- B. Exterior doors, windows, skylights, and similar openings shall be maintained weather tight.
- C. Exterior stairs, porches, entrance platforms, fire escapes, and the railings thereon shall be maintained in a safe and sound condition.
- D. Roofs shall be maintained in a water tight condition.
- E. Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with protective coating of paint or other suitable preservative.
- F. The covering of doors and windows may consist of:
  - (1) Venetian or similar blind;
  - (2) Drapes, curtains, or shades;
  - (3) Decorative patterned paper, neatly installed with all seams straight and uniformly taped;
  - (4) Boards or similar materials finished and maintained in a manner recommended by the Building Department so as to blend in with the finish of the building; and/or
  - (5) Coverings approved by the Building Inspector or Code Enforcement Officer.
- G. Cracked or broken glass windows shall be replaced.
- H. In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:
  - (1) Any and all window display areas shall be kept clean, free of hazard and free of debris;

- (2) All exterior signs, awnings, and lighting systems, if not removed, shall be maintained in completely, operable, clean, slightly, non-deteriorated, and safe condition; and
  - (3) Any window covering shall have a clear opening of two (2) square feet to allow view of the interior of the store for security purposes. Such opening shall be installed no lower than three (3) feet above grade and no more than six (6) feet above grade and may be either the show window or the door.
- I. If the owner shall fail to comply with the provisions of this section regarding exterior protection, the Building Department may, after notice of noncompliance and intent to remedy is mailed to the owner, perform or cause such work to be performed and may recover the expense either by action or by local assessment on the premises, or both. This action shall be in addition to any other available remedy under this Article.

#### **§ 84-6. Railings and parapet walls.**

Railings and parapet walls shall be maintained at open sides of balconies, mezzanines, porches, accessible roofs, exit passageways, areaways, motor vehicle parking decks and ramps, and around floor openings.

#### **§ 84-7. Interior protection.**

- A. Structural members shall be maintained to resist and prevent deterioration.
- B. Unheated attics, spaces below flat roofs, and crawl spaces shall be ventilated to minimize deterioration.
- C. Ceilings walls, floors, and stairways shall be maintained in a safe and sound condition.

#### **§ 84-8. Garbage and refuse; infestation; junk.**

- A. The accumulation or storage of garbage or refuse in buildings or on lots is prohibited.
- B. Buildings and structures shall be maintained free of insects, vermin, and rodent harborage and infestation.
- C. Refrigerators and similar equipment with locking mechanisms shall not be discarded, abandoned or stored without first removing the locking devices or the hinges of the doors.
- D. Junked or unregistered vehicles, equipment, and materials shall not be stored in open areas of premises.

**§ 84-9. Chimneys.**

Chimneys, smokestacks, flues, gas vents, smoke pipes, and connectors shall be maintained structurally safe and smoke tight.

**§ 84-10. Fuel gas.**

Fuel gas pipe systems shall be maintained gas tight, safe, and operative under conditions of use or shall be disconnected at the main.

**§ 84-11. Fuel oil.**

Tanks shall be maintained so as not to be a hazard or shall be discontinued in a manner consistent with Chapter C of the State Uniform Fire Prevention and Building Code (9 NYCRR)

**§ 84-12. Plumbing.**

- A. The domestic water supply of the building shall be connected to an approved source, shall not be subject to contamination, and shall not be connected to unsafe water supplies or shall be disconnected at the main and the system completely drained.
- B. Storm water drainage systems shall be maintained so as to function properly and be kept free from obstructions, leaks, and defects. Sewage systems shall be similarly maintained or shall be sealed so as to prevent accumulation of sewage gases in buildings.

**§ 84-13. Elevators, dumbwaiters, and escalators.**

Elevators, dumbwaiters, and escalators shall be maintained or taken out of service.

**§ 84-14. Exterior property areas.**

- A. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent ponding.
- B. Fences, walls, other minor construction, and accessory structures shall be maintained in safe, good, and substantial condition.
- C. Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained to afford safe convenient passage.
- D. Yards, courts, and vacant lots shall be kept clean and free of hazards and debris.



- E. Ground cover shall be properly established to prevent undue soil erosion due to the elements.
- F. Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health or safety shall be eliminated.

**§ 84-15. Legislative findings and purpose.**

It is the finding of the City Council that buildings which remain vacant, with access points boarded over, are unsightly, unsafe, and have a negative effect on their surroundings. This is particularly troublesome in residential neighborhoods and commercial neighborhoods. Unfortunately, many buildings, once boarded, remain that way for many years. The purpose of this article is to establish a program for identifying and registering vacant buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant properties.

**§ 84-16. Definitions.**

**ENFORCEMENT OFFICER** – A duly authorized representative of the Building Department.

**OWNER** – Those shown to be the owner or owners on the records of the City of Mechanicville Assessment and Taxation, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm, organization, association, partnership, company, or corporation who owns or maintains control of the premises. Any such person shall have joint and several obligations for compliance with the provisions of this article.

**SECURED BY OTHER THAN NORMAL MEANS** – A building secured by means other than those used in the design of the building.

**UNOCCUPIED** – A building which is not being used for an occupancy authorized by the owner.

**UNSECURED** – A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

**VACANT BUILDING** – A building or portion of a building which is:

- A. Unoccupied or unsecured;
- B. Unoccupied and secured by other than normal means;
- C. Unoccupied and an unsafe building as determined by the Building Department;
- D. Unoccupied and has multiple housing or building code violations;

- E. Illegally occupied;
- F. Unoccupied for a period of time over three hundred sixty-five (365) days, and during which time the enforcement officer has issued an order to correct code violations.

**§ 84-17. Vacant building registration.**

- A. The owner shall register with the Building Department, not later than thirty (30) days after any building located in an area zoned for, or abutting and area zoned for, residential or neighborhood commercial use in the City becomes a vacant building, as defined above, or not later than thirty (30) days after being notified by the Building Department of the requirement to register. The Building Department may identify vacant buildings through its routine inspection process as well as through notification by residents, neighborhood associations, and other community groups that a building may be eligible for inclusion on the registry.
- B. The registration shall be submitted on forms provided by the Building Department and shall include the following information supplied by the owner:
  - (1) A description of the premises;
  - (2) The names and addresses of the owner or owners.
  - (3) If the owner does not reside in Saratoga County or any adjoining county, the name and address of any third party with whom the owner has entered into contract or agreement for property management;
  - (4) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
  - (5) A telephone number where a responsible party can be reached at all times during businesses and non-business hours; and
  - (6) A vacant building plan as described in Subsection C.
- C. The owner shall submit a vacant building plan which must meet the approval of the Enforcement Officer. The plan, at a minimum, must contain information from one of the following three choices for the property:
  - (1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;
  - (2) If the building is to remain vacant, a plan for the securing of the building in accordance with the standards provided in § 84-5, if applicable, along with the

procedure that will be used to maintain the property in accordance with this Article, and a statement of the reasons why the building will be left vacant.

- (3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property must be submitted to the Building Department. The rehabilitation plan shall not exceed three hundred sixty-five (365) days, unless the Building Department grants an extension upon receipt of a written statement from the owner detailing reasons for the extension. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and must be secured in accordance with § 84-5, if applicable during rehabilitation.
- D. All applicable laws and codes shall be complied with by the owner. The owner shall notify the Enforcement Officer of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Enforcement Officer.
  - E. The owner and subsequent owners shall keep the building secured and safe and the building and ground properly maintained as provided in this chapter and will all other provisions of the City Code.
  - F. Failure of the owner or any subsequent owners to maintain the building and premises that result in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law.
  - G. The new owners shall register or re-register the vacant building with the Building Department within thirty (30) days of any transfer of an ownership interest in a vacant building. The new owners shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Building Department.
  - H. Vacant Building Fees
    - (1) The owner of a vacant building shall pay an annual fee of two hundred dollars (\$200.00) for the period the building remains a vacant building. The fee shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs of the City in monitoring the vacant building site.
    - (2) The first annual fee shall be paid no later than thirty (30) days after the building becomes vacant. If the fee is not paid within thirty (30) days of being due, the owner shall be subject to prosecution as prescribed in this Article. If a plan is extended beyond three hundred sixty-five (365) days, subsequent annual fees shall be due on the anniversary date.
    - (3) The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit. The fee shall be pro-rated and a refund may be

issued if the building is no longer deemed vacant under the provisions of this article within one hundred eighty (180) days of its registry.

- (4) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid to any transfer, the new owner shall pay the annual fee no later than thirty (30) days after the transfer of ownership, and subsequent annual fees shall be due on the new anniversary date.

- I. The Building Department shall include in the file any property specific written statements from community organizations, other interested parties or citizens regarding the history, problem status or blighting influence of a vacant building.

#### **§ 84-18. Exemptions.**

A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Building Department. The decision to grant an exemption is within the sole discretion of the Building Department. This request shall include the following information supplied by the owner.

- A. A description of the premises.
- B. The names and addresses of the owner or owners.
- C. A statement of intent to repair and reoccupy the building in an expedient manner or the intent to demolish the building.

#### **§ 84-19. Inspection.**

The Building Department shall inspect any premises in the City of Mechanicville for the purpose of enforcing and assuring compliance with the provisions of this article. Upon the request of the Enforcement Officer, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Enforcement Officer or his or her designee in order to enable such inspection, and then Enforcement Officer shall be required to obtain such search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry.

#### **§ 84-20. Quarterly reports.**

Once every three (3) months, the Building Department shall send the Mayor and the City Council a list of all buildings in the City declared vacant buildings which are no longer subject to the provisions of this article

**§ 84-21. Penalties for offenses.**

Any person, firm, association, organization, partnership, company, or corporation who shall violate any provision of Article IX or Article X or provides false information to the Enforcement Officer, shall be guilty of a violation and shall be subject to a fine of two hundred fifty dollars (\$250.00) or up to fifteen (15) days. Each day of such violation shall constitute a separate offense.

**§ 84-22. Ordinance shall take effect.**

This ordinance shall take effect immediately.

# Chapter 86

## BURNING, OUTDOOR

§ 86-1. Definitions.

§ 86-2. Fires near structures.

§ 86-3. Rubbish.

§ 86-4. Public streets, sidewalks, or alleys.

§ 86-5. Leaves and vegetation.

§ 86-6. Penalties for offenses.

[Adopted at time of adoption of 2000 Code. Amended 10-2013]

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### § 86-1. Definitions.

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

**FIRE** – Shall not be construed to mean or include a fire in a furnace, stove, boiler, or fireplace within a building;

### § 86-2. Fires near structures.

It shall be unlawful:

- A. Within the fire limits of the city, to light or maintain any fires, except under the following conditions:
  - (1) The burning shall be done in a fireplace no larger than two (2) feet in depth and five (5) feet in width and not more than five (5) feet in height. It shall be constructed of not less than twelve (12)-gauge steel or masonry with a tile flue. The top of the incinerator shall be equipped with a spark arrestor having openings of not more than three quarters (3/4) inch;
  - (2) No such fire shall be lit within twenty (20) feet of any building or structure or within fifteen (15) feet of a fence or property line; and/or
  - (3) The area in which the fireplace to be used is located shall have a surface of gravel, cinders, cement, or similar noncombustible material, and this area shall extend at least five feet (5) from each side of such stove or incinerator.
- B. Any person maintaining or using a fireplace not complying with this section shall, upon written notice from the Fire Chief, cease to use the incinerator until said incinerator is altered or repaired to comply with this section.

- C. Notwithstanding the above, the Fire Chief or his representative shall have the authority in all cases to prohibit the use of any fireplace or fire-burning receptacle within or outside of any building as aforesaid which in his opinion shall be deemed hazardous and dangerous.

**§ 86-3. Rubbish.**

It shall be unlawful to burn rubbish of any kind, including, paper, paper goods, cardboard, and/or construction material of any kind anywhere in the city, except in a stove, furnace, or incinerator inside a building.

**§ 86-4. Public streets, sidewalks, or alleys.**

No fire shall be built or allowed to burn upon any of the public streets, sidewalks, or alleys in the city.

**§ 86-5. Leaves and vegetation.**

It shall be unlawful for any person to burn leaves or vegetation anywhere in the city, except in a fireplace or approved burning receptacle.

**§ 86-6. Penalties for offenses. [Amended 10-2013]**

Any person convicted of violating this chapter shall be deemed guilty of an offense and shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

# Chapter 91

## CURFEW

**§ 91-1. Establishment.**

**§ 91-3. Enforcement.**

**§ 91-2. Parental responsibility;  
penalties for offenses.**

**[Adopted 11-1968. Amended in its entirety at time of adoption of 2000 Code.]**

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### **§ 91-1. Establishment.**

It is hereby made unlawful for any person under sixteen (16) years of age to be or remain in or upon any of the streets, alleys, or public places or establishments, commercial or otherwise, in the City of Mechanicville at night after the hour of 10:00 p.m., at which hour the Police Department shall cause the alarm to be sounded, unless such person is:

- A. Accompanied by a parent, guardian, or other person having the legal custody of such minor person;
- B. Employed and the employment makes it necessary to be upon said streets, alleys, and public places or in such establishments, commercial or otherwise, during the nighttime after said specified hour;
- C. Or has been declared an emancipated minor
- D. On an errand for his/her parent or legal guardian;
- E. In a motor vehicle involved in interstate travel; involved in an emergency;
- F. On a sidewalk abutting his/her residence or that of a next-door neighbor;
- G. Attending a school or religious function;
- H. Married or has been married; and/or
- I. Exercising his/her First Amendment rights of free speech, religion, or right to assembly.

### **§ 91-2. Parental responsibility; penalties for offenses.**

It is hereby made unlawful for any parent, guardian or other person having legal care and



custody of any person under sixteen (16) years of age to allow or permit any such child, ward, or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys, or public places or establishments, commercial or otherwise, in said city within the time prohibited in § 91-1 of this chapter, unless there exists a reasonable necessity therefor. Any person violating the provisions of this section shall, on conviction, be fined in any sum not less than ten dollars (\$10.00) or more than two hundred fifty dollars (\$250.00) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment.

### **§ 91-3. Enforcement.**

Each member of the police force, constable, or peace officer, while on duty, is hereby authorized to arrest, without warrant, any person willfully violating the provisions of this chapter and retain such person for a reasonable time in which complaint can be made and a warrant can be issued and served. No child or minor person arrested under the provisions of this chapter shall be placed in confinement until he or she shall have been taken home to ascertain the parents' wishes and the parents shall have refused to be held responsible for the observance of the provisions of this chapter by said minor person.

# Chapter 99

## ELECTRICAL INSPECTIONS

**§ 99-1. Authority to make inspections; costs.**

**§ 99-2. Duties of inspector.**

**§ 99-3. Inspection and certificate of compliance required.**

**§ 99-4. Penalties for offenses.**

[Adopted 11-1968]

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### **§ 99-1. Authority to make inspections; costs.**

The Chief Inspector and each of the duly appointed inspectors of the New York Board of Fire Underwriters, or other qualified inspection agency approved by the city, are hereby authorized and deputized as agents of the City of Mechanicville to make inspections and re-inspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and re-inspections be a charge against the City of Mechanicville.

### **§ 99-2. Duties of inspector. [Amended 11-1971]**

- A. It shall be the duty of the inspector to report, in writing, to the Code Enforcement Officer/Building Inspector, whose duty it shall be to enforce all the provisions of this Code, all violations, or deviations from, or omissions of the current edition of the National Electrical Code, as amended, and all supplements to said code and all local laws, ordinances and the New York State Uniform Fire Prevention and Building Code as referred to in this chapter insofar as any of the same apply to electrical wiring.
- B. The inspector shall make inspections and re-inspections of electrical installations in and on properties in the City of Mechanicville upon the written request of an authorized official of the City of Mechanicville or as herein provided. The inspector is authorized to make inspections and re-inspections of electrical wiring installations, devices, appliances, and equipment in or on properties within the City of Mechanicville where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the inspector to make electrical inspections upon the oral request of an official or officer of the City of Mechanicville.
- C. It shall be the duty of the inspector to furnish written reports to the proper officials of the City of Mechanicville and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He/She shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this chapter. He/She shall direct that a copy of the certificate of

compliance be sent to the City of Mechanicville to the attention of the Code Enforcement Officer/Building Inspector.

**§ 99-3. Inspection and certificate of compliance required.**

- A. It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed or to alter electrical wiring for light, heat, or power in or on properties of the City of Mechanicville until an application for inspection has been filed with the New York Board of Fire Underwriters or other qualified inspection agency approved by the city.
- B. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat, or power to any source of electrical energy supply prior to the issuance of a temporary certificate or a certificate of compliance by the New York Board of Fire Underwriters or other qualified inspection agency approved by the city.

**§ 99-4. Penalties for offenses.**

Except as otherwise provided in Executive Law § 382, a violation of this chapter shall be deemed an offense and, upon conviction, shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment not to exceed fifteen (15) days, or both. Every day or part thereof that a violation of this chapter shall continue shall constitute a separate and distinct offense.

# **Chapter 105**

## **FAIR HOUSING**

### **ARTICLE I** **General Provisions**

**§ 105-1. Purpose.**

**§ 105-2. Word usage and definitions.**

### **ARTICLE II** **Discrimination Prohibited**

**§ 105-3. Sale or rental of housing.**

**§ 105-5. Provision of brokerage services.**

**§ 105-4. Financing of housing.**

### **ARTICLE III** **Exceptions**

**§ 105-6. Sales or rentals by owners.**

**§ 105-7. Religious organizations and private clubs.**

### **ARTICLE IV** **Administration and Enforcement**

**§ 105-8. Fair housing officer.**

**§ 105-10. Suits against violators.**

**§ 105-9. Report of violations.**

**§ 105-11. Penalties for offenses.**

### **ARTICLE V** **Amendments; Interpretation; Title**

**§ 105-12. Amendments.**

**§ 105-14. Title.**

**§ 105-13. Interpretation.**

**[Adopted 09-1979. Amendments noted where applicable.]**

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### **ARTICLE I**

## **General Provisions**

### **§ 105-1. Purpose.**

For the purpose of providing and ensuring fair housing opportunities for all within the City of Mechanicville, the City Council of the City of Mechanicville in the County of Saratoga, State of New York, under the authority of the General Municipal Law and General City Law, hereby obtains, enacts and publishes this chapter.

### **§ 105-2. Word usage and definitions.**

- A. **General.** For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary. Words used in the singular include the plural; words used in the present tense include the future tense; the word "person" includes a corporation as well as an individual; and the word "shall" is always mandatory.
- B. **Specific words or phrases.** For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

**DISCRIMINATORY HOUSING PRACTICE** – An act that is unlawful under Article II.

**DWELLING** – Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

**FAMILY** – Includes a single individual.

**PERSON** – Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

**TO RENT** – Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

## **ARTICLE II Discrimination Prohibited**

### **§ 105-3. Sale or rental of housing.**

Except as exempted by Article III, it shall be unlawful within the City of Mechanicville:

- A. To refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of or, otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex, or, national origin;
- B. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection therewith because of race, color, religion, sex, or, national origin;
- C. To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, or national origin or an intention to make any such preference, limitation, or discrimination;
- D. To represent to any person, because of race, color, religion, sex, or national origin, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; and/or
- E. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin.

#### **§ 105-4. Financing of housing.**

It shall be unlawful within the City of Mechanicville for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling in relation to which such loan or other financial assistance is to be made or given, provided that nothing contained in the section shall impair the scope or effectiveness of the exceptions contained in Article III.

#### **§ 105-5. Provision of brokerage services.**

It shall be unlawful within the City of Mechanicville to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him/her in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, or national origin.

### **ARTICLE III**

#### **Exceptions**

#### **§ 105-6. Sales or rentals by owners.**

A. Nothing in § 105-3 (other than Subsection C) shall apply to:

- (1) Any single-family house sold or rented by an owner, provided that such private individual owner does not own more than three (3) such single-family houses at any one (1) time, and provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four (24)-month period, provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at one time, provided further than the sale or rental of any such single-family house shall be excepted from the application of this chapter only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person and without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of § 105-3 of this chapter, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as is necessary to perfect or transfer the title;
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his/her residence;
- (3) For the purpose of this exemption, a person shall be deemed to be in the business of selling or renting dwellings if:
  - (a) He/She has, within the preceding twelve (12) months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;
  - (b) He/She has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

- (c) He/She is the owner of any dwelling designed or intended for occupancy by or occupied by five (5) or more families.

**§ 105-7. Religious organizations and private clubs.**

Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

**ARTICLE IV**  
**Administration and Enforcement**

**§ 105-8. Fair Housing Officer.**

The authority and responsibility for publicizing, administering and enforcing this chapter shall be in the City's Fair Housing Officer, to be designated by the Mayor of the City of Mechanicville.

**§ 105-9. Report of violations.**

Violations of this chapter shall be reported in person or in writing to the City's Fair Housing Officer.

**§ 105-10. Suits against violators.**

Where sufficient cause exists to believe that the terms of this chapter have been violated, the Fair Housing Officer shall institute a suit in City Court against the alleged violator.

**§ 105-11. Penalties for offenses.**

Where a person or organization has been found, after a trial on the merits, in violation of this chapter, a fine shall be imposed on such person or organization not to exceed five hundred dollars (\$500.00) for a first offense and one thousand dollars (\$1,000.00) for each additional offense. The minimum fine for violations of this chapter shall be one hundred dollars (\$100.00) for a first offense and five hundred dollars (\$500.00) for each additional offense. Each and every separate violation of this chapter shall be deemed an offense for the purposes of imposing the appropriate fine.



**ARTICLE V**  
**Amendments; Interpretation; Title;**

**§ 105-12. Amendments.**

The City Council may, on its own initiative or on petition, amend, supplement or repeal the provisions of this chapter in conformity with applicable law after public notice and hearing.

**§ 105-13. Interpretation.**

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, morals, safety, or the general 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 highest standards shall govern.

**§ 105-14. Title.**

This chapter shall be known and may be cited as the "City of Mechanicville Fair Housing Ordinance."

# **Chapter 108**

## **FIREARMS, EXPLOSIVES AND FIREWORKS**

**§ 108-1. Firearms and explosives.**

**§ 108-3. Penalties for offenses.**

**§ 108-2. Permit required to display fireworks.**

**[Adopted 11-1968. Amended in its entirety at time of adoption of 2000 Code.]**

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### **§ 108-1. Firearms and explosives.**

It shall be unlawful for any person to discharge in the City of Mechanicville any shotgun, air gun, air pistol, spring gun or rifle, rifles, and pistols of any caliber or any implement which impels with force a pellet or single projectile of any kind (i.e., bow and arrow, slingshot, crossbow, etc.) or which projects or explodes any cartridge, blank cartridge, cap, or otherwise explosive substance or mixture of chlorates or nitrates. This section shall not apply to law enforcement officers lawfully engaged in law enforcement duties or the discharge of weapons in self-defense.

### **§ 108-2. Permit required to display fireworks.**

It shall be unlawful for any person to give or cause to be given a public display of fireworks without first having obtained a permit in accordance with § 405.00 of the Penal Law from the Mayor of the City. Before such permit is granted, the applicant for said permit must enter into an agreement to save harmless the City of Mechanicville from any and all damage of any kind or nature whatsoever which may be caused directly or indirectly by said display of fireworks.

### **§ 108-3. Penalties for offenses.**

Any person who violates any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than five dollars (\$5.00) nor more than two hundred fifty dollars (\$250.00) or to imprisonment for not less than five (5) days nor more than fifteen (15) days, or to both such fine and imprisonment, and each day on which said violation continues shall constitute a separate offense.

# Chapter 111

## FLOOD DAMAGE PREVENTION

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|--|---|
| § 111-1. Findings.   | § 111-11. Floodplain development permit; fees, and costs. |
| § 111-2. Statement of purpose.                                 | § 111-12. Permit application.                             |
| § 111-3. Objectives.   | § 111-13. Powers and duties of local administrator.       |
| § 111-4. Word usage and definitions.                           | § 111-14. General standards.                              |
| § 111-5. Applicability.  | § 111-15. Standards for all structures.                   |
| § 111-6. Basis for establishing areas of special flood hazard. | § 111-16. Residential structures.                         |
| § 111-7. Interpretation and conflict with other laws.          | § 111-17. Nonresidential structures.                      |
| § 111-8. Penalties for offenses.                               | § 111-18. Manufactured homes and recreational vehicles.   |
| § 111-9. Warning and disclaimer of liability.                  | § 111-19. Appeals ZBA/Planning Commission.                |
| § 111-10. Designation of Local Administrator.                  | § 111-20. Conditions for variances.                       |

[Adopted 07-1995]

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### § 111-1. Findings.

The City Council of the City of Mechanicville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the City of Mechanicville and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

### § 111-2. Statement of purpose.

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 floodwaters;
- 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; and/or
- F. Qualify for and maintain participation in the National Flood Insurance Program.

### **§ 111-3. Objectives.**

The objectives of this chapter are 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 prolonged business interruptions.
- E. 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;
- F. 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. Provide that developers are notified that property is in an area of special flood hazard; and/or
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

### **§ 111-4. Word usage and definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the 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, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average annual depth of one to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** – The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred (100)-year floodplain."

**BASE FLOOD** – The flood having a one-percent (1%) 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.

**BUILDING** – See "structure."

**CELLAR** – See "basement."

**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 or storage of equipment or materials.

**ELEVATED BUILDING:**

(A) A non-basement building:

- (1) Built, in the case of a building in Zone 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 Zone V1-V30, 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
- (2) 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;

(B) In the case of Zone 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; and/or

(C) In the case of Zone 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.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** – The federal agency that administers the National Flood Insurance Program.

**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 ELEVATION STUDY** – An examination, evaluation, and determination of the flood hazards and, if appropriate, corresponding water surface elevations or an examination, evaluation and determination of flood-related erosion hazards.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** – An official map of a community issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

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

**FLOOD INSURANCE STUDY** – See "flood elevation study."

**FLOOD or FLOODING:**

(A) 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; and/or
- (3) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal

tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

**FLOODPLAIN or FLOOD-PRONE AREA** – Any land area susceptible to being inundated by water from any source. (See "flooding.")

**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** – See "regulatory floodway."

**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 facilities. The term does not include long-term storage, manufacturing, 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.

**HISTORIC STRUCTURE** – Any structure that is:

- (A) 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;
- (B) 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;
- (C) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (D) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

**LOCAL ADMINISTRATOR** – The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the code enforcement officer, building inspector, or employee of an engineering department.

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

**MANUFACTURED HOME** – A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**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** – See "manufactured home."

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** – As corrected in 1929, 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 a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

**ONE-HUNDRED-YEAR FLOOD** – See "base flood."

**PRINCIPALLY ABOVE GROUND** – At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

**RECREATIONAL VEHICLE** – A vehicle which is:

- (A) Built on a single chassis;
- (B) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (C) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (D) 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 provided in § 111-13B of this chapter.



**START OF CONSTRUCTION** – Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project or 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 or 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, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**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.

**SUBSTANTIAL IMPROVEMENT** – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (A) 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
- (B) 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 chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

#### **§ 111-5. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Mechanicville, Saratoga County, New York.

#### **§ 111-6. Basis for establishing areas of special flood hazard.**

- A. The areas of special flood hazard for the City of Mechanicville, Community No. 360721, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
  - (1) A scientific and engineering report entitled "Flood Insurance Study, Saratoga County, New York" (all jurisdictions), dated August 16, 1995;

- (2) The Flood Insurance Rate Map for Saratoga County, New York (all jurisdictions), as shown on Index No. 36091C0000 and panels 0587, 0589, 0591 and 0593, whose effective date is August 16, 1995; and
- (3) The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Building Department, City Hall, North Main Street, Mechanicville, New York.

**§ 111-7. Interpretation and conflict with other laws.**

- A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. 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 highest standards shall govern.

**§ 111-8. Penalties for offenses.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this 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 two hundred fifty dollars (\$250.00) or imprisoned for not more than (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the City of Mechanicville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 111-19 and 111-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**§ 111-9. 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 areas of special flood hazard 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 City of Mechanicville, 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.

#### **§ 111-10. Designation of local administrator.**

The Code Enforcement Officer/Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

#### **§ 111-11. Floodplain development permit; fees and costs.**

- A. **Purpose.** A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 111-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- B. **Fees.** All applications for a floodplain development permit shall be accompanied by an application fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices). In addition, the applicant shall be responsible for reimbursing the City of Mechanicville for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of not more than five hundred dollars (\$500.00) to cover these additional costs.

#### **§ 111-12. Permit application.**

The applicant shall provide the following information as appropriate; additional information may be required on the permit application form:

- 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 Zone A1-A30, AE or AH or Zone A if base flood elevation data is 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;
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be flood-proofed. Upon completion of the flood-proofed portion of the structure, the permittee shall submit to the local administrator the as-built flood-proofed elevation, certified by a professional engineer or surveyor;

- C. A certificate from a licensed professional engineer or architect that any utility flood-proofing will meet the criteria in § 111-15C, Utilities;
- D. A certificate from a licensed professional engineer or architect that any nonresidential flood-proofed structure will meet the flood-proofing criteria in § 111-17, Nonresidential structures;
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations, or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 111-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained;
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property; and/or
- G. In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either fifty (50) lots or five (5) acres.

### **§ 111-13. Powers and duties of local administrator.**

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

- A. **Permit application review.** The local administrator shall conduct the following permit application review before issuing a floodplain development permit. The local administrator shall:
  - (1) Review all applications for completeness, particularly with the requirements of § 111-12, Permit application, and for compliance with the provisions and standards of this chapter;
  - (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 §§ 111-14 through 111-18 and, in particular, § 111-14A, Subdivision proposals;

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 111-14 through 111-18, 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) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

**B. Use of other flood data:**

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 111-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter; and/or
- (2) When base flood elevation data is not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

**C. Alteration of watercourses.** The local administrator shall:

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit 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.

**D. Construction stage.**

- (1) The local administrator shall, in Zones A1-A30, AE and AH and also Zone A, if base flood elevation data is available, upon placement of the lowest floor or completion of flood-proofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or flood-proofed 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 the 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 one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

#### **E. Inspections.**

- (1) The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

#### **F. Stop-work orders.**

- (1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 111-8 of this chapter.
- (2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 111-8 of this chapter.

#### **G. Certificate of compliance.**

- (1) In areas of special flood hazard, as determined by documents enumerated in § 111-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, flood-proofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. **Information to be retained.** The local administrator shall retain and make available for inspection copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certificates of as-built lowest floor elevations of structures required pursuant to Subsection D(1) and (2) and whether or not the structures contain a basement;
- (3) Flood-proofing certificates required pursuant to Subsection D(1) and whether or not the structures contain a basement;
- (4) Variances issued pursuant to §§ 111-19 and 111-20; and
- (5) Notices required under § 111-13C, Alteration of watercourses.

#### **§ 111-14. General standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 111-6:

A. **Subdivision proposals.** The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed so as to minimize flood damage; and
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. **Encroachments.**

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
  - (b) The City of Mechanicville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the City of Mechanicville for all

fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Mechanicville for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 111-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or

(b) The City of Mechanicville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses, and mapping and reimburses the City of Mechanicville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the City of Mechanicville for all costs related to the final map revisions.

#### **§ 111-15. Standards for all structures.**

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 Zone A1-A30, AE or AH and also Zone A, if base flood elevation data is 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:

- i.* A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - ii.* The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- (b) Openings may be equipped with louvers, valves, screens, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

### **C. Utilities.**

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- (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.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### **§ 111-16. Residential structures.**

- A. The following standards, in addition to the standards in § 111-14A, Subdivision proposals, and § 111-14B, Encroachments, and § 111-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- (1) **Within Zones A1-A30, AE and AH and also Zone A**, if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.

- B. **Within Zone A**, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three (3) feet above the highest adjacent grade.
- C. **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 the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 111-6 (at least two (2) feet if no depth number is specified).
- D. **Within Zones AH and AO**, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

#### **§ 111-17. Nonresidential structures.**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 111-14A, Subdivision proposals, and § 111-14B, Encroachments, and § 111-15, Standards for all structures.

- A. **Within Zones A1-A30, AE, AH and Zone A**, if base flood elevation data is 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 the base flood elevation; or
  - (2) Be flood-proofed 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.
- 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 the depth number specified in feet on the community's FIRM (at least two [2] feet if no depth number is specified); or
  - (2) Together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified in Subsection A (2).
- C. **If the structure is to be flood-proofed**, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A flood-proofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2),

including the specific elevation (in relation to mean sea level) to which the structure is to be flood-proofed.

- 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 is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

#### **§ 111-18. Manufactured homes and recreational vehicles.**

The following standards, in addition to the standards in § 111-14, General standards, and § 111-15, 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 and AH shall either:
    - (a) Be on site fewer than one hundred eighty (180) consecutive days;
    - (b) Be fully licensed and ready for highway use; or
    - (c) Meet the requirements for manufactured homes in Subsections B, D and E.
  - (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, it is attached to the site only by quick-disconnect-type utilities and security devices and it has no permanently attached additions.
- B. **A manufactured home** that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined, in a new manufactured home park or subdivision as herein defined, in an expansion to an existing manufactured home park or subdivision as herein defined or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.
- C. **A manufactured home** to be placed or substantially improved in Zones A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

- (1) Elevated in a manner such as required in Subsection B; or
  - (2) 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 thirty-six (36) inches in height above the lowest adjacent 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 A**, when no base flood elevation data is 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 thirty-six (36) inches in height above the lowest adjacent 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.
- E. **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 §111-6 (at least two [2] feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

**§ 111-19. Appeals ZBA/Planning Commission. [Amended 08-2014]**

- A. The ZBA/Planning Commission shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The ZBA/Planning Commission shall hear and decide appeals when it is alleged that 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 ZBA/Planning Commission 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 ZBA/Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the ZBA/Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose 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.

**§ 111-20. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 111-19D(1) through (12) have been fully considered. As the lot size increases beyond the one half (½) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- 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; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.

- (4) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

# Chapter 115

## GAMES OF CHANCE

§ 115-1. Statutory authority; title.

§ 115-2. Definitions.

§ 115-3. License required; Sunday games.

§ 115-4. When effective.

[Adopted 09-1990]

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### § 115-1. Statutory authority; title.

This chapter is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York and shall be known as the "Games of Chance Ordinance of the City of Mechanicville."

### § 115-2. Definitions.

- A. The words and terms used in this chapter shall have the same meanings as such words and terms used in Article 9-A of the General Municipal Law, unless otherwise provided herein or the context requires a different meaning.
- B. As used in this chapter, the following terms shall have the meanings indicated:

**CITY** – City of Mechanicville.

**OFFICER** – The chief law enforcement officer of the City of Mechanicville.

### § 115-3. License required; Sunday games.

Games of chance may be conducted in the city by an authorized organization, after obtaining a license therefor, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Racing and Wagering Board and this chapter. The conduct of games of chance on Sundays is authorized, except as otherwise restricted in Article 9-A of the General Municipal Law.

### § 115-4. When effective.

This chapter shall take effect ten (10) days after approval thereof by a majority of the voters of the city voting thereon at a special election and after publishing and posting as required by law.

# Chapter 118

## GRAFFITI

§ 118-1. Findings.

§ 118-2. Definitions.

§ 118-3. Defacement of property.

§ 118-4. Penalties for offenses.

§ 118-5. Civil liability.

§ 118-6. Removal of graffiti; costs.

[Adopted at time of adoption of 2000 Code]

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### § 118-1. Findings.

The City Council of the City of Mechanicville hereby finds and declares that graffiti poses a serious problem for our residents and merchants. The unabated proliferation of graffiti is a physical blight upon the landscape of our city and costs taxpayers, merchants, and homeowners substantial moneys to remove and repair. The City Council also finds that, when unchecked, graffiti presents an image of a deteriorating community; a community that no longer cares about itself.

### § 118-2. Definitions.

For purposes of this chapter, the following words shall have the meaning ascribed to them herein:

**BROAD-TIPPED INDELIBLE MARKER** – Any felt-tip marker or similar implement containing a fluid or coloring matter that is not water soluble and which has a flat or angled writing surface of one half ( $\frac{1}{2}$ ) inch or greater.

**DEFACE** – To mar the face or surface of, disfigure, injure or spoil the appearance of.

**GRAFFITI** – Defacement of public or private property resulting in a drawing, figure, inscription, mark, message, slogan, or symbol written, painted, drawn, etched, or otherwise indelibly made on property.

**PEN** – Any instrument or similar implement that contains ink fluid or similar coloring matter.

**PROPERTY** – Includes but is not limited to buildings, fences, retaining walls, motor vehicles, recreational vehicles, rocks, signs, structures, trees, utility boxes, utility poles, waste receptacles, and all other articles of personal or real property upon which one can write, draw, paint, etch, or otherwise indelibly mark.

**WRITING AND ARTISTIC DEVICE** – Any crayon, pastel stick, charcoal, and artistic paints.



### **§ 118-3. Defacement of property.**

- A. Possession of any aerosol spray paint can or broad-tipped indelible marker, or any tool, instrument, article, substance, solution, or other compound designed or commonly used to etch, paint, cover, draw upon, or otherwise place a mark upon any public or private property by any person in the proximity of any defacement, without the prior express written consent of the owner or operator of the property having been obtained, shall create a rebuttable presumption that such person did deface public or private property in violation of this chapter;
- B. A person is guilty of possession of a graffiti instrument(s) when he possesses any aerosol spray paint can or broad-tipped indelible marker or tool, instrument, article, substance, solution, or other compound designed or commonly used to etch, paint, cover, draw upon, or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon, or otherwise place a mark upon, unless the express prior written permission of the owner or operator of the property has been obtained
- C. All acts of graffiti are hereby declared unlawful within the City of Mechanicville.

### **§ 118-4. Penalties for offenses.**

- A. Any person who has been found guilty of actually causing the graffiti to be made or any other provision of this chapter shall be punished by a fine of one thousand dollars (\$1,000.00) for each violation thereof and/or shall be imprisoned for fifteen (15) days in jail, or both. In addition, that person shall be liable for the cost of removing said graffiti from the property so defaced as part of his/her punishment pursuant to the violation of the chapter or to perform suitable alternate community services;
- B. Any occupant, owner, lessee, sub-lessee, agent, and/or landlord of any commercial or residential property located within the Incorporated City of Mechanicville which has been found guilty of having any form of graffiti on its property after the one (1)-week curative period as designated in § 118-6 shall be punished by a fine of one thousand dollars (\$1,000.00) for each violation and/or shall be imprisoned for fifteen (15) days in jail, or both. Each day the graffiti is permitted to remain on the premises after the curative period designated in § 118-6 shall constitute a separate and distinct offense and shall be punishable by separate and distinct cumulative amounts of fines, periods of imprisonment, or both.

### **§ 118-5. Civil liability.**

The parent or legal guardian of any minor over the age of ten (10) years and under the age of eighteen (18) years that violates any provision of this chapter shall be held liable for any damages and/or cleanup costs that result from a violation of this chapter.

**§ 118-6. Removal of graffiti; costs.**

- A. Requirement to remove graffiti. The occupant, owner, lessee, sub-lessee, agent, and/or landlord of any commercial, personal or residential property located within the Incorporated City of Mechanicville which has any form of graffiti on any of its property shall be required to remove said property from public view or either restore the defaced surface by removing the graffiti or repaint the defaced surface using the same color paint as existed previously on the defaced surface within one week after written notice by the Code Enforcement Officer/Building Inspector to the occupant, owner, lessee, sub-lessee, agent and/or landlord in one of the following manners:
- (1) By personal service, in which case the one (1)-week curative period shall begin to run from the date of said service; or
  - (2) Service by certified mail, return receipt required, to the address upon which the graffitied property is located, in which case the one (1) week curative period shall run from the date said receipt is dated received.
- B. Remedy of City. If said graffiti condition is not cured or corrected within one (1) week after receipt of written notice by the City, the City shall have the right to issue a criminal summons and to enter the premises to remove the graffiti and/or repaint the property as set forth above, and the cost of the removal of the graffiti and/or repainting shall be at the cost and expense of the occupant, owner, lessee, sub-lessee, agent, and/or landlord of property, reduced only by the amount recovered, if any, by the city from the person(s) found guilty of actually causing the graffiti. The actual cost of the removal of the graffiti and/or repainting, plus the cost of the inspection of said property and other costs incidental to such removal, shall thereupon become a lien upon the real property upon which the graffiti was found to be and shall be added to and become a part of the taxes next to be assessed and levied on such real property, and the same shall be collected and enforced in the same manner as taxes.

# Chapter 129

## LITTERING

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| § 129-1. Definitions.  | § 129-7. Duty of business owners.                           |
| § 129-2. Throwing litter from vehicles.                            | § 129-8. Parks and private property.                        |
| § 129-3. Truck loads causing litter.                               | § 129-9. Responsibility of property Owners; action by City. |
| § 129-4. Prohibited acts in public places.                         | § 129-10. Penalties for offenses.                           |
| § 129-5. Placement of litter in receptacles.                       |   |
| § 129-6. Sweeping into gutter or street; maintenance of sidewalks. |   |

[Adopted at time of adoption of 2000 Code]

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### § 129-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

**GARBAGE** – Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**LITTER** – Garbage, refuse, and rubbish, as defined in this section, and all other waste material which, if thrown or deposited as prohibited by this chapter, tends to create a danger to public health, safety and welfare.

**PARK** – A park, reservation, playground, beach, recreation center, or any other public area in or owned or used by the city and devoted to active or passive recreation.

**PRIVATE PROPERTY** – Any dwelling, house, building, or other structure designed or used either wholly or in part for residential, business or industrial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any property, yard, grounds, walk, driveway, parking areas, porch, steps, vestibule, or mailbox belonging or appurtenant to any such dwelling, house, building, or other structure designed or used either wholly or in part for residential, business or industrial purposes.

**PUBLIC PLACE** – Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

**REFUSE** – All putrescible and non-putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

**RUBBISH** – Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, handbills, placards, posters, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, and similar materials.

**SOLID WASTE** – Includes materials or substances that are discarded or rejected as being spent, worthless, useless or in excess to the owners at the time of such discard or rejection, including but not limited to materials or substances such as garbage, refuse, industrial and commercial wastes, sludge from air or water treatment facilities, rubbish, tires, ashes, incinerator residue, construction and demolition debris, discarded motor vehicles, discarded household and commercial appliances, and discarded furniture.

A. An object shall be presumed to be discarded or rejected solid waste when the object is stored, placed or left on the grounds or exterior of the property in the view of neighbors or passersby under the circumstances which meet any of the following criteria:

- (1) The object produces an offensive smell.
- (2) The object is of a type designed for interior use or made of materials which are suitable only for interior use and the object is left outside and exposed to precipitation.
- (3) The object has reached a degree of dilapidation or disrepair that can reasonably be presumed to render the material unsuitable for or incapable of being used for its original intended purpose or some other reasonable purpose.
- (4) The object is left, placed or stored in a manner which appears likely to cause injuries.

B. Solid waste, other than garbage stored in proper containers described above, is not stored in the public view, except that construction and demolition debris related to an ongoing construction project with a valid building permit may be stored in the public view for not more than thirty (30) days. Residents may place reusable materials in front yards for purposes of sale or informal scavenging, not to be observable for more than two successive days.

**VEHICLE** – Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

#### **§ 129-2. Throwing litter from vehicles.**

No person while a driver or passenger in a vehicle shall throw, distribute, or deposit litter, refuse, or rubbish upon any street, vehicle, or other public place within the city or upon private property.

#### **§ 129-3. Truck loads causing litter.**

No person shall drive or move any truck or other vehicle within the city unless the vehicle is so

constructed or loaded as to prevent any load, contents, litter, refuse or rubbish from being blown or deposited upon any street, alley or other public place.

**§ 129-4. Prohibited acts in public places.**

No person shall throw, deposit, or distribute litter, refuse or rubbish in or upon any street, sidewalk, vehicle or other public place within the city, except in public receptacles or in authorized private receptacles for collection.

**§ 129-5. Placement of litter in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

**§ 129-6. Sweeping into gutter or street; maintenance of sidewalks.**

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk adjacent to their premises free of litter, refuse and rubbish.

**§ 129-7. Duty of business owners.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk adjacent to their business premises free of litter.

**§ 129-8. Parks and private property.**

- A. No person shall throw, distribute or deposit litter, refuse, or rubbish in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place.
- B. No person shall litter any private property within the City of Mechanicville, whether or not the property is owned by or is within the control of such person.
- C. The owner or person in control of any private property shall at all times maintain the property free of litter, refuse and rubbish and shall prevent litter placed in litter receptacles on the property from being carried by the elements upon any public place or private property.

**§ 129-9. Responsibility of property owners; action by city.**

- A. All property owners or persons occupying or having control of property within the City of Mechanicville shall at all times maintain that property and the adjoining public ways free of litter, refuse, rubbish, excessive accumulation of animal waste and hazards.
- B. Upon inspection of the property, the Code Enforcement Officer/Building Inspector or his/her designee may, in his/her discretion, after giving the property owner or person having control of the property twenty-four (24) hours' notice, in writing, posted on the property of the condition of the property or sidewalk, the fact that it is in violation of this chapter and his/her intention to act to correct it if the property owner or person in control of the property fails to do so, correct the violation, and the cost of such work shall be charged to the owner of the property or the person occupying or having control of the property so notified. In no event shall the charge be less than one hundred dollars (\$100.00).
- C. If unpaid after twenty (20) days of presentment of a statement from the city setting forth said charges, the same shall be added to the tax bill assessing said property and remain a lien against the property upon which the work is done and shall be collected by the city from the owner of such property in the same manner as taxes are collected, and the city may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.

**§ 129-10. Penalties for offenses.**

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than two hundred fifty (\$250.00) or by imprisonment for not more than fifteen (15) days, or both, and each day on which such violation continues shall constitute a separate offense.

# Chapter 136

## NOISE

§ 136-1. Definitions.

§ 136-2. Legislative intent.

§ 136-3. Loud, disturbing, and unnecessary noises enumerated.

§ 136-4. Commercial or business advertising.

§ 136-5. Penalties for offenses.

[Adopted at time of adoption of 2000 Code]

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### § 136-1. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them:

**PERSON** – Any individual, firm, association, or corporation, whether the person is the owner, lessee or his charterer or his servants, agents, or employees.

**SOUND DEVICE OR APPARATUS** – Any radio device or apparatus or any device or apparatus for the amplification of sounds from any radio, phonograph, or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

**TO USE OR OPERATE ANY SOUND DEVICE OR APPARATUS IN, ON, NEAR OR ADJACENT TO ANY PUBLIC STREET, PARK OR PLACE** – To use or operate or cause to be used or operated any sound device or apparatus in front of or outside of any building, place or premises or in or through any window, doorway or opening of any building, place or premises abutting on or adjacent to any public street, park or place or in or upon any vehicle operated, standing or being in or upon any public street, park or place where the sounds therefrom may be heard upon any public street, park or place or from any stand, platform or other structure or from any airplane or other device used for flying, flying over the city, or in any boat or on the waters within the jurisdiction of the city or anywhere on or in the public streets, parks or places.

**UNNECESSARY** – That which is not required by the usual circumstances.

**USUAL** – The normal noise range for a particular type of vehicle mechanism.

### § 136-2. Legislative intent.

- A. It is hereby declared to be the policy of the Council to prevent any unreasonably loud, disturbing and unnecessary noise. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual or contrary to the public welfare is

prohibited. It is hereby declared that the use or operation of any radio device or apparatus or any device or apparatus for the amplification of sounds from any radio, phonograph, or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sounds in front of or outside of any building, place, or premises or in or through any window, doorway, or opening of any building, place, or premises abutting on or adjacent to any public street, park or place or in or upon any vehicle operated, standing, or being in or upon any public street, park, or place where the sounds therefrom may be heard upon any public street, park, or place or from any stand, platform, or other structure or from any airplane or other device used for flying, flying over the City, or in any boat or on the waters within the jurisdiction of the City or anywhere on or in the public streets, parks, or places for commercial or business advertising purposes is detrimental to the health, welfare, and safety of the inhabitants of the City in that such use or operation diverts the attention of pedestrians and vehicle operators in the public streets, parks, and places, thus increasing traffic hazards and causing injury to life and limb.

- B. It is hereby further declared that such use or operation disturbs the public peace and comfort and the peaceful enjoyment by the people of their right to use the public streets, parks and places for street, park and other public purposes and disturbs the peace, quiet and comfort of the neighboring inhabitants. Therefore, it is hereby declared that the prohibition of such use or operation for commercial or business advertising purposes is essential to protect and to secure the health, welfare, safety, comfort, convenience, and peaceful enjoyment by the inhabitants of the city of their right to use the public streets, parks and places for street, park and other public purposes and to secure the peace, quiet, enjoyment and comfort of the city inhabitants.

### **§ 136-3. Loud, disturbing, and unnecessary noises enumerated.**

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but any enumeration in this section shall not be deemed to be exclusive:

- A. **Radios, phonographs and musical instruments.** The operation of any radio or phonograph or the use of any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort, or repose of persons in any dwelling, hotel, or other type of residence.
- B. **Animals and fowl.** The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person in the vicinity.
- C. **Vehicles.** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise.
- D. **Steam whistles.** The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.



- E. **Engines and motors.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. **Building construction.** The erection, including excavating, demolition, alteration, or repair, of any building other than between 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of public safety, and then only with a permit from the Building Department, which permit may be renewed for a period of three (3) days or less while the emergency continues.
- G. **Noises near schools, hospitals and similar buildings.** The creation of any excessive noise on any street adjacent to any school, institution of learning, or court, while the same is in session, or adjacent to any hospital which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the street is a school, hospital or court street.
- H. **Unloading vehicles and emptying boxes.** The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
- I. **Hawkers and vendors.** The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.
- J. **Drums and loudspeakers.** The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention to any sale or display of merchandise by the creation of noise.
- K. **Vehicle warning devices.** The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a warning signal pursuant to the provisions of § 375 of the Vehicle and Traffic Law of the State of New York.
- L. **Outside amplifiers.** The use of any radio apparatus, talking machine, loudspeaker, or amplifier attached thereto in such a manner that the loudspeaker shall cause the sound from such radio apparatus or talking machine to be projected directly therefrom to the outside of any building or out of doors; or the use of any radio apparatus, talking machine, loudspeaker, or amplifier which is in any way fastened to or connected with any outside wall or window in any building or structure so that the sound therefrom is projected outside of such outside wall or window. Nothing herein contained shall be construed to prevent the operation of a radio apparatus or talking machine used in a reasonable manner by any person within any building or structure, provided that the radio apparatus or talking machine or loudspeaker is not so arranged that such loudspeaker shall project the sound therefrom directly outside of any building or out of doors.
- M. **Machinery.** The operation of any machinery, equipment, pump, fan, exhaust fan, attic fan, air-conditioning apparatus, or similar mechanical device in such a manner as to create any excessive noise at the adjoining property line.

**§ 136-4. Commercial or business advertising.**

- A. It shall be unlawful for any person to use or operate or cause to be used or operated any sound device or apparatus in, on, near or adjacent to any public street, park or place for commercial or business advertising purposes.
- B. It shall be unlawful for any person to operate or drive or to employ, procure or induce another to operate, drive, lend, lease, or donate any automobile, truck, or other type of vehicle or to operate or aviate or procure or induce another to operate, aviate, lend, lease, or donate any airplane or other type of flying device for commercial or business advertising by means of any sound device or apparatus in violation of this chapter.
- C. The use of the name of any person or of any proprietor, vendor, or exhibitor or the use of any trade business or corporate name in connection with such commercial or business advertising shall be presumptive evidence that such advertising was conducted by reason of employment, procurement, or induction on the part of such person, proprietor, vendor, or exhibitor, or the person or persons represented by the trade, business, or corporate name.

**§ 136-5. Penalties for offenses. [Amended 10-2013]**

Any person, firm or corporation violating any provisions of this chapter shall be deemed guilty of a violation, and upon conviction, shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding fifteen (15) days, or both.

# **Chapter 144**

## **PARKS AND PLAYGROUNDS**

### **ARTICLE I**

#### **Park Commission**

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- |                                       |   |
|---------------------------------------|---|
| § 144-1. Creation.                    | § 144-3. Meetings; rules; records; reports. |
| § 144-2. Membership; terms of office. | § 144-4. Powers and duties.                 |

### **ARTICLE II**

#### **Tallmadge Park**

- |   |  |
|---|--|
| § 144-5. Play hours.                          | § 144-9. Motor vehicles.   |
| § 144-6. Types of play authorized.            | § 144-10. Bicycles, skateboards, roller blades, and roller skates. |
| § 144-7. Designated play areas.               |  |
| § 144-8. Concerts and other scheduled events. |  |

### **ARTICLE III**

#### **Patenaude Park**

- |                     |                  |
|---------------------|------------------|
| § 144-11. Creation. | § 144-13. Hours. |
| § 144-12. Purpose.  |                  |

### **ARTICLE IV**

#### **Establishment of Playgrounds and Play Areas**

- |                                   |                                  |
|-----------------------------------|----------------------------------|
| § 144-14. Designation by Council. | § 144-15. Rules and regulations. |
|-----------------------------------|----------------------------------|

### **ARTICLE V**

#### **General Regulations**

- |  |  |
|--|--|
| § 144-16. Nuisances.                         | § 144-20. Fires  |
| § 144-17. Detrimental acts.                  | § 144-21. Littering.                                   |
| § 144-18. Weapons and fireworks.             | § 144-22. Commercial enterprises.                      |
| § 144-19. Damage to trees and park property. | § 144-23. Hours of use for playgrounds and play areas. |

### **ARTICLE VI**

## **Enforcement**

### **§ 144-24. Penalties for offenses.**

**[Adopted 11-1968. Amendments noted where applicable.]**

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## **ARTICLE I Park Commission**

### **§ 144-1. Creation.**

There is hereby created a Park Commission for the City.

### **§ 144-2. Membership; terms of office.**

The Commission shall consist of a permanent Chairman who shall be the duly elected Commissioner of Public Safety of the City of Mechanicville and four (4) members who shall be citizen electors of the City and shall be appointed for a five (5)-year term by the Mayor.

### **§ 144-3. Meetings; rules; records; reports.**

The Commission shall hold regular meetings at least two (2) times a year. Immediately following their appointment, the members of the Commission shall meet, organize, elect officers, as they may deem necessary, and adopt and later change or alter rules and regulations for the transaction of the Commission's business and shall keep records of all the Commission's proceedings. The Commission shall also file an annual report with the Mayor and City Council setting forth its transactions and recommendations.

### **§ 144-4. Powers and duties.**

A. The Park Commission shall have the following powers and duties:

- (1) To prepare and recommend to the City Council rules and regulations for the use of Tallmadge Park, in the city, and Patenaude Park, as herein created in the city, and to further prepare and recommend from time to time changes in the rules and regulations as may be deemed necessary; and/or
- (2) To prepare and recommend to the City Council, from time to time, plans and recommendations for specific improvements in the parks of the city.

- B. The Commission may recommend to the city plans for the physical makeup of the parks, including plans for the placement of flowers, vines, shrubs, and trees to adorn and improve said parks and benches for the use of patrons of said parks.
- C. The Commission may, at the discretion of the City Council, employ necessary help whose expenses shall be provided for by appropriation made by the City Council. If the Park Commission shall deem it advisable to secure technical advice or services, it may be done upon authority from the City Council and the appropriation by the City Council therefore.

## **ARTICLE II**

### **Tallmadge Park**

#### **§ 144-5. Play hours.**

Tallmadge Park may be used for authorized play only from the hours of 9:00 a.m. until sunset on every day of the week, except for authorized activities approved by the Commissioner of Public Safety.

#### **§ 144-6. Types of play authorized.**

Hitting of a hardball by a bat shall not be permitted in the park. Pitching and catching of a hardball is permitted, and softball, football, and other recognized forms of ball games shall be allowed in the park; however, no ball games or other sporting events shall be permitted in the park on an organized basis. No driving of golf balls or any other type of ball by a golf club or quoits or horseshoes shall be allowed in the park at any time.

#### **§ 144-7. Designated play areas.**

Softball games shall only be permitted in the park in the designated area, which will be established by resolution of the City Council and the blue plan of the park, which is drawn up designating said area and which shall be filed with the City Clerk of the City. Other designated play areas for particular sports may be set up by resolution of the City Council from time to time, and a blue plan designating said area will be filed with the City Clerk.

#### **§ 144-8. Concerts or other scheduled events.**

At whatever time the concert is scheduled in the park, or any other event of general public interest is scheduled in Tallmadge Park, with the permission of the City Council, at these times no playing of sports will be allowed in the park.

#### **§ 144-9. Motor vehicles.**

No driving of gas-propelled vehicles of any kind will be allowed on the park paths unless permission is granted by the Commissioner of Public Safety for some designated function.

**§ 144-10. Bicycles, skateboards, roller blades and roller skates.**

Bicycles, skateboards, roller blades, and roller skates shall not be permitted on the paths of said park.

**ARTICLE III  
Patenaude Park**

**§ 144-11. Creation.**

There is hereby established and created in the City of Mechanicville a public park to be known as "Patenaude Park." Said park is described as follows, being bounded on the north by Burke Street, on the east by Central Avenue, on the south by Mabbett Street and on the west by Canal Street within the city, more particularly described as follows: All that certain piece or parcel of land situate in the City of Mechanicville, County of Saratoga and State of New York, bounded and described as follows: Beginning at a point in the northwesterly corner of North Central Avenue and Mabbett Street and running thence along the northerly line of Mabbett Street south 89 degrees 39 minutes west 19.20 feet to an angle point; thence along the northerly line of Mabbett Street and 63 degrees 40 minutes west 14.65 feet to the northeasterly corner of Mabbett Street and Canal Street; thence along the easterly line of Canal Street north 8 degrees 14 minutes west 229.67 feet to the southeasterly corner of Canal Street and Burke Avenue; thence along the westerly corner of Burke Avenue south 59 degrees 45 minutes east 37.64 feet to the southwesterly corner of Burke Avenue and North Central Avenue; thence along the westerly line of North Central Avenue south 8 degrees 29 minutes east 217.20 feet more or less to the place of beginning and containing 6,825.529 square feet of land more or less. All bearings are referred to the true meridian.

**§ 144-12. Purpose.**

The purpose of Patenaude Park is to provide a leisure and rest area for the residents of the City. No recreation or play activity of any kind shall be permitted in Patenaude Park.

**§ 144-13. Hours.**

Patenaude Park shall be open to the public from dawn to midnight of each day.

**ARTICLE IV**

**Establishment of Playgrounds and Play Areas**  
**[Amended 09-1976]**

**§ 144-14. Designation by Council.**

The City Council may, from time to time as it sees fit, designate city-owned or city-leased properties as playground or play areas for the benefit, welfare and use of its residents and others. Any area designated as a playground or play area by resolution of the City Council may be discontinued for use as a playground or play area by resolution of the City Council.

**§ 144-15. Rules and regulations.**

The City Council may, from time to time as it may see fit, by resolution, establish rules and regulations for the use of any designated playground or play area and may further by resolution permit the use of said areas for public or semipublic functions.

**ARTICLE V**  
**General Regulations**  
**[Amended 09-1976]**

**§ 144-16. Nuisances.**

No nuisance shall be committed on park or playground premises, nor shall any person commit any act that may injure such premises.

**§ 144-17. Detrimental acts.**

No person shall commit on said premises any act detrimental to life, health, morals, or public peace.

**§ 144-18. Weapons and fireworks.**

No person shall fire or discharge any gun, pistol, firearm, or slingshot or any rocket, torpedo, or other fireworks of any description or carry or transport the same in any park or playground, unless upon permission of the City Council.

**§ 144-19. Damage to trees and park property.**

No person shall climb any tree, injure, deface, disturb, or befoul any part of a city park or playground or any buildings, signs, equipment, or other property found therein or remove, cut down, cut, injure, or destroy any tree, flower, shrub, ornament, statue, fence, bridge, structure, or

other property within any park, park approach, or playground or within any other area under the control of the Commissioner of Public Safety.

**§ 144-20. Fires.**

No person shall kindle, build, maintain, or use a fire in any park or playground, except in fire receptacles provided by the City and during established hours of use.

**§ 144-21. Littering.**

No person shall deposit, dump, throw, or place any earth, rubbish, bottles, bits of crockery, glass or glassware, metallic or other substance, garbage, or other refuse matter or any sand, stone, lumber, or other material of any kind in or upon any part of the water or grounds of any park approach. Grounds must be maintained in a clean and sanitary condition. Garbage and refuse must be deposited in receptacles provided.

**§ 144-22. Commercial enterprises.**

No person, firm, or corporation shall sell or offer for sale within the city park any food item or commodities of any type, unless authorized by the City Council.

**§ 144-23. Hours of use for playgrounds and play areas. [Amended 09-2014]**

Except as otherwise established by this chapter or by resolution of the City Council, all designated city playgrounds or play areas shall be open to the general public for authorized play and use from 8:00 a.m. to 10:00 p.m. of every day during the months September through June. The hours of operation of such playgrounds or play areas during the months of July and August shall be from 8:00 a.m. to 9:00 p.m. Any person found in a designated playground or play area outside of these established hours for use shall be in violation of this chapter.

**ARTICLE VI  
Enforcement  
[Amended 10-2013]**

**§144-24. Penalties for offenses.**

Any person violating any provision of this chapter shall be guilty of an offense and shall, upon conviction, be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment not to exceed fifteen days (15), or both.



# Chapter 148

## PEDDLING AND SOLICITING

§ 148-1. Definitions.

§ 148-2. License required.

§ 148-3. License fees; employment of assistants.

§ 148-4. Revocation of license.

§ 148-5. Restrictions.

§ 148-6. Orders.

§ 148-7. Records.

§ 148-8. Penalties for offenses.

[Adopted 11-1968]

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### § 148-1. Definitions.

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

**HAWKER and PEDDLER** – Includes, except as hereinafter expressly provided, any person, either principal or agent, who, in any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any animal or vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares, or merchandise, except milk, newspapers, and periodicals.

**PERSON** – Includes a person of either sex acting as principal or as agent or representative for corporations, partnerships, associations, joint-stock companies, societies, and all other entities of any kind capable of being sued.

**SOLICITOR** – Includes any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares, or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

### § 148-2. License required.

It shall be unlawful for any person, within the corporate limits of the City of Mechanicville, to act as a hawker, peddler, or solicitor as herein defined without first having in force and effect a license therefor.

### § 148-3. License fees; employment of assistants. [Amended 09-1984]

- A. Fees for the following licenses issued pursuant to this chapter shall be as set from time to time by resolution of the City Council (see fee schedule on file in the city offices):

- (1) Edible products;
- (2) Hawking and peddling of popcorn or peanuts: not to exceed one hundred dollars (\$100.00);
- (3) Hawking or peddling of ice cream, confections or bakers' products: not to exceed one hundred dollars (\$100.00);
- (4) Hawking or peddling of any other products: not to exceed one thousand dollars (\$1,000.00);
- (5) Solicitors of periodicals: not to exceed fifty dollars (\$50.00); and
- (6) Solicitors of any other products: not to exceed one thousand dollars (\$1,000.00)
- (7) A per diem rate for the above may be fixed by the Commissioner of Accounts in a sum not to exceed two hundred fifty dollars (\$250.00) per day.
- (8) The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for the annual license shall be one half (½) of the amount stipulated above for the remainder of the year.
- (9) Every person who hawks or peddles patent medicine, dry goods, jewelry, notions, furniture, rugs, laces, cutlery, wearing apparel, house furnishings, silverware, watches, diamonds, or any other merchandise in the City of Mechanicville shall apply, in writing, to the Commissioner of Accounts for a license so to do. Each applicant shall pay to said city the sum as set from time to time by resolution of the City Council for such license (see fee schedule on file in the city offices).
- (10) Any licensees using a motor vehicle may employ two (2) persons, and no more, to assist in selling and delivering their wares, but such persons shall so act only while accompanying a licensed peddler, hawker, or solicitor.

#### **§ 148-4. Revocation of license.**

The Commissioner of Accounts may, at any time, for a violation of this chapter or any other ordinance or law, revoke any license. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made. Notice of such revocation and the reason or reasons therefor, in writing, shall be served by the Commissioner of Accounts upon the person named in the application or by mailing the same to the address given in the application.

#### **§ 148-5. Restrictions.**

A licensed huckster, peddler, or solicitor shall:

- A. Not falsely or fraudulently misrepresent the quantity, character, or quality of any article offered for sale or offer for sale any unwholesome, tainted, or diseased provisions or merchandise.
- B. Keep the vehicle and receptacles used by him/her in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects.
- C. Not stand or permit the vehicle used by him/her to stand in one place in any public place or street for more than ten (10) minutes, unless with express permission of both the Commissioner of Public Works and the Mayor, or in front of any premises for any time if the owner or lessee thereof objects.
- D. Not permit any vehicle used by him/her to stop or remain on any crosswalk.
- E. Not create or maintain any booth or stand or place any barrels, boxes, crates, or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares, or merchandise.

#### **§ 148-6. Orders.**

All orders taken by licensed solicitors, who demand, accept, or receive payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

#### **§ 148-7. Records.**

It shall be the duty of the Commissioner of Accounts to keep a record of all applications and all licenses granted under the provisions of this chapter, giving the number and date of each license, the name and residence of the person licensed, the amount of the license fee paid, and also the date of revocation of all licenses revoked.

#### **§ 148-8. Penalties for offenses. [Amended 10-2013]**

Any person who himself or by his/her clerk, agent or employee shall act as a hawker, peddler, or solicitor as herein defined without a license or who shall violate any of the provisions of this chapter or who, having had his/her license revoked, shall continue to act as a hawker, peddler, or solicitor shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than fifteen (15) days, or both, and each day on which such violation continues shall constitute a separate offense.

# **Chapter 158**

## **SEWERS**

### **Part 1**

#### **Sewer Use**

##### **ARTICLE I**

##### **General Provisions**

**§ 158-1. Definitions.**

##### **ARTICLE II**

##### **Use of Public Sewers Required**

**§ 158-2. Unsanitary deposit of waste prohibited.**

**§ 158-3. Discharge of untreated wastes prohibited.**

**§ 158-4. Privies, septic tanks and cesspools.**

**§ 158-5. Installation of toilet facilities; connection to public sewer.**

##### **ARTICLE III**

##### **Private Sewage Disposal Systems**

**§ 158-6. When allowed.**

**§ 158-7. Permit required.**

**§ 158-8. Inspections.**

**§ 158-9. Compliance with state public health recommendations.**

**§ 158-10. Connection to public sewer required when available.**

**§ 158-11. Operation at owner's expense.**

**§ 158-12. Health Officer may impose additional requirements.**

##### **ARTICLE IV**

##### **Building Sewers and Connections**

**§ 158-13. Permit required.**

**§ 158-14. Classes of permits; application forms.**

**§ 158-15. Costs to be borne by owner.**

**§ 158-16. Separate sewer for each building required; exception.**

**§ 158-17. Use of old building sewers.**

**§ 158-18. Pipe specifications.**

**§ 158-19. Size and slope.**

**§ 158-20. Elevation, depth, and alignment.**

**§ 158-21. Artificial lifting of sewage.**

**§ 158-22. Excavation, pipe laying and backfilling.**

**§ 158-23. Joint and connection specifications.**

**§ 158-24. Connection to public sewer.**

**§ 158-25. Notice of connection**

**§ 158-26. Guarding of excavations; restoration of property.**

##### **ARTICLE V**

## **Use Regulations**

- |   |  |
|---|--|
| <b>§ 158-27. Discharge to sanitary sewers restricted.</b>                                       | <b>§ 158-33. Owner to maintain preliminary treatment facilities.</b> |
| <b>§ 158-28. Discharge of storm water and unpolluted drainage.</b>                              | <b>§ 158-34. Manhole required for industrial wastes.</b>             |
| <b>§ 158-29. Prohibited discharges.</b>   | <b>§ 158-35. Measurements, tests, and analysis.</b>                  |
| <b>§ 158-30. Grease, oil, and sand interceptors.</b>  | <b>§ 158-36. Special arrangements.</b>                               |
| <b>§ 158-31. Owner to maintain interceptors.</b>  |  |
| <b>§ 158-32. Wastes subject to review by Department of Public Works; preliminary treatment.</b> |  |

## **ARTICLE VI Protection from Damage**

- § 158-37. Damage or tampering with sewer.**

## **ARTICLE VII Inspectors**

- § 158-38. Right of entry.**

## **ARTICLE VII Enforcement**

- |  |   |
|--|---|
| <b>§ 158-39. Notice of violation.</b>    | <b>§ 158-41. Liability for expense, loss or damage.</b> |
| <b>§ 158-40. Penalties for offenses.</b> |   |

## **Part II Sewer Rents**

### **ARTICLE IX Service Charge Imposed Administration**

- |   |                                     |
|---|-------------------------------------|
| § 158-42. Purpose                                   | § 158-47. Sewer fund.               |
| § 158-43. Sewerage service charge.                  | § 158-48. Powers of Commissioner of |
| § 158-44. Manner of payment.                        | Public Works.                       |
| § 158-45. Powers of Council.                        | § 158-49. Complaints.               |
| § 158-46. Payment of charges to<br>constitute lien. |                                     |
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## **Part I Sewer Use [Adopted 11-1968]**

### **ARTICLE I General Provisions**

#### **§ 158-1. Definitions and word usage.**

- A. Unless the context specifically indicates otherwise, the meaning of terms used in this Part 1 shall be as follows:
- B. BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C., expressed in parts per million by weight.

**BUILDING DRAIN** – That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

**BUILDING SEWER** – The extension from the building drain to the public sewer or other place of disposal.

**CITY** – The City of Mechanicville, New York.

**CODE ENFORCEMENT OFFICER/BUILDING INSPECTOR** – The Code Enforcement Officer/Building Inspector of the City of Mechanicville or his authorized deputy, agent or representative.

**COMBINED SEWER** – A sewer receiving both surface runoff and sewage.

**DEPARTMENT OF PUBLIC WORKS** – The Department of Public Works of the City of Mechanicville, New York.

**GARBAGE** – Solid wastes from the preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

**INDUSTRIAL WASTES** – The liquid wastes from industrial processes as distinct from sanitary sewage.

**NATURAL OUTLET** – Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

**PERSON** – Any individual, firm, company, association, society, corporation, or group.

**pH** – The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PROPERLY SHREDDED GARBAGE** – The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half ( $\frac{1}{2}$ ) inch in any dimension.

**PUBLIC SEWER** – A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

**SANITARY SEWER** – A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

**SEWAGE** – A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments together with such ground-, surface, and storm waters as may be present.

**SEWAGE TREATMENT PLANT** – Any arrangement of devices and structures used for treating sewage. – All facilities for collecting, pumping, treating, and disposing of sewage.

**SEWER** – A pipe or conduit for carrying sewage.

**STORM SEWER or STORM DRAIN** – A sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

**SUSPENDED SOLIDS** – Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

**WATERCOURSE** – A channel in which a flow of water occurs, either continuously or intermittently.

C. **Word usage.** The term "shall" is mandatory, and the term "may" is permissive.

## **ARTICLE II**

### **Use of Public Sewers Required**

#### **§ 158-2. Unsanitary deposit of waste prohibited.**

It shall be unlawful for any person to place, deposit or permit to be deposited in an insanitary manner upon public or private property within the City of Mechanicville, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

#### **§ 158-3. Discharge of untreated wastes prohibited.**

It shall be unlawful to discharge to any natural outlet within the City of Mechanicville, or in any area under the jurisdiction of said city, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Part 1.

#### **§ 158-4. Privies, septic tanks and cesspools.**

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

#### **§ 158-5. Installation of toilet facilities; connection to public sewer.**

The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purpose situated within the city and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the city is hereby requested at his/her expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Part 1, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

## **ARTICLE III**

### **Private Sewage Disposal Systems**



**§ 158-6. When allowed.**

Where a public sanitary or combined sewer is not available under the provisions of § 58-5, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

**§ 158-7. Permit required.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Code Enforcement Officer/Building Inspector. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Code Enforcement Officer/Building Inspector.

**§ 158-8. Inspections.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Code Enforcement Officer/Building Inspector. He/She shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Code Enforcement Officer/Building Inspector when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Code Enforcement Officer/Building Inspector.

**§ 158-9. Compliance with state public health recommendations.**

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen thousand (15,000) square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

**§ 158-10. Connection to public sewer required when available.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 158-5, a direct connection shall be made to the public sewer in compliance with this Part 1, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

**§ 158-11. Operation at owner's expense.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

**§ 158-12. Health Officer may impose additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

**ARTICLE IV**  
**Building Sewers and Connections.**

**§ 158-13. Permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Department of Public Works.

**§ 158-14. Classes of permits; application forms.**

A. There shall be two (2) classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

B. In either case, the owner or his/her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Department of Public Works. A permit and inspection fee as set from time to time by resolution of the City Council for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the Department of Public Works at the time the application is filed (see fee schedule on file in the city offices).

**§ 158-15. Costs to be borne by owner.**

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall maintain the sewer line from the premises to the public sewer line. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**§ 158-16. Separate sewer for each building required; exception.**

A separate and independent building sewer shall be provided for every building, except that where one (1) building stands at the rear of another on an interior lot and no private sewer is

available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

#### **§ 158-17. Use of old building sewers.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Department of Public Works, to meet all requirements of this Part 1.

#### **§ 158-18. Pipe specifications.**

The building sewer shall be cast-iron soil pipe, ASTM Specification A74-42 or equal; A/C pipe, ASTM Specification C428-63 or equal; or other suitable material approved by the Department of Public Works. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten (10) feet of a water service pipe shall be constructed of cast-iron soil pipe with leaded joints. Cast-iron pipe with leaded joints may be required by the Department of Public Works where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast-iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle, as approved by the Department of Public Works.

#### **§ 158-19. Size and slope.**

The size and slope of the building sewer shall be subject to the approval of the Department of Public Works, but in no event shall the diameter be less than four (4) inches. The slope of such four-inch pipe shall be not less than one quarter ( $\frac{1}{4}$ ) inch per foot.

#### **§ 158-20. Elevation, depth and alignment.**

Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

#### **§ 158-21. Artificial lifting of sewage.**

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

#### **§ 158-22. Excavation, pipe laying and backfilling.**

All excavations required for the installation of a building sewer shall be open-trench work unless otherwise approved by the Department of Public Works. Pipe laying and backfilling shall be performed in accordance with ASTM Specification C12-19, except that no backfill shall be placed until the work has been inspected.

**§ 158-23. Joint and connection specifications.**

- A. All joints and connections shall be made gastight and watertight.
- B. Cast-iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specification QQ-L-156, not less than one (1) inch deep. Lead shall be run in one pouring and calked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved.
- C. Other jointing materials and methods may be used only by approval of the Department of Public Works.

**§ 158-24. Connection to public sewer.**

The connection of the building sewer into the public sewer shall be made at the wye (Y) branch, if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less and no properly located wye (Y) branch is available, the owner shall, at his/her expense, install a wye (Y) branch in the public sewer at the location specified by the Department of Public Works. Where the public sewer is greater than twelve (12) inches in diameter and no properly located wye (Y) branch is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°). A forty-five-degree (45°) ell (L) may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. A smooth, neat joint shall be made, and the connection shall be made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the Department of Public Works.

**§ 158-25. Notice of connection; supervision required.**

The applicant for the building sewer permit shall notify the Department of Public Works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Department of Public Works.

**§ 158-26. Guarding of excavations; restoration of property.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public

property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

## **ARTICLE V**

### **Use Regulations**

#### **§ 158-27. Discharge to sanitary sewers restricted.**

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process water to any sanitary sewer.

#### **§ 158-28. Discharge of storm water and unpolluted drainage.**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Department of Public Works. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Department of Public Works, to a storm sewer, combined sewer or natural outlet.

#### **§ 158-29. Prohibited discharges.**

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- A. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) F;
- B. Any water or waste which may contain more than one hundred (100) parts per million, by weight, of fat, oil or grease;
- C. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- D. Any garbage that has not been properly shredded;
- E. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- F. Any waters or wastes having pH lower than five point five (5.5) or higher than nine point zero (9.0) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

- G. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;
- H. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
- I. Any noxious or malodorous gas or substance capable of creating a public nuisance; and/or;
- J. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Commissioner of Public Works in compliance with applicable state or federal regulations.

**§ 158-30. Grease, oil and sand interceptors.**

- A. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Department of Public Works, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any inflammable wastes, sand, and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Department of Public Works and shall be so located as to be readily and easily accessible for cleaning and inspection.
- B. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

**§ 158-31. Owner to maintain interceptors.**

Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his/her expense, in continuously efficient operation at all times.

**§ 158-32. Wastes subject to review by Department of Public Works; preliminary treatment.**

- A. The admission into the public sewers of any waters or wastes having a five (5)-day biochemical oxygen demand greater than three hundred (300) parts per million by weight or containing more than three hundred fifty (350) parts per million by weight of suspended solids or containing any quantity of substances having the characteristics described in § 158-29 or having an average daily flow greater than two percent (2%) of the average daily sewage flow of the city shall be subject to the review and approval of the Department of Public Works.

B. Where necessary, in the opinion of the Department of Public Works, the owner shall provide, at his/her expense, such preliminary treatment as may be necessary to:

- (1) Reduce the biochemical oxygen demand to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight;
- (2) Reduce objectionable characteristics or constituents to within the maximum limits provided for in § 158-29; or
- (3) Control the quantities and rates of discharge of such waters or wastes. § 158-33. Owner to maintain preliminary treatment facilities.
- (4) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

**§ 158-34. Manhole required for industrial wastes.**

When required by the Department of Public Works, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Department of Public Works. The manhole shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.

**§ 158-35. Measurements, tests and analyses.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in §§ 158-29 and 158-32 shall be determined in accordance with Standard Methods for the Examination of Water and Wastewater and shall be determined at the control manhole provided for in § 158-34 or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

**§ 158-36. Special arrangements.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

**ARTICLE VI**

## **Protection from Damage**

### **§ 158-37. Damaging or tampering with sewer.**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

## **ARTICLE VII Inspectors**

### **§ 158-38. Right of entry.**

The Code Enforcement Officer/Building Inspector and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this Part 1.

## **ARTICLE VIII Enforcement**

### **§ 158-39. Notice of violation.**

Any person found to be violating any provision of this Part 1, except § 158-37, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

### **§ 158-40. Penalties for offenses.**

Any person who shall continue any violation beyond the time limit provided for in § 158-39 shall be guilty of an offense and, upon conviction thereof, shall be fined in an amount not exceeding two hundred fifty dollars (\$250.00) or imprisoned for a term not exceeding fifteen (15) days, or both, for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

### **§ 158-41. Liability for expense, loss or damage.**

Any person violating any of the provisions of this Part 1 shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.



**Part II**  
**Sewer Rent**  
[Adopted 11-1968]

**ARTICLE IX**  
**Service Charge Imposed; Administration**

**§ 158-42. Purpose.**

It is hereby determined and declared to be necessary and conducive to the protection of the public health, safety, welfare, and convenience of the City of Mechanicville, New York, to levy and collect charges or rentals upon all lots, lands, and premises served by the sanitary sewerage system, the proceeds of such charges or rentals to be used as hereinafter provided.

**§ 158-43. Sewerage service charge.**

For the purposes provided in § 158-42 hereof, there is hereby levied and assessed upon each lot, parcel of land, building, or premises having any sewer connection with the sanitary sewerage system of said city, or otherwise discharging sewage, industrial wastes, water, or other liquids either directly or indirectly into the sanitary sewerage system, a sewerage service charge or rental determined as herein provided:

- A. For any lot, parcel of land, building or premises situated wholly or in major part within the corporate limits of the City of Mechanicville, New York, and having any connection, either directly or indirectly, with or otherwise discharging sewage, industrial waste water or other liquids into the sanitary sewerage system, the City will charge a per Unit Fee of eighty dollars (\$80.00). [Amended 03-2011]
- B. The number of units on which the charges are assessed shall be determined by the Saratoga County Sewer District. [Amended 03-2011]
- C. In the event that a lot, parcel of land, building, or premises discharging sanitary sewage, industrial wastes, water, or other liquids, directly or indirectly, into the sanitary sewerage system is not a user of water supplied by the Water Department of said city and measured by a city water meter or is discharging wastes from fixtures, processes or other uses, the supply of water to which is not measured by city meter, then in such case the City Council, by ordinance, shall fix the charge in each case. Such charge shall be in accordance with the provisions of § 20, Subdivision 26, of the General City Law.
- D. In the event that a lot, parcel of land, building, or premises is discharging sanitary sewage, industrial waste, or liquids into the sanitary sewerage system, the content of

which is detrimental to the sewers, to the treatment plant or to the operation of the treatment plant, the Commissioner of Public Works may require the pretreatment of such wastes before discharge into the sanitary sewerage system or may determine such additional charge as is made necessary by such wastes in the repair or operation of said sewers or treatment plant. Such charge shall be levied and collected in addition to charges as determined in Subsection A or B of this section.

- E. The City shall pay to the County Treasurer, the amount of County user charges on the 30<sup>th</sup> day of April of each year commencing on the 30<sup>th</sup> day of April, 2007. Any and all penalties collected by the City on delinquent sewer charges shall be the property of the City, free of any right or claim of the State or County. (Adopted 08-2006)

#### **§ 158-44. Manner of payment. [Amended 08-2006]**

The charge or rental levied or assessed as determined by § 158.43(a) of this part shall be billed on the City's and County's yearly tax bill and if not paid within those periods of the payment of the City and County Property Tax shall become a lien on the homeowners' property and shall be collected through tax foreclosure proceedings as adopted by the City of Mechanicville.

#### **§ 158-45. Powers of Council.**

The Council, by resolution, may suspend the operation of this Part 2 in whole or in part for any stated period of time or may limit the application of this Part 2 to any specified section or area, or portion thereof, served by said sanitary sewerage system. Upon the adoption by the Council of a resolution so suspending the operation of this Part 2 or so limiting the application thereof to a specified section or area, all expenditures and liabilities in connection with said sanitary sewerage system and with the bonds issued in connection therewith shall be defrayed as provided by the law in effect prior to the enactment of this Part 2 and by the same method as if this Part 2 had not been enacted. Upon the adoption by the Council of a resolution limiting the application of this Part 2 to a specified section or area, charges for said specified section or area may thereafter be collected pursuant to this Part 2.

#### **§ 158-46. Payment; charges to constitute lien.**

The charge or rental levied or assessed as hereinbefore provided shall be payable at the office of the Commissioner of Accounts of the City of Mechanicville and shall be a charge against the owner of the property and shall constitute a lien upon the real property served.

#### **§ 158-47. Sewer fund.**

Moneys collected from sewer rentals or charges shall be kept as a separate and distinct fund known as the "Sewer Fund" and used for the purposes set forth in § 20, Subdivision 26, of the General City Law.

**§ 158-48. Powers of Commissioner of Public Works.**

The Commissioner of Public Works shall be empowered to make such bylaws, rules and regulations as may be deemed necessary for the safe, economical and efficient operation, management and protection of the sanitary sewerage system and the sewage pumping treatment and disposal works and for the construction and use of house sewers and connections to the sewerage system.

**§ 158-49. Complaints.**

In the event of complaints based on charges of inequitable or unjust rates arising by reason of water used and metered by a city meter but not being discharged into the city sanitary sewerage system, the Commissioner of Public Works shall investigate such complaints, determine the amount of water so charged for and not being discharged into the sanitary sewerage system, and report his findings to the City Council. The City Council shall then take such action as it deems necessary to rectify such inequitable or unjust charges.



# **Chapter 161**

## **SOLID WASTE**

### **ARTICLE I** **Dumping**

**§ 161-1. Unlawful disposal.**

**§ 161-2. Penalties for offenses.**

### **ARTICLE II** **Collection and Recycling**

**§ 161-3. Findings.**

**§ 161-4. Short title.**

**§ 161-5. Purpose.**

**§ 161-6. Word usage and definitions.**

**§ 161-7. Ordinary waste generation.**

**§ 161-8. Extraordinary waste generation.**

**§ 161-9. Storage.**

**§ 161-10. Placement for collection.**

**§ 161-11. Source separation; preparation for collection.**

**§ 161-12. Ownership of recyclables.**

**§ 161-13. Secondary markets for recyclables**

**§ 161-14. Garbage and non-recyclables for collection.**

**§ 161-15. Storage of excessive quantities of waste.**

**§ 161-16. Transport; vehicles to be covered.**

**§ 161-17. Contract collectors.**

**§ 161-18. Additional rules and regulations.**

**§ 161-19. Violations; penalties for offenses.**

**[Adopted 11-1968. Amended in its entirety at time of adoption of 2000 Code]**

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### **ARTICLE I** **Dumping**

**§ 161-1. Unlawful disposal.**

No garbage, rubbish, litter, or trash of any kind shall be thrown, dumped, or disposed of within the limits of the City of Mechanicville except in a proper receptacle or container specifically designated and designed for such purposes at such times as designated in Article II, Collection and Recycling, of this chapter.

**§ 161-2. Penalties for offenses.**

Any violations of this article shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the Saratoga County Jail for not more than fifteen (15) days, or by both such fine and imprisonment.

**ARTICLE II**  
**Collection and Recycling**  
**[Adopted 04-1996]**

**§ 161-3. Findings.**

The City of Mechanicville finds that a significant amount of recyclable material that could be removed from the solid waste stream is needlessly landfilled each year. The source separation of this solid waste so that recyclable material is recovered for reuse will:

- A. Reduce the consumption of and demand for scarce landfill capacity;
- B. Ensure a comprehensive mandatory city-wide program of source separation;
- C. Aid in the conservation of vital materials, resources and energy; and/or
- D. Protect the environment and the health and safety of the citizens living and working in the city.

**§ 161-4. Short title.**

This article shall be cited as the "City of Mechanicville Mandatory Recycling Law."

**§ 161-5. Purpose.**

- A. **General purpose.** The general purpose of this article is as follows: to provide for the efficient, economic and environmentally safe management of all solid waste and especially recyclable wastes in the City of Mechanicville.
- B. **Specific purpose.** The specific purposes of this article are the following:
  - (1) To provide for the separation of solid waste categories which include recyclables and non-recyclables;
  - (2) To avoid the high cost of disposal of un-separated solid waste;
  - (3) To enhance the reuse and recyclability of solid waste and to limit the landfilling of solid waste;

- (4) To minimize to the greatest extent possible the burning and the landfilling of recyclable solid waste;
- (5) To provide education to all generators of solid waste in the city on how to reduce solid waste generation and how to properly prepare materials for source separation;
- (6) To provide for the enactment of regulations to comply with the Solid Waste Management Act of 1988; and/or
- (7) To provide for the enactment of regulations pertaining to waste collection and recyclable practices as they apply to residential, commercial, not-for-profit and institutional properties.

**§ 161-6. Word usage and definitions.**

- A. For the purpose of this article, certain words and phrases shall be defined as set forth in this section unless it is apparent from the context in this article or from the context or definitions as set forth in the regulations that a different meaning is intended. Where not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. The word "shall" is always mandatory and not merely directory.
- B. As used in this article, the following terms shall have the meanings indicated:

**ASEPTIC PACKAGING** – Milk and juice cartons and drink boxes.

**ASHES** – All residue from the combustion of any type of solid fuel, such as wood, coal, charcoal, or like substances.

**CITY** – The City of Mechanicville.

**CONSTRUCTION AND DEMOLITION DEBRIS:**

- (1) As set forth in 6 NYCRR Part 360, Regulations;
- (2) Uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other pipe and metals that are incidental to any of the above.

**CURBSIDE** – Beside both the paved public road and the driveway into a person's property, but not on the paved or traveled portion and not within the person's property on a private roadway more than five feet from the edge of the public street.

**DEAD ANIMALS** – Those that die naturally, from disease or are accidentally killed. It shall not include condemned animals or parts of animals from slaughterhouses or similar places, which are regarded as industrial wastes.

**DUMPSTER** – A container which is used for the temporary storage of solid waste.

**GARBAGE** – Putrescible solid waste, including animal and vegetable waste resulting from the handling, selling, preparation, cooking or storing of foods. Garbage originates primarily in home kitchens, stores, markets, restaurants, cafeterias and other places where food is stored, prepared or served. Garbage shall not include yard refuse.

**GLASS** – Empty washed jars, bottles and containers of glass with rings and caps removed. This term may exclude ceramic ware, auto glass, mirrors, kitchenware, window glass, and stained glass.

**HOUSEHOLD RECYCLING CONTAINER** – The container specified by regulation to be the container used by the city residents to contain recyclable materials.

**INDUSTRIAL WASTES** – Include the refuse that accumulates in or upon land used for manufacturing, industrial, wholesale, and slaughterhouse purposes and also include sludge, chemical and hazardous waste. Such materials will not be collected by the City of Mechanicville.

**LARGE HOUSEHOLD FURNISHINGS** – Large and/or bulky articles used in the home and which equip it for living, including but not limited to chairs, sofas, tables, beds, mattresses, and carpets.

**LAW** – The City of Mechanicville's Mandatory Recycling Law.

**METAL CANS** – Ferrous, nonferrous and composite cans and containers cleaned of any waste and labels. The term does not include these cans which are non-recyclable rubbish.

**NON-RECYCLABLE RUBBISH** – That solid waste component which cannot be reused or recycle – One or more individuals, a partnership, corporation, firm, association, trust, estate or government entity or any other entity living within or conducting business within the city.

**PLASTICS** – Items manufactured from man-made thermoplastic polymers. The actual kinds of polymeric compounds and/or items and their preparation shall be set by regulation.

**PRIVATE HAULER** – Any person who removes solid waste from a person's place, for or not for a fee, with the person's consent.

**PRIVATE RESIDENCE** – A residential dwelling which includes a single-family home or an apartment, townhouse or condominium.



**RECYCLABLE CONTAINER PRODUCT** – Includes, but is not limited to, glass, plastic, metal cans and aseptic packaging.

**RECYCLABLE PAPER PRODUCT** – Includes, but is not limited to, newspapers, magazines, corrugated cardboard, junk mail and telephone books.

**RECYCLABLE RUBBISH** – Those items which are marketable and which may include, but not be limited to, metal cans, glass jars, bottles and containers, discarded newspapers, magazines, corrugated cardboard, plastic, aseptic packaging, junk mail, telephone books, white goods, yard waste, scrap metal and tires.

**RECYCLERS** – Those who deal with recyclable materials as collectors, separators and/or marketers. This term shall include not-for-profit corporations and charitable corporations which collect recyclable materials for fund-raising purposes.

**REGULATION** – Any action or interpretation by the city permitted by this article.

**SANITARY LANDFILL** – Land used for the authorized depositing of refuse by engineered methods. "Sanitary landfill" includes a type of operation in which wastes are deposited in or on land by a plan utilizing the principles engineering to confine the waste to the smallest practical volume, to cover it with a layer of earth at least at the conclusion of each day's operation and to accomplish all this without creating nuisances or hazards to public health or safety.

**SCAVENGING** – The uncontrolled and unauthorized picking, sorting and removal of refuse either before, during or following disposal.

**SCRAP METAL** – One-hundred-percent (100%) metal objects, including but not limited to desks, bedsprings, bicycle parts, wheels, cast-iron sinks, metal car parts, and other ferrous and nonferrous metals.

**SOLID WASTE** – Materials or substances which are discharged or rejected as being spent, useless, worthless or in excess by the owner at the time of such discard or rejection, and shall include garbage, yard waste, recyclable rubbish, white goods, large household furnishings, and non-recyclable rubbish generated by any person. The term shall not include sewage, sludge or liquid-diluted material.

**SOLID WASTE DISPOSAL FACILITY** – Includes any fixed facility that is established, maintained and operated, either as its primary function or in support of some other facility or operation, for the transfer, treatment and/or disposal of refuse, including garbage, rubbish and trash, and other solid waste. It includes but is not limited to any facility that is established for the purpose of transferring, baling, composting, incinerating, recycling, shredding or landfilling any solid waste or any combination of functions thereof.

**SOURCE SEPARATION** – The separation, as specified in regulations, of solid waste into recyclables and non-recyclables before it is placed for collection or taken to a recycler for disposal.

**SPECIAL WASTES** – Hazardous wastes, including but not limited to those wastes that can cause severe injury or disease during the normal storage, collection and disposal cycle, including explosives, inflammable, pathological and dangerous chemicals or combinations of chemicals and all hazardous wastes as defined by the New York State Department of Environmental Conservation Regulations, 6 NYCRR 365 to 366, and all other related regulations. Such material will not be collected or disposed of by the city.

**WHITE GOODS** – Large and/or bulky articles used in the home and which equip it for living, including but not limited to refrigerators, washers, dryers, stoves, and hot-water heaters ordinarily operated by gas, wood or electric current.

**WRITTEN AUTHORIZATION (OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION)** – Includes a valid permit issued to the applicant as written evidence of an existing exemption given by the Department –

**YARD WASTE**– Grass clippings, leaves, cuttings from shrubs, hedges and trees, and garden refuse. "Yard waste" shall not include stumps, large rocks, or stones or large quantities of dirt or construction debris.

#### **§ 161-7. Ordinary waste generation.**

Private residences which are entitled to collection of solid waste by the City of Mechanicville will be provided with service for the collection of a reasonable amount of solid waste material each week, for example: up to ninety (90) gallons of non-recyclable rubbish plus sixteen (16) gallons of recyclable paper products and sixteen (16) gallons of recyclable container product, or the equivalent, each week, per unit.

#### **§ 161-8. Extraordinary waste generation.**

Private residences that generate more than a reasonable amount of solid waste will be considered as extraordinary waste generators and shall be charged a fee for collection. The fee will be determined by the Public Works Commissioner or his/her designee and billed to the property owner. If the invoice is not paid within sixty (60) days it shall be added to the property tax bill for collection.

#### **§ 161-9. Storage.**

All solid waste generators in the City of Mechanicville will be required to store solid waste between collection periods at basement or grade level in tightly covered containers or dumpsters, out of sight when possible. Solid waste and debris shall not be stored on open porch areas or in areas that are visible to the public.

#### **§ 161-10. Placement for collection. [Amended 10-2013]**

- A. The City of Mechanicville will collect or contract to collect non-recyclable rubbish and recyclable materials generated at private residences not exceeding four (4) dwelling units. Collection services will be provided on a one-(1) time-per-week schedule.
- B. Any person who cannot conform to this article or the rules and regulations promulgated under this article will be subject to a fine as written in this article and/or termination of services rendered.
- C. It shall be unlawful for any solid waste generators other than private residences to place curbside for collection by the City of Mechanicville or the city's contracted hauler any solid-waste material.
- D. Non-recyclable rubbish and recyclable materials generated at private residences must be placed curbside for collection in a neat and orderly fashion that does not obstruct any public walkway or create any public health or safety problems.
- E. Non-recyclable rubbish and recyclable materials may not be placed at the curb before 7:00 p.m. on the day before scheduled collection. Material must be at the curb by 6:00 a.m. on collection day. Empty containers must be removed from the curb within twelve (12) hours after collection.
- F. Solid waste that is generated in one location in the City of Mechanicville may not be placed for collection at another noncontiguous location in the City of Mechanicville. Solid waste generated outside of the borders of the City of Mechanicville shall not be hauled to the City of Mechanicville for storage or collection.

**§ 161-11. Source separation; preparation for collection.**

**A. General purpose.**

- (1) In order to facilitate the findings stated in §161-3, solid waste shall be separated into categories of waste. Broad categories include, but are not limited to:

- (a) Recyclable rubbish;
- (b) Garbage;
- (c) Yard waste;
- (d) White goods
- (e) Large household furniture;
- (f) Non-recyclable rubbish; and/or
- (g) Construction and demolition debris.

- (2) Solid waste separation shall be performed at its source or where the solid waste was generated. Solid waste shall be source-separated even if it is picked up by a private hauler who takes it to one or more locations outside the city for disposal.

**B. Recyclable rubbish.** Recyclable rubbish, also called "recyclables," shall be source-separated into the following categories:

- (1) Glass;
- (2) Plastic;
- (3) Metal cans;
- (4) Newspapers;
- (5) Corrugated cardboard;
- (6) Magazines;
- (7) Junk mail;
- (8) Telephone books;
- (9) Scrap metal;
- (10) White goods; and/or
- (11) Yard waste.

**C. Yard waste.** Preparation requirements and collection schedule shall be established by the City of Mechanicville Public Works Department.

**D. White goods.**

- (1) White goods shall be prepared by dismantling them in such a way that they will not be a hazard to the public. In this respect, lockable and latchable doors will be removed before the item is placed at curbside for disposal; and/or
- (2) Collection schedule shall be established by the City of Mechanicville Public Works Department.

**E. Large household furnishings.** Preparation requirements and collection schedule shall be established by the City of Mechanicville Public Works Department.

**F. Recycling containers.** Residents will be required to provide recycling containers specified by regulation. Decals will be provided by the hauler identifying the contents of such containers.

#### **§ 161-12. Ownership of recyclables.**

It shall be a violation of this article for any person to collect, pick up, remove or cause to be collected, picked up or remove any recyclables placed for collection without the permission of the person who so deposited and placed the recyclable, in writing, or without registering with the City of Mechanicville. Each collection, pickup or collection from place shall constitute a separate and distinct offense in violation of this article. A person may dispose of their recyclables by selling or donating them directly to recyclers, but these shall not have been placed at the curbside for collection.

#### **§ 161-13. Secondary markets for recyclables.**

- A. Source-separated solid waste shall be kept separate during all subsequent handling.
- B. Contracts with secondary markets should state that the recyclables shall not be burned nor landfilled nor transferred to another party which will burn or landfill them. Recyclables shall be recycled or remanufactured.

#### **§ 161-14. Garbage and non-recyclable rubbish.**

- A. Each person shall purchase and use clear or translucent refuse bags for the disposal of garbage and non-recyclable rubbish.
- B. Garbage and non-recyclable refuse shall not be placed at the curb for pickup unless it is in a clear or translucent refuse bag. Refuse placed in a dumpster or trash can must be first placed in a translucent or clear refuse bag. There is one exception to this requirement. There are items of garbage and non-recyclable rubbish which are not appropriate to place in or which do not fit into a refuse bag. These items naturally would not require a bag.
- C. It shall be a violation of this article for any person to place for collection any garbage or non-recyclable rubbish which contains any recyclable.

#### **§ 161-15. Storage of excessive quantities of waste.**

It shall be a violation of this article for any person to store excessive quantities of solid waste on any property in the city, except by permit from the city.

#### **§ 161-16. Transport; vehicles to be covered.**

No person shall transport solid waste on any street, avenue, lane, or highway in the city except in vehicles or trailers which prevent loss of any solid waste by the use of suitable covering.

#### **§ 161-17. Contract collectors.**

- A. A contract hauler shall not collect in the city any solid waste component without having registered its operation and any vehicles used in the city for purposes of collection. Recyclers operating in the city shall also register their operation. There may be a fee for registration.
- B. Registration shall be done with the City Clerk on a form which requests the following information:
- (1) Name, address and telephone number of the business;
  - (2) Name, address and telephone number of the owner(s) of the business;
  - (3) Identification of each vehicle which is to be registered;
  - (4) A description of the business operation; and
  - (5) Signature of a principal officer of the business.
- C. The application for registration shall contain the following statements above the signature line:
- I certify that the information given above is correct. I certify that only source-separated solid waste will be collected and that each source-separated waste will be kept separate and delivered to a secondary materials facility. I certify that any recyclable solid waste collected in the City of Mechanicville shall not be burned or landfilled. I certify that household hazardous waste shall not be knowingly collected or transported. I understand that the penalty for violation of these certifications or the City of Mechanicville Recycling Law is the loss of the privilege of collecting any solid waste in the city.
- D. A registration shall be renewed annually and it shall expire on the 31st of December of the year for which it was issued. A registration shall not be transferred, assigned or allowed to be used by another person. No person shall use a registration issued to another person.

**§ 161-18. Additional rules and regulations.**

- A. **Adopting and amending.** From time to time, the city shall adopt and promulgate, amend and repeal such regulations as, in its discretion, are necessary and desirable to carry out, interpret and enforce the intent and purposes of this article and the effective operation of the recycling efforts provided in this article.
- B. **Effective date.** Any regulation adopted, promulgated, amended or repealed under this article shall take effect thirty (30) days after being established by the city or fifteen (15) days after being published in the official local newspaper, whichever is the later date.

**§ 161-19. Violations.**

- A. Any person, firm, or corporation upon whom a notice has been served, who fails, neglects, or refuses to or who shall violate any of the provisions of this article or orders given pursuant thereto shall, upon conviction, be subject to a fine not more than two hundred fifty dollars (\$250.00) or to imprisonment for no more than fifteen (15) days, or to both such fine and imprisonment, and each day on which such violation continues after service of notice, shall constitute a separate offense. (Amended 10-2013)
- B. A violation of a rule or regulation enacted under this article shall be a violation of this article.

# **Chapter 162**

## **STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL**

[Adopted 12- 2016]

### **ARTICLE I General Provisions**

- |                               |                         |
|-------------------------------|-------------------------|
| § 162-1. Findings of fact.    | § 162.4. Applicability. |
| § 162-2. Purpose.             | § 162.5. Exemptions.    |
| § 162.3. Statutory authority. |                         |

### **ARTICLE II Stormwater Control**

- |  |  |
|--|--|
| § 162.6. Definitions.                          | § 162.10 Maintenance easement(s).        |
| § 162.7 Stormwater pollution prevention plans. | § 162.11 Maintenance after construction. |
| § 162.8. Technical standards.                  | § 162.12 Maintenance agreements.         |
| § 162.9. Maintenance during construction.      | § 162.13 Severability.                   |

### **ARTICLE III Administration and Enforcement**

- |   |  |
|---|--|
| § 162.14. Erosion and sediment control inspection.                      | § 162.21. Record keeping.                          |
| § 162.15. Stormwater management practice inspections.                   | § 162.22. Notice of violation.                     |
| § 162.16. Inspection of stormwater facilities after project completion. | § 162.23. Stop work orders.                        |
| § 162.17. Submission of reports.  | § 162.24. Violations.                              |
| § 162.18. Right-of-entry for inspection.                                | § 162.25 Penalties.                                |
| § 162.19. Construction completion guarantee.                            | § 162.26. Withholding of certificate of occupancy. |
| § 162.20. Maintenance guarantee.  | § 162.27. Restoration of lands.                    |
- SCHEDULE "A"**

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### **ARTICLE I General Provisions**

- § 162-1. Findings of fact.



It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

#### **§162-2. Purpose.**

The purpose of this ordinance is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in §162.1. This ordinance seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-0-15-003 or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination

System (SPDES) General Permit for Construction Activities GP-0-15-002 or as amended or revised;

- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream-bank erosion and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by storm water runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

### **§ 162-3. Statutory authority.**

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the City Council has the authority to enact ordinances and amend ordinances and for the purpose of promoting the health, safety or general welfare of the City of Mechanicville (City) and for the protection and enhancement of its physical environment. The City Council may include in any such ordinance provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such ordinance.

### **§ 162-4. Applicability.**

- A. This ordinance shall be applicable to all land development activities as defined in this ordinance.
- B. The City Council shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may: (1) review the plans, (2) upon approval by the City Council of the City of Mechanicville, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.
- C. All land development activities subject to review and approval by the ZBA/Planning Commission under site plan regulations shall be reviewed subject to the standards contained in this ordinance.
- D. All land development activities not subject to review as stated in §162.4(C) shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater

Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

### **§ 162-5. Exemptions.**

The following activities may be exempt from review under this law.

- A. Agricultural activity as defined in this ordinance.
- B. Silvicultural activity except that landing areas and log haul roads are subject to this law.
- C. Routine maintenance activities that disturb less than five (5) acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- E. Any part of a subdivision if a plat for the subdivision has been approved by the City of Mechanicville on or before the effective date of this law.
- F. Land development activities for which a building permit has been approved on or before the effective date of this law.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property, or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetable, and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure.

## **ARTICLE II Stormwater Control**

### **§ 162-6. Definitions.**

The terms used in this ordinance or in documents prepared or reviewed under this ordinance shall have the meaning as set forth in this section.

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

**BUILDING** – any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property and occupying more than one hundred (100) square feet of area.

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

**CLEARING** – any activity that removes the vegetative surface cover.

**DEDICATION** – the deliberate appropriation of property by its owner for general public use.

**DEPARTMENT** – the New York State Department of Environmental Conservation

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

**DEVELOPER** – a person who undertakes land development activities.

**EROSION CONTROL MANUAL** – the most recent version of the *New York Standards and Specifications for Erosion and Sediment Control Manual*, commonly known as the “Blue Book.”

**GRADING** – excavation or fill of material, including the resulting conditions thereof.

**IMPERVIOUS COVER** – those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

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

**INFILTRATION** – the process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND** – an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**LAND DEVELOPMENT ACTIVITY** – construction activity including clearing, grading, excavating, soil disturbance, or placement of fill that results in land disturbance of equal to or greater than one (1) acre, or activities disturbing less than one (1) acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

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

**NONPOINT SOURCE POLLUTION** – pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal, and urban runoff sources.

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

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

**PROJECT** – land development activity

**RECHARGE** – the replenishment of underground water reserves.

**SEDIMENT CONTROL** – measures that prevent eroded sediment from leaving the site.

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

**SPDES – GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-0-15-002** – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES – GENERAL PERMIT FOR STOMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-0-15-001** – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

**STABILIZATION** – the use of practices that prevent exposed soil from eroding.

**STOP WORK ORDER** – an order issued which requires that all construction activity on a site be stopped.

**STORMWATER** – rainwater, surface runoff, snowmelt, and drainage.

**STORMWATER HOTSPOT** – a land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**STORMWATER MANAGEMENT** – the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

**STORMWATER MANAGEMENT FACILITY** – one or a series of stormwater management practices installed, stabilized, and operating for the purpose of controlling stormwater runoff.

**STORMWATER MANAGEMENT OFFICER** – an employee or officer designated by the City to accept and review stormwater pollution prevention plans, inspect stormwater management practices and prosecute violations of this article.

**STORMWATER MANAGEMENT PRACTICES (SMP's)** – measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

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

**STORMWATER RUNOFF** – flow on the surface of the ground, resulting from precipitation.

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

**WATERCOURSE** – a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERWAY** – a channel that directs surface runoff to a watercourse or to the public storm drain.

#### **§162-7. Stormwater pollution prevention plans.**

- A. **Stormwater Pollution Prevention Plan Requirement** – No application for approval of a land development activity shall be reviewed until the Zoning/Planning Commission has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this ordinance.
- B. **Contents of Stormwater Pollution Prevention Plans** - All SWPPPs shall provide the following background information and erosion and sediment controls:

- (1) Background information about the scope of the project, including location, type, and size of project;
- (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s); *Site map should be at a scale no an 1"=100' ;*
- (3) Description of the soil(s) present at the site;
- (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
- (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff;
- (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control, and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (10) Temporary practices that will be converted to permanent control measures;
- (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

- (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
  - (13) Name(s) of the receiving water(s);
  - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
  - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
  - (16) Any existing data that describes the stormwater runoff at the site.
- C. Land development activities as defined in this Article and meeting Condition “A,” “B,” or “C” below shall also include water quantity and water quality controls (post-construction stormwater runoff controls):
- (1) **Condition A** - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
  - (2) **Condition B** - Stormwater runoff from land development activities disturbing five (5) or more acres.
  - (3) **Condition C** - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.
- D. Requirements for Condition A, B and C:
- (1) All information in §162.7 (B) of this ordinance;
  - (2) Description of each post-construction stormwater management practice;
  - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
  - (5) Comparison of post-development stormwater runoff conditions with pre-development conditions;
  - (6) Dimensions, material specifications and installation details for each post-construction stormwater management practice;



- (7) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
- (8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (9) Inspection and maintenance agreement binding on all subsequent landowners served by the onsite stormwater management measures in accordance with Article 2, Section 4 of this ordinance.

#### **E. Plan Certification**

The SWPPP shall be prepared by a landscape architect, certified professional, or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this ordinance.

#### **F. Other Environmental Permits**

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

#### **G. Contractor Certification**

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

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

### **§ 162-8. Technical standards.**

For the purpose of this ordinance, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

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

**§ 162-8. Water quality standards.**

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

**§ 162.9. Maintenance during construction.**

- A. The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this ordinance. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty percent (50%).
- B. The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven (7) days. The reports shall be delivered to the Stormwater Management Officer and also copied to the site log book.

**§ 162.10. Maintenance easement(s).**

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the City of Mechanicville to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this ordinance. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the City of Mechanicville.

#### **§ 162.11. Maintenance after construction.**

The owner or operator of permanent stormwater management practices installed in accordance with this law shall be operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- A. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- B. Written procedures for operation and maintenance and training new maintenance personnel.
- C. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with this chapter.

#### **§ 162.12. Maintenance agreements.**

The Stormwater Management Officer shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this ordinance entitled Sample Stormwater Control Facility Maintenance Agreement. The Stormwater Management Officer, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

#### **§ 162.13. Severability.**

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

### **ARTICLE III Administration and Enforcement**

#### **§ 162.14. Erosion and sediment control inspection.**

The Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant

shall notify the Stormwater Management Officer at least forty-eight (48) hours before any of the following:

- A. Start of construction;
- B. Installation of sediment and erosion control measures;
- C. Completion of site clearing;
- D. Completion of rough grading;
- E. Completion of final grading;
- F. Close of the construction season;
- G. Completion of final landscaping; and
- H. Successful establishment of landscaping in public areas.
- I. If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

#### **§ 162-15. Stormwater management practice inspections.**

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

#### **§ 162-16. Inspection of stormwater facilities after project completion.**

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

an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate, as long as the designated inspector is required to submit a report.

#### **§ 162-17. Submission of reports.**

The Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

#### **§ 162-18. Right-of-entry for inspection.**

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Stormwater Management Officer the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

#### **§ 162-19. Construction completion guarantee.**

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Stormwater Management Officer in its approval of the Stormwater Pollution Prevention Plan, the Stormwater Management Officer may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the City of Mechanicville as the beneficiary. The security shall be in an amount to be determined by the City of Mechanicville based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the City of Mechanicville, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the Stormwater Management Officer. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

#### **§ 162-20. Maintenance guarantee.**

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the City with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and

erosion and sediment control facilities, the City may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

#### **§ 162-21. Record keeping.**

The Stormwater Management Officer may require entities subject to this law to maintain records demonstrating compliance with this law.

#### **§ 162-22. Notice of violation.**

When the Stormwater Management Officer determines that a land development activity is not being carried out in accordance with the requirements of this ordinance, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- A. the name and address of the landowner, developer or applicant;
- B. the address when available or a description of the building, structure or land upon which the violation is occurring;
- C. a statement specifying the nature of the violation;
- D. a description of the remedial measures necessary to bring the land development activity into compliance with this ordinance and a time schedule for the completion of such remedial action; and
- E. a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

#### **§ 162-23. Stop work orders.**

The Stormwater Management Officer may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the Stormwater Management Officer confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance.

#### **§ 162-24. Violations.**

Any land development activity that is commenced or is conducted contrary to this ordinance, may be restrained by injunction or otherwise abated in a manner provided by law.

#### **§ 162-25. Penalties.**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this ordinance shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed fifteen (15) days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000.00) or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

**§ 162-26. Withholding of certificate of occupancy.**

If any building or land development activity is installed or conducted in violation of this ordinance the Stormwater Management Officer may prevent the occupancy of said building or land.

**§ 162-27. Restoration of lands.**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

- A. Fees for Services the City may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the City or performed by a third party for the City.

***SCHEDULE "A"***

**SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT**

Whereas, the City of Mechanicville ("Municipality") and the \_\_\_\_\_ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Municipality for the below named project, and Whereas, the Municipality and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Municipality and the facility owner agree as follows:

- (1) This agreement binds the Municipality and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

- (2) The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices and retention ponds.
- (3) The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.
- (4) The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five (5) year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Municipality within thirty (30) days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.
- (5) The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Municipality.
- (6) The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Municipality or in accordance with the recommendations of the inspecting engineer.
- (7) The facility owner shall provide to the Municipality within thirty (30) days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a bond, letter of credit, or escrow account).
- (8) This agreement shall be recorded in the Office of the County Clerk, County of Saratoga.
- (9) If ever the Municipality determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Municipality or by the inspecting engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.
- (10) This agreement is effective \_\_\_\_\_.



## Chapter 163

# ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS TO THE CITY'S STORM SEWER SYSTEM

- |   |   |
|---|---|
| § 163.1. Purpose/Intent.  | § 163.10. Industrial or construction activity discharges. |
| § 163.2. Definitions.   | § 163.11. Access and monitoring of discharges.            |
| § 163.3. Applicability.   | § 163.12. Notification of spills.                         |
| § 163.4. Responsibility for administration.   | § 163.13. Enforcement.                                    |
| § 163.5. Severability.  | § 163.14. Corrective measures after appeal.               |
| § 163.6. Discharge prohibitions.  | § 163.15. Injunctive relief.                              |
| § 163.7. Prohibition against activities contaminating stormwater.   | § 163.16. Alternative remedies.                           |
| § 163.8. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices. | § 163.17. Violations deemed a public nuisance.            |
| § 163.9. Suspension of access to MS4.   | § 163.18. Remedies not exclusive.                         |

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[Adopted 12-2016]

### § 163.1. Purpose/Intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Mechanicville through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state ordinance. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this ordinance are:

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-0-15-003 or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;
- C. To prohibit Illicit Connections, Activities and Discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance; and

- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

## **§ 163.2. Definitions.**

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

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

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

**CONSTRUCTION ACTIVITY** – Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-0-15-002, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

**DEPARTMENT** – The New York State Department of Environmental Conservation.

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

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

- (A) Any conveyances which allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (B) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE** – Any direct or indirect non-stormwater discharge to the MS4, except as exempted in this article.

**INDUSTRIAL ACTIVITY** – Activities requiring the SPDES permit for discharges from industrial activities except construction, GP-0-12-001, as amended or revised.

**MS4** – Municipal Separate Storm Sewer System.

**MUNICIPAL SEPARATE STORN SEWER SYSTEM** – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- (A) Owned or operated by the City of Mechanicville;
- (B) Designed or used for collecting or conveying stormwater;
- (C) Which is not a combined sewer; and
- (D) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40CFR 122.2

**MUNICIPALITY** – The City of Mechanicville.

**NON-STORMWATER DISCHARGE** – Any discharge to the MS4 that is not composed entirely of stormwater.

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

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

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

#### **SPECIAL CONDITIONS.**

- (A) Discharge Compliance with Water Quality Standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

- (B) 303(d) Listed Waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- (C) Total Maximum Daily Load (TMDL) Strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- (D) The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six (6) months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

**STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES)** – Stormwater Discharge Permit. A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

**STORMWATER** – Rainwater, surface runoff, snowmelt and drainage.

**STORMWATER MANAGEMENT OFFICER (SMO)** – An employee, the municipal engineer, or other public official(s) designated by the City of Mechanicville to enforce this local ordinance. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

**303(d) LIST** – A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by §303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two (2) years.

**TMDL** – Total Maximum Daily Load.

**TOTAL MAXIMUM DAILY LOAD** – The maximum amount of a pollutant to be allowed to be released into a waterbody so as not to impair uses of the water, allocated among the sources of that pollutant.

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

### **§ 163.3. Applicability.**

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

### **§ 163.4. Responsibility for administration.**

The Stormwater Management Officer(s) (SMO(s)) shall administer, implement, and enforce the provisions of this ordinance. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

### **§ 163.5. Severability.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

### **§ 163.6. Discharge Prohibitions.**

- A. Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as otherwise provided in this article. The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this local ordinance, unless the SMO has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or ordinance watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable ordinances and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life

and property while reasonably maintaining the purpose and intent of this local ordinance.

- (3) Dye testing in compliance with applicable state and local ordinances is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under an SPDES
- (5) permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the SMO, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable ordinances and regulations, and provided that written approval has been granted for any discharge to the MS4.

**B. Prohibition of Illicit Connections.**

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under ordinance or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this local ordinance if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

**§ 163.7. Prohibition against activities contaminating stormwater.**

**A. Activities that are subject to the requirements of this section are those types of activities that:**

- (1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.
- (2) Cause or contribute to the municipality being subject to the Special Conditions as defined in this chapter.

**B. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.**

**§ 163.8. Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices.**

#### A. Best Management Practices.

Where the SMO has identified illicit discharges as defined in this Chapter or activities contaminating stormwater as defined herein, the City may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

- (1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.
- (2) Any person responsible for a property or premise, which is, or may be, the source of an illicit discharge as defined in this Chapter or an activity contaminating stormwater as defined herein, may be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
- (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

#### **§ 163.9. Suspension of access to MS4. Illicit Discharges in Emergency Situations.**

- (1) The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- (2) Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

#### **§ 163.10. Industrial or construction activity discharges.**

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

**§ 163.11. Access and monitoring of discharges.**

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this Ordinance, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this Ordinance.

B. Access to Facilities.

- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this Ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
- (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this ordinance.
- (3) The municipality shall have the right to set up on any facility subject to this ordinance such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The municipality has the right to require the facilities subject to this ordinance to install monitoring equipment as is reasonably necessary to determine compliance with this ordinance. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Unreasonable delays in allowing the municipality access to a facility subject to this ordinance is a violation of this ordinance. A person who is the operator of a facility subject to this ordinance commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.



### **§ 163.12. Notification of spills.**

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

### **§ 163.13. Enforcement.**

#### **A. Notice of Violation.**

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

- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (4) The performance of monitoring, analyses, and reporting;
- (5) Payment of a fine; and
- (6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **B. Penalties.**

In addition to or as an alternative to any penalty provided herein or by ordinance, any person who violates the provisions of this local ordinance shall be guilty of a violation

punishable by a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed fifteen (15) days, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.00) nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed fifteen (15) days, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars (\$1000.00) or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation.

#### **§ 163.14. Corrective measures after appeal.**

- A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

#### **§ 163.15. Injunctive Relief.**

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

#### **§ 163.16. Alternative remedies.**

- A. Where a person has violated a provision of this Ordinance, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Municipal Attorney and concurrence of the City Code Enforcement Officer, where:
  - (1) The violation was unintentional;
  - (2) The violator has no history of previous violations of this Ordinance;
  - (3) Environmental damage was minimal;

- (4) Violator acted quickly to remedy violation; and/or
- (5) Violator cooperated in the investigation.

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

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

**§ 163.17. Violations deemed a public nuisance.**

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

**§ 163.18. Remedies not exclusive.**

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

# **Chapter 164**

## **STREETS AND SIDEWALKS**

### **ARTICLE I**

#### **Tearing up Pavement**

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| <b>§ 164-1. Connection to water or sewer system.</b>       | <b>§ 164-3. Surety bond.</b>            |
| <b>§ 164-2. Permit required; repairs after excavation.</b> | <b>§ 164-4. Violations.</b>             |
|  | <b>§ 164-5. Penalties for offenses.</b> |

### **ARTICLE II**

#### **Snow and Ice Removal**

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| <b>§ 164-6. Deposit onto streets prohibited.</b> | <b>§ 164-7. Penalties for offenses.</b> |
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### **ARTICLE III**

#### **Construction of Lateral Sewers and Drains; Alterations of Streets, Sidewalks and Curbs**

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|--|---|
| <b>§ 164-8. Work performed by city or let by contract.</b> | <b>§ 164-10. Sidewalk construction.</b> |
| <b>§ 164-9. Assessment of costs.</b>                       | <b>§ 164-11. Repaving of streets.</b>   |

### **ARTICLE IV**

#### **Care and Upkeep of Sidewalks**

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| <b>§ 164-12. Obstructions.</b>         | <b>§ 164-15. Construction material; compliance with order.</b> |
| <b>§ 164-13. Maintenance.</b>          | <b>§ 164-16. Penalties for offenses.</b>                       |
| <b>§ 164-14. Dangerous conditions.</b> |  |

**[Adopted 11-1968]**

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### **ARTICLE I**

#### **Tearing Up Pavement**

- § 164-1. Connection to water or sewer system.**

Hereafter, no person, firm, or corporation shall tap or connect any laterals or service pipes with the city water or sewer drains other than the Commissioner of Public Works or such employees in his department who may be delegated by him/her to perform such duty.

**§ 164-2. Permit required; repairs after excavation. [Amended 07-1971]**

- A. Hereafter, no person, firm, or corporation shall remove or disturb the pavement or any part thereof, or the surface or any part thereof, of any road, street, or avenue within said city; or dig, excavate, trench, or lay any ditch therein; or therein or thereunder lay any laterals or service pipes for connection with any water, gas, or sewer main therein without a permit issued therefore by the Commissioner of Accounts of the City of Mechanicville, attested by the Commissioner of Public Works and sealed with the Seal of said city.
- B. The Commissioner of Accounts is authorized and directed to assess a fee in the amount as set from time to time by resolution of the City Council (see fee schedule on file in the city offices) for each and every application requesting permission to excavate in the city streets of the City of Mechanicville. [Adopted 04-1989]
- C. Street excavations shall be repaired in accordance with the patching methods to be employed in pavement closures for different types of pavements in the City of Mechanicville as shown on a drawing approved by the City Council.
- D. Repairs to city streets after excavations will be made within a time period of fifteen (15) days and in accordance with the directives, rules and regulations promulgated by the Commissioner of Public Works.

**§ 164-3. Surety bond.**

No permit shall be issued unless the applicant therefor or his contractor shall first have filed with the Commissioner of Accounts a surety bond in the amount of five thousand dollars/ten thousand dollars (\$5,000.00/\$10,000.00) running to the City of Mechanicville and conditioned on the holding of it free and harmless from any and all citizens for injuries to any person or persons and damages to the property of others and further guaranteeing that such street will be put back in the same condition as it was before it was torn up, and such person, firm or corporation so receiving the same shall, by the acceptance thereof, bind himself or itself to maintain such surface in such condition for the term of one year.

**§ 164-4. Violations.**

The tearing up of each separate portion of the pavement or of the surface of any such street or the digging of each hole, trench, ditch, or excavation and the laying and connecting of each such pipe or lateral shall constitute separate violation of this article and shall be punishable accordingly.

**§ 164-5. Penalties for offenses. [Amended 10-2013]**

Any person, firm, or corporation violating any provisions of this article shall be subject to a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than fifteen (15) days, or both.

**ARTICLE II  
Snow and Ice Removal**

**§ 164-6. Deposit onto streets prohibited.**

It shall be unlawful for any person to deposit, pile, or otherwise dispose of snow and/or ice from private premises into streets and/or thoroughfares or gutters thereof.

**§ 164-7. Penalties for offenses. [Amended 10-2013]**

Violation of this article shall constitute an offense and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than fifteen (15) days, or both. Each single violation of this article shall constitute a separate offense.

**ARTICLE III  
Construction of Lateral Sewers and Drains;  
Alteration of Streets, Sidewalks and Curbs**

**§ 164-8. Work performed by City or let by contract.**

The construction, enlargement and extension of lateral sewers and drains and the opening, widening, altering, grading, and paving of streets and the alteration and improvement of sidewalks and curbs shall be performed by the City of Mechanicville under the supervision and direction of the Commissioner of Public Works, or the same shall be let by contract in the event that the Council shall so direct.

**§ 164-9. Assessment of costs.**

One-half (  $\frac{1}{2}$  ) of the cost of said construction, enlargement and extension of lateral sewers and drains and one half (  $\frac{1}{2}$  ) of the cost of said opening, widening, altering, grading, and paving of streets shall be assessed upon the property benefited thereby, that is to say upon the adjoining or abutting property. The total cost of said alteration and improvement of sidewalks and curbs shall be assessed upon the property benefited thereby, that is to say, upon the adjoining or abutting property. The cost so assessed shall be paid by said adjoining property owner within ten (10) days after notice, in writing, shall be served or mailed by the Commissioner of Accounts to said property owner. The remaining one half (  $\frac{1}{2}$  ) of the amount of said cost for the construction,

enlargement, and extension of lateral sewers and drains and said opening, widening, altering, grading and paving of streets shall be paid by and charged to the City of Mechanicville.

**§ 164-10. Sidewalk construction.**

- A. The adjoining or abutting property owners shall erect and construct sidewalks along streets of the City of Mechanicville adjacent to his property by January 1, 2006, and said sidewalks shall be repaired and constructed under the direction and pursuant to plans and specifications adopted by the Commissioner of Public Works, and said property owner shall pay for the construction and erection of said sidewalks and curbs.
- B. The Commissioner of Public Works shall notify said property owner to erect and construct the sidewalks, and in the event that said sidewalks are not erected and constructed within forty-five (45) days from the date of said notice, it shall be the duty of and the Commissioner of Public Works is hereby directed to erect and construct said sidewalks in accordance with said uniform plans and specifications, and it shall be the duty of the Commissioner of Accounts, and the Commissioner of Accounts is hereby directed to assess the entire cost of said construction and erection of said sidewalks upon said abutting or adjoining property owners and collect the same according to law.
- C. Sidewalks shall be constructed in accord with specifications promulgated by the Department of Public Works.

**§ 164-11. Repaving of streets.**

The City of Mechanicville shall repave said streets within the limits of the city as the Council by resolution may deem necessary from time to time, and the entire cost of said repaving of said streets shall be paid and charged upon the City of Mechanicville. The word "repaving" is intended to mean, in this article, such streets as have been paved by the city, or the former Village of Mechanicville, of which one half ( ½ ) was paid by the abutting property owner and the other one half (½) of the cost of the original paving by the village.

**ARTICLE IV  
Care and Upkeep of Sidewalks.**

**§ 164-12. Obstructions.**

- (A) No person shall suspend or place merchandise or objects in front of any building so as to obstruct the free use of the sidewalk nor in any case at a greater distance than from the building; provided, however, that nothing herein contained shall apply to fixtures or awnings or to articles in the course of transportation in or out of any building.
- (B) No person shall place in any public right of way, including sidewalks and city streets, any barricade, fence, dumpster, storage unit, or any other obstruction or object without

first obtaining a permit for such placement, from the City's Building Department.  
[Adopted 02-2009]

- (C) The fee for such permit shall be twenty-five dollars (\$25.00). The duration of such permit shall be determined by the City Code Enforcement Officer. [Adopted 02-2009]

**§ 164-13. Maintenance.**

It shall in all cases be the duty of the owner of every lot or piece of land in the City of Mechanicville to keep the sidewalks adjoining his lot or piece of land in good repair and to remove and clean away all snow and ice and other obstructions from such sidewalk.

**§ 164-14. Dangerous conditions.**

It shall be unlawful for any property owner to allow his sidewalks to be left in a broken, slippery, or otherwise dangerous condition, and it shall be the duty of every property owner to keep his/her sidewalks in repair and free from any and all slippery or otherwise dangerous substances.

**§ 164-15. Construction material; compliance with order.**

- A. No material other than concrete shall be used in the construction, repair, or alteration of any sidewalk.
- B. Whenever in the opinion of the Commissioner of Public Works a sidewalk or part thereof in the City of Mechanicville is, for want of repair or deem to be unsafe, or not in proper repair, thereby endangers life or safety, he/she shall have the authority to order the owner as reflected on the tax rolls of the City of Mechanicville to put the same in a safe condition within such reasonable time as may be determined by the order of the Commissioner.
- C. The notice of such order shall be served upon the owner by certified mail return receipt requested to such person(s) or entity at his last known address.

**§ 164-16. Penalties for offenses. [Amended 10- 2013]**

Any person(s) or entity upon whom a notice has been served by certified mail return receipt at the last known address, who fails, neglects, or refuses to place such sidewalk or part in a safe condition as designated in such notice or shall violate any of the provisions of this Article or orders given pursuant to this chapter or resist or obstruct the Commissioner of Public Works or Code Enforcement Officer from carrying out the provisions of this Chapter shall upon conviction be subject to a fine of not more than two hundred fifty dollars (\$250.00) or to imprisonment for no more than fifteen (15) days, or to both such fine and imprisonment. Each day in which such violation continues from the date that notice has been served, shall constitute a separate offense.



# **Chapter 169**

## **TAXATION**

### **ARTICLE I Senior Citizen Exemption**

**§ 169-1. Title.**

**§ 169-2. Exemption.**

### **ARTICLE II Penalty for Unpaid Taxes**

**§ 169-3. Interest penalty.**

**§ 169-4. Installment payment of eligible  
delinquent taxes.**

**§ 169-5. Tax liens.**

**§ 169-6. Other methods of enforcing  
payment.**

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### **ARTICLE I Senior Citizen Exemption [Adopted 11-1968]**

**§ 169-1. Title.**

This article shall be known as an "Ordinance Relating to Granting Partial Exemption from Real Property Taxation for Real Property Owned by Certain Persons with Limited Income Who Are sixty-five (65) Years of Age or over."

**§ 169-2. Exemption granted.**

It is the purpose and intention of this article that §467 of the Real Property Tax Law be and hereby is made applicable to the City of Mechanicville.

### **ARTICLE II Penalty for Unpaid Taxes [Adopted 11-1968]**

**§ 169-3. Interest penalty.**

The Commissioner of Accounts is hereby authorized and directed to fix a penalty to be added to all unpaid real, personal and special franchise taxes as follows. Taxes shall be received, for the first fifteen (15) days after the first publication of notice of taxes, at the office of the Commissioner of Accounts from 9:00 a.m. to 3:00 p.m. without penalty or interest added. After the expiration of fifteen (15) days from the date of such publication, a penalty of one percent (1%) shall be added to said taxes. After the expiration of thirty (30) days from the date of said publication, a penalty of three percent (3%) shall be added to said taxes. A penalty of one percent (1%) shall be added for each successive month thereafter.

**§ 169-4. Installment payment of eligible delinquent taxes.**

- A. The City is authorized and empowered via Real Property Tax Law §1184 to enact and amend a local law providing for the installment payment of eligible delinquent taxes. The installment payment of eligible delinquent taxes shall be made available to each eligible owner on a uniform basis. The enforcing officer for the City of Mechanicville may enter into an agreement with an eligible owner to provide for an installment plan that does not exceed twenty-four (24) months in duration, where the payment schedule shall be monthly, bimonthly, quarterly, or semiannually. Furthermore, the required down payment, if any, from the eligible owner shall not exceed twenty-five percent (25%) of the eligible delinquent tax.
- B. A property owner shall not be eligible to enter into an agreement pursuant to this section where:
  - (1) There is a delinquent tax lien on the same property for which the application is made or on another property owned by such person and such delinquent tax lien is not eligible to be made part of the agreement pursuant to this section;
  - (2) Such person is the owner of another parcel within the City on which there is a delinquent tax lien, unless such delinquent tax lien is eligible to be and is made part of the agreement pursuant to this section;
  - (3) Such person was the owner of property on which there existed a delinquent tax lien and which lien was foreclosed within three years of the date on which an application is made to execute an agreement pursuant to this section; or
  - (4) Such person defaulted on an agreement executed pursuant to this section within three years of the date on which an application is made to execute an agreement pursuant to this section.
- C. A property owner shall be eligible to enter into an agreement pursuant to this section no earlier than thirty (30) days after the delivery of the return of unpaid taxes to the enforcing officer.
- D. The amount due under an installment agreement shall be eligible delinquent taxes plus the interest that is to accrue on each installment payment up to and including the date on

which each payment is to be made. The agreement shall provide that the amount due shall be paid, as nearly as possible, in equal amounts on each payment due date. Each installment payment shall be due on the last day of the month in which it is to be paid.

E. Interest on the total amount of eligible delinquent taxes, less the amount of the down payment made by the eligible owner, if any is required, shall be in accordance to §169-3 of this article.

F. Default.

(1) The eligible owner shall be deemed to be in default of the agreement upon:

(a) Nonpayment of any installment within thirty (30) days from the payment due date;

(b) Nonpayment of any tax, special ad valorem levy or special assessment which is levied subsequent to the signing of the agreement by the city and which is not paid prior to the receipt of the return of unpaid taxes by the enforcing officer; or

(c) Default of the eligible owner on another agreement made and executed pursuant to this section.

(2) In the event of a default, the City shall have the right to require the entire unpaid balance, with interest and late charges, to be paid in full. The City shall also have the right to enforce the collection of the delinquent tax lien pursuant to the applicable sections of the law, special tax act, charter or local law.

(3) Where an eligible owner is in default and the City does not either require the eligible owner to pay in full the balance of the delinquent taxes or elect to institute foreclosure proceedings, the City shall not be deemed to have waived the right to do so.

G. Within forty-five (45) days after receiving the return of unpaid taxes from the collecting officer, or as soon thereafter as is practicable, the enforcing officer shall notify, by first-class mail, all potential eligible owners of their possible eligibility to make installment payments on such tax delinquencies. The enforcing officer shall add one dollar (\$1.00) to the amount of the tax lien for such mailing. The failure to mail any such notice, or the failure of the addressee to receive the same, shall not in any way affect the validity of taxes or interest prescribed by law with respect thereto.

#### **§ 169-5. Tax liens.**

The City hereby elects to enforce its tax liens, and whenever a tax lien has been due and unpaid for a period of at least three years from the date on which the tax or other legal charges become a lien, the City shall hereafter be entitled to summarily foreclose the lien pursuant to Title 3 of Article 11 of the Real Property Tax Law.

**§ 169-6. Other methods of enforcing payment.**

Nothing herein contained shall be construed in any way to affect or prevent the Council from instituting legal proceedings in behalf of the City for the enforcement of payment of all unpaid taxes and water and sewer rents as provided in the Charter of the City.

# Chapter 172

## TAXICABS

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| § 172-1. Definitions.                                     | § 172-5. Application for license; fee; renewal. |
| § 172-2. License required.                                | § 172-6. Revocation of license.                 |
| § 172-3. Designation of stands.                           | § 172-7. Posting of rates.                      |
| § 172-4. Standing at other than taxicab stand prohibited. | § 172-8. Penalties for offenses.                |

[Adopted 11-1968]

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### § 172-1. Definitions.

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

**TAXICAB** – motor vehicle carrying one or more passengers for hire and licensed as an omnibus by the Motor Vehicle Department of the State of New York, for which operation a certificate of convenience and necessity from the Public Service Commission is not required by statute.

### § 172-2. License required.

No person or corporation shall operate or cause to be operated upon or along the public streets of the city any taxicab without first procuring a license for each taxicab from the Mayor upon such terms and conditions as are or may hereafter be provided in this chapter or any amendment thereof.

### § 172-3. Designation of stands.

The Mayor is hereby authorized to locate and designate as public taxicab stands such space alongside the curb on such public streets as in his opinion may be for the best interests of the people of the city and to cause said space to be clearly marked by signs indicating that it is a taxicab stand.

### § 172-4. Standing at other than taxicab stand prohibited.

No taxicab while waiting employment by passengers shall stand on any public street or place other than at or upon a public taxicab stand designated or established in accordance with this chapter.

**§ 172-5. Application for license; fee; renewal.**

Every person or corporation operating one or more taxicabs in the City shall apply, in writing, to the Mayor, on blanks which shall be furnished by the Commissioner of Accounts, for a license to operate one or more taxicabs on and along the streets of the City. Each applicant shall pay to said city the sum as set from time to time by resolution of the City Council for each license for each taxicab (see fee schedule on file in the City offices). Such license shall be valid only from the date of issuance to the 31<sup>st</sup> day of January following and must be renewed by the taxicab owner before the 1st day of February each year on the same terms and conditions as are or may hereafter be required for the original license.

**§ 172-6. Revocation of license.**

The Mayor may revoke such license for violation of any of the provisions of this chapter or upon the conviction of the licensee for any violation of the Highway, Vehicle and Traffic or Transportation Corporations Law of the State of New York.

**§ 172-7. Posting of rates.**

Every taxicab available for hire or operated within the City of Mechanicville shall have posted, in the interior thereof, a list of rates, fares and other charges as specified and in accordance with §396-p of the General Business Law.

**§ 172-8. Penalties for offenses.**

In addition to any penalty provided in §396-p of the General Business Law, violation of any of the provisions of this chapter shall, upon conviction, be punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment. Each day's continued violation of this chapter shall be a separate and distinct offense.

# Chapter 175

## TELECOMMUNICATIONS FACILITIES

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| § 178-1. Authority and purpose.                          | § 178-8. Hearing required; notice.             |
| § 178-2. Permit required.                                | § 178-9. Annual certification.                 |
| § 178-3. Definitions.                                    | § 178-10. Issuance of permit.                  |
| § 178-4. Policy; findings; powers and duties of Council. | § 178-11. Term and renewal of permit.          |
| § 178-5. Application fees; escrow deposits.              | § 178-12. Information for Assessor.            |
| § 178-6. Contents of application.                        | § 178-13. Bond.                                |
| § 178-7. Terms and conditions.                           | § 178-14. Enforcement; penalties for offenses. |

[Adopted at time of adoption of 2000 Code]

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### § 175-1. Authority and purpose.

- A. The Telecommunications Act of 1996 affirmed the City of Mechanicville's authority concerning the placement, construction and modification of telecommunications towers and related facilities which may pose a unique hazard to the health, safety, public welfare and environment of the City of Mechanicville and its inhabitants. In order to ensure that the placement, construction or modification of telecommunications towers and related facilities is consistent with the city's land use policies and to fulfill its obligations under the State Environmental Quality Review Act, the city is adopting a single, comprehensive, telecommunications tower application, and permit process.
- B. The intent of this chapter is to minimize the negative impact of telecommunications towers; minimize the number of towers in the community by encouraging shared use and the use of existing structures; establish a fair and efficient process for review and approval of applications; assure an integrated comprehensive review of environmental impacts of such facilities; and protect the health, safety and welfare of the people of the City of Mechanicville. The City Council, recognizing that it cannot ban such facilities from the city, intends to implement this chapter so as to minimize to the maximum extent possible the negative aesthetic impact of such facilities.
- C. This chapter is enacted pursuant to the Municipal Home Rule Law.

### § 175-2. Permit required.

As of the effective date of this chapter, no person shall site, build or prepare any site for the

placement or use of any telecommunications tower, antenna or related facilities without first duly applying for and obtaining the written approval of the City Council (hereinafter "telecommunications siting permit" or "permit") according to the procedures and requirements of this chapter.

### **§ 175-3. Definitions.**

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

**ANTENNA** – A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal communication services, and microwave communications.

**APPLICANT** – Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons, limited liability company or entity that submits an application.

**APPLICATION** – The form, together with all necessary and appropriate documentation required of the applicant, to receive a telecommunications siting permit.

**COLLAPSE ZONE** – The area in which any portion of a telecommunications tower could or would fall, collapse or plunge to the earth. The collapse zone shall be no less than the lateral equivalent of the distance from the peak point to the top of the structure plus ten (10) feet, such being not less than one half (½) the height of the structure.

**COLLOCATION** – The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two (2) or more persons or entities.

**EAF** – Environmental Assessment Form.

**FAA** – The Federal Aviation Administration.

**FCC** – The Federal Communications Commission.

**HEIGHT** – When referring to a telecommunications tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

**NIER** – Non-Ionizing Electromagnetic Radiation.

**RELATED FACILITIES** – Any accessory facility or structure serving or being used in conjunction with a telecommunications tower, including but not limited to utility or transmission equipment storage sheds or cabinets.

**SATELLITE ANTENNA** – Any parabolic dish, antenna, or other device or equipment, of whatever nature or kind, the primary purpose of which is to receive television, radio, light,



microwave or other electronic signals, waves and/or communications from space satellites or airborne sources.

**TELECOMMUNICATIONS** – The transmission and reception of audio, video, data and other information or signals by wire, radio, light or other electronic or electromagnetic systems.

**TELECOMMUNICATIONS TOWER** – Structure or location selected, designed or intended to be used to support an antenna. It includes, without limit, freestanding towers, guyed towers, monopoles and structures of similar height, including but not limited to structures such as buildings, church steeples, silos, water towers, utility towers and poles, signs, or other similar structures. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal communication services or microwave communications, but excluding those used exclusively for fire, police and other dispatch communications or exclusively for private radio and television reception and private citizens' band amateur radio and other similar communications that do not exceed height limitations addressed elsewhere in city regulations.

**§ 175-4. Policy; findings; powers and duties of Council.**

- A. The City of Mechanicville's policy is to minimize the impact of telecommunications towers in the city and mitigate the impact of such facilities as are required.
- B. The city finds that collocation and effective camouflaging of telecommunications facilities is in the public interest and should be encouraged. As hereinafter described, the City Council will waive such requirements of the application required by this chapter as are inappropriate in the case of applications for facilities to be collocated on existing structures or for facilities which will be effectively camouflaged (sometimes called "stealth facilities") in either existing or new structures. The City Council will expedite review and approval of such applications.
- C. The City Council may retain the services of consultants or experts to assist it in reviewing applications pursuant to this chapter.
- D. The City Council may refer any application or part thereof to any advisory or other committee for nonbinding recommendations.
- E. The City Council may conduct pre-application meetings with potential applicants at the applicant's request.
- F. Except for necessary building permits and subsequent certificates of compliance, no additional permits or approvals from the City of Mechanicville (e.g., site plan and zoning approvals) will be required for facilities covered by this chapter.
- G. The City Council will undertake review of applications pursuant to this chapter in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved and the applicant's desire for a timely resolution.

- H. Given the public's perception of the risks of radio frequency (RF) technology, the City Council may hold one (1) or more public information sessions for purposes of addressing the public's concerns regarding the health and safety implications of the applicant's requested permit and may compel that the applicant be available to answer questions. The City Council may not, however, refuse to issue a telecommunications siting permit on the grounds of the public's concern regarding the health and safety of the proposed facility's RF emissions if the parameters of the RF emissions comply with applicable federal law.
- I. The City Council intends to be lead agency pursuant to the State Environmental Quality Review Act (SEQRA). The City Council shall conduct an integrated comprehensive environmental review of the proposed project as part of its review of the application under this chapter.
- J. The City Council shall refer applications to the County Planning Agency of Saratoga County when and as required by law.

**§ 175-5. Application fees; escrow deposits.**

- A. An application for a new telecommunications tower shall be accompanied by an application fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices).
- B. An application for collocation on existing towers or for completely camouflaged (i.e. "stealth site") installations shall be accompanied by an application fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices).
- C. All applicants will be required to deposit with the city funds sufficient to reimburse the city for the actual reasonable costs of the city's consulting engineer, attorney or other consultant and expert assistance to the City Council in connection with review of the application. The City Building Department will maintain a separate account for all escrow deposits.
  - (1) The city's consultants shall provide, at the Council's request, estimates and the basis for their charges and shall bill the city monthly for their services in reviewing such application and performing their duties. These monthly billings shall be charged against the applicant's escrow balance.
  - (2) If at any time during the review and approval process the applicant's escrow account shows a negative balance, additional funds must be submitted to the City Building Department before any further action can be taken on the application. If at the conclusion of the review and approval process the amount of such services is more than the amount escrowed pursuant hereto, the applicant shall pay the difference to the City Building Department prior to the issuance of any building permits or certificates of compliance, and in the event that the amount held in escrow by the City Building Department is more than the amount of the actual billing, the difference shall be refunded to the applicant.

**§ 175-6. Contents of application.**

- A. Applications under this chapter must contain at least the information required by this section. The application must be verified by a responsible officer of the applicant. The landowner, if different than the applicant, shall acknowledge the application and verify that he is aware of the application and is aware that the city may deny the application or issue a permit with conditions. Where this section calls for certification, such certification shall be by a qualified person acceptable to the City of Mechanicville, unless otherwise noted. All applicants should seek pre-application meetings with the City Council.
- B. The City Council will, upon the applicant's request, waive some of the provisions of this section in cases where the application is for a collocated facility or an effectively camouflaged (i.e. "stealth") facility. The applicant should seek a pre-application meeting with the City Council to review such a proposed application and settle the waivers or establish provisions which will help to expedite review and permit issuance for such applications. The purpose of such waivers or other alternative procedures shall be to expedite and minimize the cost to the applicant and the City of Mechanicville for review and permit issuance for collocation and other applications that meet the minimization and mitigation goals of this chapter.
- C. An application for a permit under this chapter shall contain at least the following information:
  - (1) Name(s) and address(es) of the person(s) preparing the report and telephone number of a contact person;
  - (2) Name(s) and address(es) of the proposed property site owner, operator and applicant;
  - (3) Postal address and sheet, block and lot or parcel number of the proposed property site;
  - (4) Zoning district in which the proposed site is situated;
  - (5) A map showing the size of the proposed property site and the location of all lot lines;
  - (6) Location of nearest residential structure;
  - (7) Location of nearest habitable structure;
  - (8) Location of all structures on the proposed property site which is the subject of the application;
  - (9) Location, size, and height of all proposed and existing antennas and all appurtenant structures and showing the "collapse zone" on the drawing.

- (10) Type, size, and location of all proposed and existing landscaping;
- (11) The number, type, and design of the tower and antenna(s) proposed, the basis for the calculations of tower and system capacity and the grounding for the installation;
- (12) The make, model and manufacturer of the tower and antenna(s); A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color, and lighting;
- (13) The frequency, modulation and class of service of radio equipment;
- (14) Transmission and maximum effective radiated power of the antenna(s);
- (15) Direction of maximum lobes and associated radiation of the antenna(s);
- (16) Applicant(s) proposed tower maintenance and inspection procedures and record systems;
- (17) Certification by a qualified professional that NIER levels at the proposed site are within parameters adopted by the FCC;
- (18) Certification by a qualified professional that the proposed antenna(s) will not cause interference with existing communication devices;
- (19) Certification by a New York State licensed professional engineer that the tower and attachments as designed meet all structural requirements for such items as loads, wind, ice, etc. After construction, the applicant shall certify that, as built, the structure also meets all applicable requirements;
- (20) A written statement wherein the applicant agrees to defend and indemnify the city and any of its servants, agents or employees from any and all claims made in connection with the siting, installation, construction, use or operation of the telecommunications tower and related facilities. In connection therewith, the applicant shall supply proof of insurance acceptable to the city;
- (21) A copy of the FCC license applicable to the application; and
- (22) The applicant's plan for a period of at least two (2) years for telecommunication facilities located or to be located in the city and all adjoining municipalities. The applicant shall identify and disclose the number and location of any additional sites that the applicant has, is or will be considering, reviewing or planning for any towers, antennas or related facilities in the city and all towns adjoining the city for a period of at least two (2) years from the date of the submittal of the application.

- D. The applicant shall demonstrate its review of proposed alternatives as required by this chapter. An applicant may not omit analysis of appropriate alternative sites of lesser impact on the grounds that the site presented is the only site leased or selected. An application shall address collocation as an option, and, if such option is not proposed, the applicant must explain why the option is not feasible.
- E. In the case of an application for a new telecommunications tower, the application must examine the feasibility of designing a proposed tower to accommodate future demand for at least two (2) additional commercial applications (i.e. future collocations). The tower must be structurally designed to accommodate at least two (2) additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. The requirement to construct a tower that can accommodate collocation may be waived by the city, provided that the applicant demonstrates that the provision of future shared usage of the facility is not feasible and an unnecessary burden, based upon consideration such as, for example:
- (1) The number of FCC licenses foreseeably available for the area;
  - (2) The kind of tower site and structure required;
  - (3) The number of existing and potential licenses without tower spaces/sites;
  - (4) Available spaces on existing and approved towers; and
  - (5) The potential for significant adverse visual impact of a tower designed for shared use.
- F. The applicant may be required to address the impact upon property values in the neighborhood brought about by the proposed tower.
- G. The applicant shall set forth alternative tower designs, color schemes and disguises for the telecommunications tower, antennas, and related facilities, including a design which effectively camouflages the facility ("stealth facility") or avoids the use of a freestanding metal tower.
- H. The applicant shall submit copies of its site prioritization and propagation studies or analyses.
- I. The applicant shall submit a comprehensive report inventorying towers and other appropriate structures within four miles (unless the applicant can show that some other distance is more reasonable) of any proposed new tower site and outlining opportunities for shared use of existing facilities and use of other preexisting structures as an alternative to new construction.
- J. The applicant shall submit a complete SEQRA long EAF Part 1 and visual EAF addendum Appendix D. The City Council may require submission of a more detailed visual analysis based on the results of the visual EAF.

K. The applicant shall submit a visual impact assessment which should include:

- (1) A zone of visibility map to determine locations where the tower may be seen; and
- (2) Representations of before and after: views from key viewpoints both inside and outside of the city, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites, and from any other location where the site is visible to a large number of visitors or travelers. If requested by the applicant, the city, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key site assessment of the visual impact.

L. The applicant shall explain in detail its proposed method of effectively screening from view its proposed tower base and all related facilities.

M. The city may require the applicant to supply such further and additional information as it deems necessary in order to carry out its responsibilities under the law.

N. The City Code Enforcement Officer/Building Inspector shall determine the number of copies of the application which must be submitted. The applicant is encouraged to confer with the Code Enforcement Officer/Building Inspector to explore whether some portions of the application need not be reproduced in all copies. Absent a determination by the Code Enforcement Officer/Building Inspector, the applicant must submit twelve (12) copies of the complete application.

#### **§ 175-7. Terms and conditions.**

A. An applicant must demonstrate to the City Council's satisfaction that the telecommunications tower, antenna(s) and related facilities will meet these conditions. In all cases the burden of proof shall be upon the applicant.

B. Applicants for telecommunications towers and antennas shall locate, erect, and site said facilities in accordance with the following priorities:

- (1) Collocation on existing towers or structures;
- (2) Camouflaged or stealth facility;
- (3) Locations where topography and cover minimize the visual impact; and
- (4) In industrial areas.

C. No new telecommunications tower which would have an adverse visual impact upon sensitive areas, historic sites or scenic places shall be approved. Modification of existing towers or addition of antennas to existing towers or stations in such sensitive areas may be acceptable, if otherwise consistent with this chapter. The City Council may establish a list of such areas.

- D. At all times, collocation on existing towers and appropriately camouflaged use of existing or new structures shall be preferred over the proposed construction of new towers.
- E. Towers shall be no higher than the minimum height necessary. Unless waived by the City Council upon good cause shown, the presumed maximum height will be one hundred forty (140) feet, based on three collocated antenna arrays and an ambient tree height of eighty (80) feet.
- F. If a new structure is required, structures that effectively camouflage the facility shall be preferred.
- G. Except for good cause shown, towers shall not exceed the height requiring artificial lighting. Telecommunications towers shall not be artificially lighted or marked except as required by law. Towers shall be of appropriate materials and color to harmonize with the surroundings. Towers should be designed and sited so as to avoid application of lighting requirements.
- H. Telecommunications towers shall be permitted one sign no larger than two square feet to provide adequate notification to persons in the immediate area of the antenna that it has transmission capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as an emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any antenna tower, unless required by law.
- I. Telecommunications towers and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access by the general public. All antenna towers, monopoles and other supporting structures, including guy wires, shall be made inaccessible to persons and constructed or shielded in such a manner that they cannot be climbed or run into. Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are readily accessible only to persons authorized to make such adjustments.
- J. All proposed telecommunications towers and related facilities shall be set back from abutting parcels and street lines a distance sufficient to substantially contain on site all ice fall or debris from a tower failure and preserve the privacy of any adjoining properties. Telecommunications towers shall comply with all existing setback requirements of the underlying zoning district, or the setback shall be equal to one half ( $\frac{1}{2}$ ) of the height of the tower, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
- K. All utilities leading to and away from any new telecommunications site shall be installed underground and in compliance with all the laws, rules and regulations of the city. The City Council may waive or vary the requirements of underground installation whenever, in the opinion of the City Council, such variance or waiver shall not be detrimental to the public health, safety, general welfare or environment, including the visual and scenic characteristics of the area.

- L. All telecommunications towers and related facilities shall be sited to the maximum extent practicable to have the least adverse visual effect on the environment, visual view shed and residences in the city.
- M. Related facilities shall maximize the use of building materials, colors, textures and architectural styles designed to blend with the surroundings.
- N. Existing on-site vegetation shall be preserved to the maximum extent possible, consistent, however, with the City Council's determinations concerning site plantings and screening.
- O. There must be adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- P. In the event that a telecommunications tower and/or related facility is no longer used for the purpose specified in the application or the telecommunications tower and/or related facility ceases operations for a continuous period of one hundred eighty (180) days, the City Council may, by resolution, after hearing held upon due notice, require the applicant or its successors or assigns to dismantle and remove such tower, structures and facilities from the site and restore the site (in the fashion as ordered by the City Council) within ninety (90) days of receipt of written notice from the City Council.
- Q. After construction and prior to receiving a certificate of compliance, the applicant shall provide certification acceptable to the city that the telecommunications tower is grounded so as to protect person and property and installed with appropriate surge protectors.
- R. Telecommunications towers shall be designed so that in the event of failure they will fall within the setback area or collapse zone and not threaten neighboring properties.
- S. Noise-producing equipment shall be sited and mitigated to produce the lowest possible off-site noise impact.
- T. The City Council may require the applicant to accept, in writing, the terms and conditions of a permit.
- U. The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit the ability of the applicant to share any new telecommunications tower.
- V. No applicant or owner shall enter into any agreement that limits, prohibits or precludes, or has the effect of limiting, prohibiting or precluding, the right or ability of any person or applicant to share space on a telecommunications tower in the city.

**§ 175-8. Hearing required; notice.**



- A. Prior to issuing a telecommunications facility siting permit, a public hearing shall be held by the City Council, notice of which shall be published in the official newspaper for the city no less than ten (10) days in advance. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within fifteen hundred (1,500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail or other reliable method acceptable to the city no less than ten (10) days in advance of the hearing. Proof of notification shall be submitted to the City Council at least seven days prior to the hearing.
- B. The City Council will schedule the public hearing referred to above once it tentatively finds that the application is complete. The City Council, at any stage prior to issuing a permit, may require such further information as it deems necessary.
- C. In order to keep neighboring municipalities informed and to facilitate the goal of collocation and shared use, an applicant who proposes a new telecommunications tower shall notify the legislative body of each municipality that borders the city and the Saratoga County Planning Board. Notification shall include the exact location of the proposed tower and a general description of the project, including but not limited to the height of the tower and its capacity for future shared use. Proof of this notification shall be submitted to the City Council at the time of application.

#### **§ 175-9. Annual certification.**

The applicant, its successors or assigns shall file annually with the city, within thirty (30) days of the anniversary date of the permit, certification that the applicant, its successors or assigns are complying with its maintenance and inspection procedures, including all visual screening conditions in the permit; that the tower and related facilities are not a hazard or a threat to the health, safety and welfare of the public and to the environment; that RF emissions comply with current FCC or other applicable standards; that the insurance and financial undertakings required by this chapter are in effect; and that the facility is in use. If the applicant, its successors or assigns fail to make certification, the City Council, upon reasonable notice and giving the applicant an opportunity to cure, may by resolution revoke the permit.

#### **§ 175-10. Issuance of permit.**

- A. The City Council may issue a permit or a permit with conditions or deny the application. Its decision shall be in writing and based on substantial evidence, upon a record. The burden of proof is upon the applicant.
- B. Before the City Council issues any permit, it shall find that the applicant has complied with all requirements of this chapter.
- C. The permit shall be comprehensive and not severable. If part of a permit is overturned by a competent authority, the permit shall be void in total.

- D. The City Council may waive provisions or requirements of this chapter when such waiver advances the goals and purposes of this chapter or where particular provisions would impose a material, adverse financial impact upon an applicant.
- E. For good cause shown, the City Council may review a permit if industry or scientific standards raise new relevant information concerning the health and safety of the facility. Upon review, the City Council may require the applicant, its successors or assigns to take appropriate mitigation and abatement steps, to the extent allowed by law.

#### **§ 175-11. Term and renewal of permit.**

Permits shall be for a five (5) year term. The owner shall be entitled to renewal of the permit if the facility is in compliance with this chapter, is in compliance with all the permit conditions and is in compliance with all current applicable federal standards regarding RF emissions. Ninety days before the permit expires the owner may submit a brief written request for a permit renewal, which certifies the compliance of the facility with this section. Within a reasonable time after receipt of the written request demonstrating compliance with this provision, the Code Enforcement Officer/Building Inspector shall issue a renewed permit, incorporating by reference the relevant conditions from the initial permit.

#### **§ 175-12. Information for Assessor.**

Before the building permit is issued for any telecommunications tower or facility, the applicant shall provide to the Assessor of the City of Mechanicville such information concerning the deed, lease or license as is reasonably required by the Assessor for real property tax purposes. The applicant or owner will have an ongoing duty to report the cost of any material improvements to the site. Such information may be exempt from public disclosure pursuant to Public Officers Law §87, Subdivision 2, or similar provisions of law.

#### **§ 175-13. Bond.**

The applicant and the owner of record of any proposed property site shall be jointly required to execute and file with the city a bond or other form of security acceptable to the City Attorney and Mayor as to form and manner of execution in an amount deemed sufficient by the City Council for the faithful performance of the terms and conditions of the city law and permit. The bond or security shall remain in full force and effect until the removal of the tower and related facilities and site restoration.

#### **§ 175-14. Enforcement; penalties for offenses.**

- A. The City of Mechanicville Building Department shall be charged with enforcing the terms and conditions of the permit and any ongoing obligations imposed by this chapter.

The city, acting through its Building Department or other authorized agency, may enforce the conditions of a permit in a court of competent jurisdiction.

- B. Violation of a condition of a permit is a violation of this chapter and is prohibited.
- C. Violation of a permit condition shall be subject to a civil penalty of two hundred fifty dollars (\$250.00) per day for each violation. The city, acting through its Building Department or other authorized agent, may, in addition to any other remedy available, recover civil penalties through a civil action in a court of competent jurisdiction.

# **Chapter 178**

## **TREES**

**§ 178-1. Cutting down without permit prohibited.**

**§ 178-2. Penalties for offenses.**

**[Adopted 11-1968]**

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**§ 178-1. Cutting down without permit prohibited.**

No person, without the written permit of the Commissioner of Public Works, shall cut down, remove, break, cut, mutilate, or injure any tree, plant, or shrub in any of the streets or public places of the City of Mechanicville, including any space lying between the paved portion of the street and the sidewalk thereof.

**§ 178-2. Penalties for offenses. [Amended 10-2013]**

Violation of this article shall be punishable by imprisonment for not more than fifteen (15) days or by a fine of not more than one thousand dollars (\$1,000.00), or by both such imprisonment and fine, and the cost of replacement of the tree, plant, or shrub injured, removed, or mutilated.

# **Chapter 183**

## **VEHICLES AND TRAFFIC**

### **ARTICLE I General Provisions**

**§ 183-1. Purpose.**

**§ 183-2. Adoption of statutory provisions.**

### **ARTICLE II Through Streets and Stop Intersections**

**§ 183-3. Definitions.**

**§ 183-5. Penalties for offenses.**

**§ 183-4. Through streets; stop intersections; location of traffic signs.**

### **ARTICLE III One-way Streets; Speed Limits; Turning Movements**

**§ 183-6. Definitions.**

**§ 183-9. Reverse turns prohibited.**

**§ 183-7. One-way streets.**

**§ 183-10. Penalties for offenses.**

**§ 183-8. Speed of motor vehicles.**

### **ARTICLE IV Parking Restrictions**

**§ 183-11. No-parking zones.**

**§ 183-16. Use of streets for motor vehicle repairs.**

**§ 183-12. Alternate parking.**

**§ 183-17. Removal of motor vehicles.**

**§ 183-13. Fire lanes.**

**§ 183-18. Placement of signs without Permission.**

**§ 183-14. Bus stop zones.**

**§ 183-19. Penalties for offenses.**

**§ 183-15. Dead storage.**

**[Adopted 11-1968]**

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### **ARTICLE I General Provisions**

**§ 183-1. Purpose.**

This chapter is hereby declared to be for the preservation of peace, health, safety, and property and a police regulation therefor.

**§ 183-2. Adoption of statutory provisions. [Amended 09-1970]**

The facts, rules and regulations governing traffic set forth in the Vehicle and Traffic Law of the State of New York and any and all subsequent amendments thereto and any and all relevant additional sections and subdivisions of the Vehicle and Traffic Law of the State of New York in such case or cases made and provided and insofar as the same are applicable to traffic in the City of Mechanicville are hereby ordained, adopted, and put into full force and effect as ordinances of the City of Mechanicville and hereby control all of the streets and highways within the corporate limits of the City of Mechanicville as if the same were set forth herein in detail.

**ARTICLE II**  
**Through Streets and Stop Intersections**

**§ 183-3. Definitions.**

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

**OFFICIAL TRAFFIC SIGNS AND SIGNALS:**

- A. All signs, markings, devices, and signals, including electrically operated signals, placed, or erected by authority of a public body or official having jurisdiction for the purpose of guiding, directing, warning, or regulating traffic. [Amended 03-1974]
- B. A sign bearing the word "stop," with or without explanatory words, shall be sufficient to require a full stop.

**§ 183-4. Through streets; stop intersections; location of traffic signs.**

- A. **Stop intersections.** Every driver of a vehicle shall bring his/her vehicle to a full stop on each street enumerated in the first column below before entering the street opposite thereto in the second column below named, provided that an appropriate and plainly visible sign stating the requirements of this subsection is maintained at or near the place where vehicles are required to stop.

**Name of Street at Intersection of:**

- Broadway Fifth Street [Added 10-1979]
- Broadway Third Street [Added 10-1979]
- Chestnut Street Fourth Street [Added 11-1985]
- Chestnut Street North Second Avenue
- Chestnut Street Seventh Street [Added 11-1985]
- Elizabeth Street Fifth Street [Added 03-1985]

- Elizabeth Street Seventh Street [Added 03-1985]
- Grand Street North Second Avenue
- Grove Street William Street
- Park Avenue Second Avenue
- Pittsburgh Avenue Walnut Street
- Railroad Street Sheehan Street
- Sheehan Street Round Lake Avenue
- South Street Ellsworth Avenue
- Spring Street First Street
- Second Street at the intersection of Spring Street
- A four way stop intersection is created at the intersection of Park avenue and Third Street
- Fifth Avenue, East and West, at the intersection of Park Avenue; [Added 07-2014]
- Grand Street, North and South, at the intersection of Fourth Street; [Added 07-2014]

**B. Placing of traffic signs.**

- (1) The City Council shall by resolution designate at which intersections of the aforesaid through streets and stop streets stop signs shall be erected and the number of said signs to be erected. It shall be the duty of the Commissioner of Public Works, at the behest of the Chief of Police, to place traffic signs in conspicuous places at or near the curbs of the various locations in accordance with the provisions of this subsection indicating the special regulations applicable to such locations.
- (2) Such signs shall be substantially in accordance with and placed upon standards approved by the New York State Traffic Commission's Manual of Uniform Traffic Control Service.

**§ 183-5. Penalties for offenses.**

Any person failing to obey any provision of this article or any sign, signal, or marking established pursuant to this article shall be guilty of an infraction and, upon conviction, shall be punished in accordance with the provisions of §1800 of the Vehicle and Traffic Law of the State of New York.

**ARTICLE III**  
**One-Way Streets; Speed Limits; Turning Movements**

**§ 183-6. Definitions.**

- A. The terms used in this article shall have the respective meanings as defined in and by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. Whenever used in this article, the following terms shall have the meanings indicated:

**OPERATOR** – Every individual who shall operate a vehicle as the owner thereof or as the agent, lessee, bailee, employee, and/or permittee of the owner.

#### **§ 183-7. One-way streets.**

The following named streets are hereby designated and established as one-way streets:

- A. Greenwood Avenue, from Main Street to Saratoga Avenue, is hereby designated and established as a one-way street. The one-way traffic on Greenwood Avenue shall proceed in the following direction only: from the direction of Main Street to Saratoga Avenue;
- B. Mill Street, in an easterly direction from North Main Street to the east end thereof and thence southerly to River Street;
- C. River Street, in a westerly direction from Mill Street to North Main Street;
- D. William Street, in an easterly direction from North Central Avenue to North Main Street. Two-way traffic shall be permitted on that portion of William Street lying and being west of North Central Avenue from North Central Avenue to its terminus [Added 11-1975];
- E. Grand Street, from North Third Avenue to North Second Avenue, is hereby designated and established as a one-way street. The one-way traffic on Grand Street shall proceed in an easterly direction only, from the direction of North Third Avenue toward North Second Avenue;
- F. The Mabbett Street extension leading from Mabbett Street to Railroad Street in a northwesterly direction is hereby designated and established as a one-way street. The one-way traffic on the Mabbett Street extension shall proceed in a northwesterly direction only, from the direction of Mabbett Street toward Railroad Street. Traffic proceeding in a northwesterly direction along the Mabbett Street extension shall yield the right-of-way to all traffic proceeding on Railroad Street. No traffic shall enter the Mabbett Street extension from Railroad Street, and appropriate "Yield" and "Do Not Enter" signs shall be erected accordingly [Added 09-1970];
- G. Canal Street, in a northerly direction from Mabbett Street to Burke Street. A stop sign shall be placed at the intersection of Burke and Canal Streets so as to cause traffic to stop before entering Burke Street. [Added 11-1975];
- H. Fitchburgh Avenue, in a northerly direction from Saratoga Avenue to Gilbert Street [Added 08-1977];
- I. Gilbert Street, in an easterly direction from its point of origin at Fitchburgh Avenue to North Main Street [Added 08-1977];



- J. First Street in a southerly direction from its point of origin at Park Avenue to its point of termination at South Street [Added 08-1997]; and
- K. Leonard Street is hereby designated and established as a one-way street in a southerly direction from Warsaw Avenue to Saratoga Avenue [Added 06-2008].

**§ 183-8. Speed of motor vehicles.**

No person shall operate a motor vehicle or motorcycle at a rate of speed in excess of thirty (30) miles per hour on the highways of the City.

**§ 183-9. Reverse turns prohibited.**

It shall be unlawful for any person operating a motor vehicle to make a half-circle, reverse, or U-turn in the traveled portion or roadway of the street on Park Avenue between the Delaware and Hudson Railroad crossing on the west and Main Street on the east and on North Main Street and South Main Street between Gilbert Street on the north and Green Street on the south.

**§ 183-10. Penalties for offenses. [Amended 09-1970]**

Any person operating a motor vehicle in violation of any section of this article shall be guilty of an infraction and, upon conviction, shall be punished in accordance with §1800 of the Vehicle and Traffic Law of the State of New York (Chapter 775, Laws of 1959).

**ARTICLE IV  
Parking Restrictions**

**§ 183-11. No-parking zones.**

The following no-parking zones are hereby established and designated, and parking thereon at any time of the day or night is hereby expressly prohibited and declared illegal and unlawful as follows:

- (1) On both sides of Hill Street from its intersection with North Main Street. [Added 11-1997]
- (2) On both sides of River Street.
- (3) On both sides of Railroad Street between Park Avenue and Mabbett Street.
- (4) On the north side of Burke Street.

- (5) On the north side of William Street from North Main Street to Central Avenue.
- (6) On the south side of Frances Street from the west end of the bridge over the Anthony Kill, also known as "Tenandaho Creek," easterly to North Main Street.
- (7) On the north side of Frances Street from North Main Street westerly a distance of three hundred (300) feet.
- (8) On both sides of Saratoga Avenue from Boston Avenue westerly to the corporate limits of the City of Mechanicville.
- (9) On both sides of Terminal Street.
- (10) On Saratoga Avenue in the area opposite the interception of Saratoga Avenue by William Street; on Main Street in the area opposite the interception of Main Street by Park Avenue; and on Park Avenue in the area opposite the interception of Park Avenue by Railroad Street.
- (11) On any sidewalk and on the space between the sidewalk and the curb line of all streets in the City of Mechanicville.
- (12) On the south side of Park Avenue between the west line of premises now occupied by BPOE 1403 and the railroad tracks of the Delaware and Hudson Railroad Corporation.
- (13) On the west side of South Main Street between the north side of Ellsworth Avenue and a point fifty (50) feet northerly thereof.
- (14) On the north side of South Street from South Central Avenue westerly to a point fifteen (15) feet westerly of the west side of First Street or to the east side of Second Street.
- (15) On both sides of South Central Avenue from the south side of South Street to the south boundary line of the City of Mechanicville, New York.
- (16) On the easterly side of North Main Street within twenty (20) feet south of the southerly curb line of River Street.
- (17) On the easterly side of North Main Street within twenty (20) feet north of the northerly curb line of River Street.
- (18) On the east side of South First Avenue. [Added 11-1997]
- (19) On the northerly side of William Street.
- (20) On the westerly side of Leonard Street.
- (21) On the northerly side of Warsaw Avenue.

- (22) On the northerly side of Grand Street between North Second Avenue and North Fourth Avenue.
- (23) On the northerly side of South Street between First Avenue and South Second Avenue.
- (24) On the westerly side of Railroad Street between Park Avenue and Broadway.
- (25) On the southerly side of East Saratoga Avenue.
- (26) On both sides of Saratoga Avenue for a distance of thirty-one (31) feet extending easterly and westerly from the Boston and Maine Railroad tracks traversing said Saratoga Avenue.
- (27) On the southerly and westerly sides of Greenwood Avenue on Monday, Tuesday and Wednesday of each week; on the northerly and easterly sides of Greenwood Avenue on Thursday, Friday, Saturday and Sunday of each week.
- (28) On the east side of Viall Avenue from Saratoga Avenue north to the city line and on the west side of Viall Avenue from a point fifty (50) feet north of the intersection of Viall Avenue and Saratoga Avenue north to the city line.
- (29) On the east side of North Main Street, from Adams Street to the southerly extremity of the three-story brick building known as the "Selkis Block.
- (30) On both sides of the entrance driveway leading from North Main Street to the rear of Kennedy Gardens. [Added 09-1971]
- (31) On the east and west sides of that portion of Tallmadge Place which runs in a generally northerly and southerly direction. [Added 09-1973]
- (32) On the west side of Pittsburg Avenue, from the intersection of Pittsburg Avenue and Saratoga Avenue to the intersection of Pittsburg Avenue and Walnut Street. [Added 09-1973]
- (33) On either side of Tenendaho Lane, from its intersection with Viall Avenue easterly to a point, the same being the prolongation easterly of the south line of Disposition A-3 and also adjacent to the interior berm of Tenendaho Lane. [Added 05-1978]
- (34) On either side of Warsaw Avenue between Stillwater Avenue and Mulberry Street. [Added 09-1981]
- (35) Commencing from the corner of Warsaw Avenue and Stillwater Avenue, on the easterly side of Stillwater Avenue, a "No-Parking From Here to Corner" sign shall be erected at a point approximately one hundred thirty-six (136) feet from said intersection, thence from the same intersection, no parking on the easterly side of

Stillwater Avenue approximately one hundred ninety-one (191) feet to the northerly corporation line on Stillwater Avenue. [Added 07-1982]

(36) On the south side of the length of Ensign Avenue. [Added 11-1982]

(37) On Underwood Avenue at the end of the street on the south side, to include the parking lot. [Added 07-1989]

(38) On the north side of South Street from Central Avenue to South Third Street. [Added 03-1996]

(36) Ellsworth Avenue from its intersection with South Main Street to its intersection with South Street. [Added 11-1997]

(37) At the intersection of North Second Avenue and Broadway a distance of fifteen (15) feet from all four corners. [Added 11-1997]

(38) On the west side of Farrell Street. [Added 11-1997]

(39) On James Street and its East Way and West Way. [Added 11-1997]

(40) On the north side of Saratoga Avenue from William Street Extension to Boston Avenue. [Added 06-1998]

(41) On the west side of Main Street from Hill Street to Park Avenue, during the school session, from the hours of 7:00 a.m. to 4:00 p.m., excluding holidays. [Added 06-1998]

(42) On the west side of Main Street from William Street to Park Avenue during the school session, from the hours of 7:00 a.m. to 4:00 p.m., excluding holidays. [Added 07-1998]

(43) A No Parking Zone is established on the east side of South Main Street from residential address 166 South Main Street to the City's boundary line with the Town of Halfmoon. [Added 05-2009]

(44) South side of Saratoga Avenue extending twenty (20) feet easterly from the eastern intersection of Greenwood Avenue and on the south side of Saratoga Avenue extending twenty (20) feet westerly from the western intersection of Greenwood Avenue and Saratoga Avenue. [Added 02-2012]

A. The following no-parking zones are hereby established and designated, and parking thereon at any time of the day or night is hereby expressly prohibited and declared illegal and unlawful with the exceptions hereto as follows:

(1) On both sides of North Main Street commencing at the Town of Stillwater and the City of Mechanicville, New York, corporation line and extending south on the

west side of North Main Street about nine hundred fifty (950) feet to the south end of a fence of the West Virginia Pulp and Paper Company at a point on the west side of North Main Street; also extending from said corporation line south along the east line of North Main Street about twelve hundred (1,200) feet to the south end of the fence of the West Virginia Pulp and Paper Company located on the east side of North Main Street;

- (2) A thirty-minute parking zone is hereby created for no more than four vehicles on the west side of North Main Street at a point commencing one hundred twenty (120) feet south of the southeast corner of the Personnel Building of the West Virginia Pulp and Paper Company and running south along the west side of said North Main Street for a distance of one hundred (100) feet south from the place of beginning. A thirty-minute parking zone is also created at a point commencing twenty-five (25) feet south of the south side of the West Virginia Pulp and Paper Company gate known as the "paper loading gate" and extending south on the east side of North Main Street one hundred (100) feet from the point and place of beginning;
- (3) On both sides of South Central Avenue south of South Street;
- (4) A ten-minute parking zone is hereby created for no more than three vehicles on the west side of South Main Street from a point on the westerly side of South Main Street fifty-two (52) feet south of the southwest corner of Park Avenue and South Main Street running thence south along the westerly line of South Main Street a distance of seventy-five (75) feet from the point of beginning; and
- (5) A ten-minute parking zone is hereby created for no more than four vehicles on the east side of South Main Street from a point in the easterly line of South Main Street one hundred seventy-five (175) feet south of the southerly line of Park Avenue if extended and running thence south along the easterly line of South Main Street a distance of one hundred (100) feet from the point of beginning.

**§ 183-12. Alternate parking. [Amended 02-2010]**

A. Except as when otherwise specifically provided by ordinance, there shall be alternate parking on all the streets of the City of Mechanicville, as follows:

- (1) On Monday, Tuesday, and Wednesday of every week, there shall be parking of vehicles only on the northerly and westerly sides of all streets;
- (2) On Thursday, Friday and Saturday of every week, there shall be parking of vehicles only on the southerly and easterly sides of all streets in the city;
- (3) On Sundays, parking shall be permitted on both sides of all streets, except Saratoga Avenue, East Saratoga Avenue, and Hill Street, where on Sundays parking shall be permitted on the south side only. [Amended 09-1970]

(4) Parking on Alexander J. Avenue (formerly, Edna Avenue) shall be as follows:

(a) North side-from 10:00 a.m. Thursday, to 10:00 a.m. Monday; and

(b) South side- from 10:00 a.m. Monday, to 10:00 a.m. Thursday. [Amended 02-2010]

(5) Alternate parking patterns the length of Railroad Street. [Amended 04-1978]

(a) On Thursday, Friday, Saturday, and Sunday of every week, there shall be parking of vehicles only on the westerly side of Railroad Street, adjacent to the railroad right-of-way;

(b) On Monday, Tuesday, and Wednesday of every week, there shall be parking of vehicles only on the easterly side of Railroad Street.

B. These provisions for alternate parking do not apply to the following streets, where parking shall be permitted on both sides of the street at all times, except as otherwise provided by law. [Amended 12-1973]

(1) Park Avenue, from Main Street to the Delaware and Hudson Railroad crossing: no parking either side from 3:00 a.m. to 5:00 a.m.; also, no vehicle shall be permitted to remain parked on Park Avenue, from Main Street to the Delaware and Hudson Railroad crossing, for a period in excess of two hours, from 8:00 a.m. to 5:00 p.m. This provision shall not apply on Sundays or legal holidays.

(2) Railroad Street, on the easterly side.

(3) Central Avenue, from South Street to Saratoga Avenue: no parking from 3:00 a.m. to 5:00 a.m.; also, no vehicle shall be permitted to remain parked for a period in excess of two hours on the east side of Central Avenue, beginning at the northerly boundary of property now owned by the Presbyterian Church to the southerly boundary of the Powers Market driveway, from 8:00 a.m. to 5:00 p.m. This provision shall not apply on Sundays or legal holidays.

(4) Main Street from Tallmadge Place to Saratoga Avenue: no parking from 3:00 a.m. to 5:00 a.m.; also, no vehicle shall be permitted to remain parked for a period in excess of two hours from Tallmadge Place to the Hudson River Bridge, from 8:00 a.m. to 5:00 p.m., except for the easterly side of Main Street from River Street to Adams Street. This provision shall not apply on Sundays and legal holidays.

(5) Hill Street from Central Avenue to North Main Street. [Added 08-1997] and

(6) Main Street. [Added 08-1997]

**§ 183-13. Fire lanes. [Amended 09-1982]**

A. **No-parking zones.** The stopping, standing or parking of vehicles, whether occupied or not, is prohibited along the curb on North Main Street into the parking lot driveway of the

Senior Citizens Mid-Rise Building for two hundred sixty-four (264) feet, thence one hundred twenty (120) feet along the front of the Senior Citizens Mid-Rise Building.

- B. **Violation** hereof shall constitute a traffic infraction, and every person convicted hereunder shall be punishable by a fine of twenty-five dollars (\$25) or by imprisonment for not more than ten (10) days, or by both such fine and imprisonment.
- C. **The Commissioner of Public Works** is hereby authorized to erect and post signs as will properly designate the above described areas as no-parking and fire lane areas.

#### **§ 183-14. Bus stop zones.**

- A. The Chief of Police and/or the Commissioner of Public Works is hereby authorized to establish bus stop zones on North Main Street and South Main Street. Bus stop zones shall be clearly marked and designated with proper and adequate signs and/or painted lines and words upon the street. The following zone is hereby designated as a parking zone for omnibuses for the purpose of receiving and discharging passengers: on the west side of North Main Street a distance of seventy-five (75) feet from the north line of Park Avenue.
- B. It shall be unlawful and illegal for any person to park a motor vehicle in any space established and designated as a bus stop zone.

#### **§ 183-15. Dead storage. [Amended 04-1997]**

It shall be unlawful for any person to use any street of the city for dead storage of any motor vehicle, as defined by the Vehicle and Traffic Law of the State of New York, trailer or boat or any other object that will prevent licensed vehicles from parking. Failure to move a vehicle, boat or trailer or object from a given location for a period of forty-eight (48) hours shall constitute a presumption that said vehicle, boat or trailer is in dead storage at that location.

#### **§ 183-16. Use of streets for motor vehicle repairs.**

Except for temporary emergency repairs, it shall be unlawful and illegal to use any street within the corporate limits of the City of Mechanicville for the general repair of motor vehicles, including lubricating motor vehicles.

#### **§ 183-17. Removal of motor vehicles.**

- A. To aid and facilitate the proper cleaning of the streets of the City of Mechanicville, the Commissioner of Public Works or his properly constituted delegate and/or a member of the Police Department may, in the event that a motor vehicle is left unattended in violation of the prohibition against dead storage or in violation of any of the provisions of this chapter, remove or cause to be removed and conveyed such motor vehicle by or

under the direction of a member of the Police Department by means of towing the same, or otherwise, to the motor vehicle pound, and such removal shall be at the risk of the owner of said motor vehicle.

- B. In the event that any motor vehicle is left on any street, avenue or highway in the City of Mechanicville unattended during any snowstorm or immediately thereafter, the Commissioner of Public Works or his properly constituted delegate or a member of the Police Department may, if said Commissioner of Public Works or his properly constituted delegate determines that a necessity exists for the removal of said motor vehicle to facilitate the plowing or cleaning and removal of snow or other substance from said streets, remove or cause to be removed and conveyed such motor vehicle by or under the direction of a member of the Police Department by means of towing the same, or otherwise, to the motor vehicle pound, and such removal shall be at the risk of the owner of said motor vehicle.
- C. For the purposes of this chapter, the term "motor vehicle pound" shall mean any commercial garage in the City of Mechanicville having adequate and suitable equipment for the removal of said motor vehicles.
- D. Before the owner or person in charge of any motor vehicle which has been removed to the motor vehicle pound shall be permitted to regain possession of such vehicle from the custody of the Police Department, he/she shall furnish evidence of his/her identity and of his/her ownership or right to possession of such vehicle, he/she shall sign a receipt for such vehicle and he shall pay to the City of Mechanicville any and all reasonable charges for towing, storage and incidental expenses in connection with impounding said motor vehicle.
  - (1) The removal and storage as provided herein shall be deemed to be for the purpose of the abatement of a nuisance.
  - (2) Such reasonable charges for towing, storage and other incidental expenses resulting from the impounding of said motor vehicle shall constitute a lien upon said motor vehicle in favor of the City of Mechanicville. In the event that the foregoing charges are not paid in full within thirty (30) days after the said vehicle has been impounded, the City of Mechanicville may collect the same by selling said motor vehicle at public auction, provided a ten-day (10-day) notice of sale has been served upon the registered owner of said motor vehicle, either personally or by registered mail directed to said owner's address as recorded with the Motor Vehicle Bureau of the State of New York, and copies of said notice of sale shall be filed with the City Clerk of the City of Mechanicville and with the Motor Vehicle Bureau of the State of New York. In the event of such a sale hereunder, the sale shall be conducted by the Commissioner of Accounts on authorization of the Council. The Commissioner of Accounts shall issue a certificate of sale to the purchaser and shall file copies thereof in the office of the City Clerk of the City of Mechanicville and with the Bureau of Motor Vehicles of the State of New York.
  - (3) Any excess money collected by the Commissioner of Accounts on such sale shall be held for the registered owner of such motor vehicle for a period of two (2)



years from the date of said sale. After two years, such excess money shall be transferred to the general fund of the City of Mechanicville, which shall have absolute title thereto, to be used for general municipal purposes designated by the Council.

- E. The aforesaid charges set forth in this section shall be in addition to the penalty provided for the offense against the parking regulation or regulations.
- F. The voluntary payment of the aforesaid charges and penalty shall be made at the Police Department of the City of Mechanicville, and in that event a prosecution under this section shall be barred.
- G. The remedies and procedures provided in this section and its various subsections shall not be deemed to be exclusive remedies and procedures, however, a police officer may, in lieu of impounding such motor vehicle, summon the owner, operator, chauffeur, or driver of such motor vehicle to court to answer the charges of illegal parking in the regular manner made and provided for such cases.

#### **§ 183-18. Placement of signs without permission.**

It shall be unlawful and illegal for any person or individual to erect or place a sign of any kind whatsoever which restricts or otherwise controls parking or parking space without permission of the Police Department.

#### **§ 183-19. Penalties for offenses.**

Any person failing to obey any provision of this article or operating a motor vehicle in violation of any provision of this article shall be guilty of an infraction and, upon conviction, shall be punished in accordance with the provisions of §1800 of the Vehicle and Traffic Law of the State of New York.

### **ARTICLE V Emergency Parking Restrictions**

#### **§ 183-20. Emergency or temporary no-parking zones.**

In an emergency or when just and reasonable cause is shown in the judgment of the Chief of Police or when he/she deems it necessary to maintain orderly traffic, the Chief of Police is hereby authorized to designate additional no-parking zones for the duration of the emergency or duration of the temporary period of necessity, but not for longer than one (1) day. Such period may be extended upon the written approval of the Mayor or, in his/her absence or inability to act, with the written approval of such member of the Council designated to act in the place of the Mayor. The limits of such zones shall be indicated by appropriate signs and may be indicated in parking meter zones by placing hoods on the meters in such zones.

**§ 183-21. Closing of streets.**

- A. **The Commissioner of Public Works** or his/her properly constituted delegate and/or the Police Department may, in cases of emergency or for temporary periods when in his/her/its judgment it is necessary to properly perform his/her or its duties, close any street in the City of Mechanicville by erecting appropriate signs and whole or partial barriers, and it shall be illegal and unlawful for any person to permit a motor vehicle to enter upon any street which has been closed as aforesaid.
- B. **Penalties for offenses.** Any person operating a motor vehicle in violation of any section of this article shall be guilty of an infraction and, upon conviction, shall be punished in accordance with §1800 of the Vehicle and Traffic Law of the State of New York (Chapter 775 of the Laws of 1959). [Amended 09-1970]

**§ 183-22. Snow emergencies.**

- A. Declaration of snow emergency; parking prohibited.
- (1) A snow emergency in the City of Mechanicville shall become automatic two (2) hours after the accumulation of snow within the city to a level of three (3) inches. The level of three (3) inches which shall automatically invoke the provisions of this section shall be as officially measured by the department of public works at the public works complex located at the City Industrial Park in the city. The Commissioner of Public Works or his representative shall notify the police department and the news media that a snow emergency is in effect. [Amended 02-2011]
  - (2) Upon the declaration of a snow emergency pursuant to Subsection A(1) of this section, the snow emergency shall remain in effect until such time as appropriate notice is given by the Commissioner of Public Works or his/her representative to the Police Department and the news media.
  - (3) If at any time the accumulation of snow reaches a level of three (3) inches after the hour of 12:00 midnight and prior to 8:00 a.m. the following morning, the provisions of this section shall not be enforced until the hour of 8:00 a.m. that same morning.
  - (4) No car shall be parked on a public street within twenty-four (24) hours of the termination of a snow emergency, unless said street has been fully plowed by the Department of Public Works. Any car interfering with the removal of snow during the twenty-four (24) hours following the termination of a snow emergency shall be subject to the penalties provided hereinafter.

- (5) The Department of Public Works shall post signs at the main highway entrances to the City of Mechanicville advising the general public of the provisions of this section.
- (6) The City of Mechanicville Police Department is hereby authorized and directed to take the necessary actions to enforce the provisions of this section, including the towing of vehicles in violation of this section, as set forth below.
- (7) A violation of this section shall be punishable by a fine not to exceed fifteen dollars (\$15.00) and, in addition, the violator shall be responsible for all fees for towing as set forth below.
- (8) This section shall be in effect commencing the 15<sup>th</sup> day of November each year and continuing until the 15<sup>th</sup> day of March the following year.

**B. Restricted vehicular parking during snow emergency.**

- (1) During a declared snow emergency the following parking restrictions shall apply:
  - (a) Upon commencement of a snow emergency, all vehicular parking on the odd-numbered side of all city streets is prohibited for a twenty-four-hour period;
  - (b) After twenty-four (24) hours from the designated snow emergency commencement, vehicular parking on the even-numbered side of all city streets is prohibited for the succeeding twenty-four-hour period.
- (2) After forty-eight (48) hours have elapsed from the commencement of the snow emergency, the snow emergency will be officially declared ended, unless such emergency is continued as specified in Subsection A(2).

**C. Removal of vehicles by city; responsibility. In addition to the penalty specified in Subsection A(7), any vehicle parked, stalled or otherwise unable to be moved during any snow emergency in violation of the provisions of this section or any rules and regulations promulgated pursuant hereto may be towed or caused to be removed under the direction of the Police Department. The vehicle shall be towed at the vehicle owner's expense, and such towing charge shall be paid prior to the release of such vehicle.**

**ARTICLE VI  
Handicapped Parking Zones  
[Adopted 02-1984]**

**§ 183-23. Creation of zones.**

A. Pursuant to statutory authority provided by the Vehicle and Traffic Law of the State of New York, §1640-a, Subdivision 6; §1640, Subdivision (a)17; and §1203-b, Subdivision 2, the following areas are established and designated as handicapped parking areas:

- (1) An area in front of the brick building now occupied by the Mechanicville Public Library, on the west side of South Main Street, beginning one hundred five (105) feet south of the southwesterly corner of the intersection of Main Street and Park Avenue and running thence south a distance of twenty-eight (28) feet;
- (2) An area in front of the Mechanicville Middle School, on the east side of North Main Street, beginning one hundred (100) feet north of the northeasterly point of the intersection of Main Street and Park Avenue and running thence north a distance of thirty-five (35) feet;
- (3) An area in front of Mechanicville City Hall (Municipal Building) on the east side of North Main Street, beginning at the northeasterly corner of the intersection of North Main Street and Terminal Street and running thence north a distance of twenty-eight (28) feet;
- (4) The Commissioner of Public Works is hereby authorized to erect and post handicapped parking signs and to paint the appropriate curbing in the above-designated areas. The Commissioner is also authorized to establish and designate, upon recommendation of the Traffic Commission, such other handicapped parking areas as may be necessary;
- (5) Stopping, standing, or parking of vehicles, whether occupied or not, is expressly prohibited in the above areas designated by this section, with the exception of vehicles being used for the transportation of a handicapped person which display a special handicapped parking permit issued by the City of Mechanicville pursuant to §1203-a of the Vehicle and Traffic Law of the State of New York or which are registered pursuant to §404-a of the Vehicle and Traffic Law of the State of New York.

#### **§ 183-24. Enforcement; penalties for offenses.**

The provisions of this article shall be enforceable by the Mechanicville Police Department, and a violation and conviction hereunder shall constitute a traffic infraction punishable in accordance with §1800 of the Vehicle and Traffic Law of the State of New York.

### **ARTICLE VII Weight Limits [Adopted 04-1999]**

#### **§ 183-25. Residentially zoned areas. [Amended 03-2008]**

- A. No vehicle is to exceed a weight load limit of ten (10) tons (twenty thousand [20,000] pounds) in any residentially zoned district within the City of Mechanicville, except for emergency or utility vehicles or vehicles used for local pickup and deliveries on such streets. County and state highways within the city limits are excluded from this article, as well as the following heavy truck routes (exceeding ten [10] tons) within the city: North and South Central Avenue, North Main Street from Williams Street north, Saratoga Avenue, Mabbett Street, Railroad Street, Park Avenue east of First Street, Viall Avenue, Industrial Park Drive and Davenport Street to Viall Avenue.
- B. It shall be unlawful for any owner, agent, operator, or person in charge of any bus, semitrailer, trailer, motor truck, tractor, and/or truck tractor, as previously defined, or any commercial vehicle over twenty thousand (20,000) pounds gross to park on any public street, avenue, alley, or other thoroughfare, or any right-of-way in any residential district in the City of Mechanicville for a period in excess of one hour unless engaged in legitimate loading or unloading activities.
- C. The Commissioner of Public Works is hereby authorized to determine for all bridges and elevated structures within the City of Mechanicville the capacity, in tons of two thousand (2,000) pounds, which the bridge or structure will safely carry. For bridges or structures of insufficient strength to carry safely the legal loads permissible by the Vehicle and Traffic Law of the State of New York, the Commissioner of Public Works shall have the authority to cause official traffic control devices to be erected to inform persons of the safe capacity.
- D. The Commissioner of Public Works is hereby authorized to cause official traffic control devices to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways within the City of Mechanicville. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen (14) feet or more of measured clearance, no such signs shall be required.
- E. **Condition of vehicles.**
- (1) It is required that all vehicles operated within the City of Mechanicville be in good and safe operating condition, and each shall be operated only:
- (a) While having a valid New York State certificate of inspection or the equivalent thereof for any vehicle registered outside the State of New York affixed on the vehicle on the proper location.
  - (b) While in full compliance with Article 9 of the Vehicle and Traffic Law of the State of New York, as amended, which article is fully incorporated herein by reference.
  - (c) While in full compliance with Article 10 of the Vehicle and Traffic Law of the State of New York, as amended, which article is fully incorporated

herein by reference.

- (d) While in full compliance with Article 6 of the Transportation Law of the State of New York, as amended, which article is fully incorporated herein by reference.
- (e) While in full compliance with Article 21 of the Tax Law of the State of New York, as amended, which article is fully incorporated herein by reference.
- (f) While properly registered in accordance with Article 14 of the Vehicle and Traffic Law of the State of New York, as amended, which article is fully incorporated herein by reference.
- (g) While in full compliance with Article 49 of the Code of Federal Regulations (CFR), as amended, which article is fully incorporated herein by reference. In addition to and not in limitation of the previous sentence, all vehicles operated in the City of Mechanicville shall be operated while in full compliance with the following specific referenced sections of the CFR:
  - i.* All definitions incorporated into CFR Part 383 shall be incorporated into the City Code.
  - ii.* All commercial vehicle operators shall be qualified to operate the vehicle they are driving (391.11 CFR).
  - iii.* All commercial vehicle operators shall use the vehicle occupant restraint system (seat belts) (392.16 CFR).
  - iv.* All commercial vehicle operators shall obey all applicable local and state laws.
  - v.* All commercial vehicle operators shall obey the regulations for stopped and unattended vehicles (CFR 391.21 and 392.22).
  - vi.* All commercial vehicle operators shall make sure their vehicle is loaded safely (CFR 392.9).
  - vii.* All commercial vehicle operators shall perform a proper pre-trip inspection (CFR 392.7).
  - viii.* All commercial vehicles shall have properly operating lights (CFR 393.9).
  - ix.* All commercial vehicles shall have properly installed batteries (CFR 393.30).

- x.* All commercial vehicles shall have the required brake systems (CFR 393.40).
- xi.* All commercial vehicles shall have the required parking brake systems (CFR 393.41).
- xii.* All commercial vehicles shall have the required breakaway and emergency braking (CFR 393.43).
- xiii.* All commercial vehicles shall have front brake line protection (CFR 393.44).
- xiv.* All commercial vehicles shall have adequate hoses and tubing (CFR 393.45).
- xv.* All commercial vehicles shall have proper connections (CFR 393.46).
- xvi.* All commercial vehicles shall have adequate brake lining (CFR 393.47).
- xvii.* All commercial vehicles shall have operative brakes (CFR 393.48).
- xviii.* All commercial vehicles shall have warning devices (CFR 393.51).
- xix.* All commercial vehicles shall have brakes meeting the standards of CFR 393.52.
- xx.* All commercial vehicles shall have properly installed fuel systems (CFR 393.65).
- xxi.* All commercial vehicles shall have proper fuel tanks (CFR 393.67).
- xxii.* All commercial vehicles shall have properly operating coupling devices (CFR 393.70, 393.71).
- xxiii.* All commercial vehicles shall meet the requirements of CFR 393, Subpart G, Miscellaneous Parts and Accessories.
- xxiv.* All commercial vehicles shall have emergency equipment (CFR 393.95).
- xxv.* All commercial vehicles shall have proper securement systems and protection against shifting or falling cargo (CFR 393.100,

393.102, 393.104 and 393.106).

- xxvi.* All commercial vehicles shall have frames and cabs in proper condition (CFR 393.201 and 393.203).
  - xxvii.* All commercial vehicles shall have wheels in the proper condition (CFR 393.205).
  - xxviii.* All commercial vehicles shall have suspension systems in the proper condition (CFR 393.207).
  - xxix.* All commercial vehicles shall have steering systems in the proper condition (CFR 393.209).
  - xxx.* All commercial vehicle operators shall obey the hours of service regulations in CFR 395.
  - xxxi.* All commercial vehicles shall have a proper annual inspection and be maintained correctly (CFR 396.17 and 396.3).
  - xxxii.* All commercial vehicles and operators shall obey the regulations in regard to the transportation of hazardous or regulated materials (CFR 100 through 199).
- (2) No vehicle may operate within the City of Mechanicville if that vehicle has been determined to be in an unsafe condition by a certified New York State inspector or a certified United States Department of Transportation, North American Standard Commercial Vehicle Safety Alliance Inspector.
- (3) No vehicle may operate within the City of Mechanicville if it has been determined that the vehicle should be put out of service, said determination having been made by a certified New York State Department of Transportation Inspector or a certified United States Department of Transportation, North American Standard Commercial Vehicle Safety Alliance Inspector.
- (4) All vehicles operated on highways within the City of Mechanicville shall conform to the weight requirements of the Federal Bridge Gross Weight Formula (Section 127 United States Code, Title 23), except that vehicles may exceed such requirements when lawfully permitted to do so under a valid overweight permit issued by the New York State Department of Transportation .

**§ 183-27. Enforcement. [Amended 03-2008]**

- A. Enforcement of provisions. It shall be the duty of the Police Department of this City to enforce the provisions of this chapter.



- B. Direction of traffic. Officers of the Police Department are hereby authorized to direct all traffic, either in person or by means of visible or audible signal, in conformance with the provisions of the laws of the State of New York and of this chapter and their various divisions and subdivisions.
- C. Compliance with police orders. It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal, or direction of a police officer.

**§ 183-28. Penalties for offenses.**

- A. Except as provided in Subsections B, C, and D, every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.00) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one hundred dollars (\$100.00) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty (\$250.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.
- B. Any person violating any provision of §183-25 of this chapter shall upon conviction, be punished for the first offense by a fine not less than one hundred fifty dollars (\$150.00) nor more than two hundred fifty dollars (\$250.00); for the second offense by a fine not less than two hundred fifty dollars (\$250.00) nor more than three hundred fifty dollars (\$350.00) if committed within one (1) year of the date of conviction of the first offense The third or any subsequent offense within one year shall be punishable by a fine of not less than three hundred fifty dollars (\$350.00) and /or imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment. [Amended 08-2014]
- C. Where articles of law are incorporated by reference in §183-25 g (i) through g (xxxii) and (ii) and (iii), penalties and fines established in those articles shall be in effect as fully as if set forth in this section.
- D. Any person violating the provisions of §183-25(4) of this chapter may, upon conviction, be punished by a fine calculated under the Federal Bridge Gross Weight Formula, in accordance with the following schedules:

**Excess Total Weight  
(pounds)**

<b>Greater Than</b>	<b>Less Than or Equal to</b>	<b>Amount of Fine</b>
	2,000	\$ 50
2,000	3,000	75
3,000	4,000	100
4,000	5,000	200
5,000	6,000	300
6,000	7,000	400
7,000	8,000	500
8,000	9,000	600
10,000	15,000	1,200
15,000	20,000	1,700
20,000	25,000	2,200
25,000	30,000	2,700
30,000	\$0.06 for each pound in excess of 30,000	

NOTE: Where the excess total weight is greater than ten thousand (10,000) pounds in excess of the limits specified by a permit, the permit shall be deemed voided, and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.

<b>Excess Total Weight (Pounds)</b>		
<b>Greater Than</b>	<b>Less Than or Equal to</b>	<b>Amount of Fine</b>
0%	5%	\$ 100
5%	10%	200
10%	15%	350
15%	20%	600
20%	25%	1,000
25%	30%	1,600
30%		2,450

NOTE: Where the excess axle or axles weight is greater than ten percent (10%) in excess of the limits specified by a permit, the permit shall be deemed voided, and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)

# Chapter 186

## Vehicles – Play

**§ 186-1. Definitions.**

**§ 186-2. Riding prohibited in certain areas.**

**§ 186-3. Traffic infraction; parental responsibility; interpretation.**

**§ 186-4. Penalties for offenses.**

[Adopted 03-1991]

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### **§ 186-1. Definitions.**

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

**PLAY VEHICLE** – Any device, not powered by a motor, used for propelling or transporting one or more persons and of a type commonly used for recreation or entertainment purposes. The term "play vehicle" shall not include a bicycle or tricycle as defined in the New York State Vehicle and Traffic Law.

### **§ 186-2. Riding prohibited in certain areas.**

No person shall ride or propel any play vehicle on any street, highway, sidewalk or public path within the area designated as the Central Business District as shown on the Zoning Map of the City of Mechanicville, New York.

### **§ 186-3. Traffic infraction; parental responsibility; interpretation.**

- A. It is a traffic infraction for any person to do any act prohibited by or fail to perform any act required in this chapter.
- B. The parent of any child and the guardian of any ward shall not authorize or knowingly permit such child or ward to violate any of the provisions of this chapter.
- C. No part of this chapter shall be interpreted to alter, amend or exclude in any way the regulations provided in Chapter 183, Vehicles and Traffic, of this Code.

### **§ 186-4. Penalties for offenses.**

Every person convicted of a violation of any provision of this chapter shall be punished by a fine not to exceed twenty-five dollars (\$25.00) or by impounding of such person's play vehicle for a period not to exceed thirty (30) days, or by any combination thereof.



# **Chapter 189**

## **Vehicles – Storage**

**§ 189-1. Abandoned vehicles.**

**§ 189-2. Unregistered vehicles in Residential Districts.**

**§ 189-3. Unregistered vehicles in Commercial/Industrial district.**

**§ 189-4. Removal procedures.**

**§ 189-5. Penalties for offenses.**

**[Adopted 04-1997]**

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### **§ 189-1. Abandoned vehicles.**

It shall be unlawful for any person within the City of Mechanicville, New York, to store or deposit, or allow to be stored or deposited, for a continuous period in excess of thirty (30) days, except when garaged, any vehicle which has been so dismantled or parts removed therefrom or otherwise abandoned so that such vehicle becomes incapable of being operated or would be unable to pass the New York State inspection requirements as set forth in §301 of Vehicle and Traffic Law. This regulation not only includes vehicles but parts or pieces thereof on any private property within the city.

### **§ 189-2. Unregistered vehicles in Residential Districts. [Amended 10- 2013]**

No person shall be allowed to keep more than one (1) unregistered motor vehicle and one (1) motor home (RV), within any residential district of the city for a continuous period in excess of one (1) year, except if said vehicle is garaged.

### **§ 189-3. Unregistered vehicles in Commercial/Industrial district.**

Except as otherwise provided by the Mechanicville City Code, no person or company shall allow more than three unregistered motor vehicles to be stored or housed within a commercial/industrial district for a continuous period in excess of sixty (60) days, except if said vehicle(s) is garaged.

### **§ 189-4. Removal procedures.**

- A. Any motor vehicle found by the Code Enforcement Officer/Building Inspector or reported by the police in violation of this chapter will be addressed in the following manner:

- (1) The Code Enforcement Officer/Building Inspector shall serve written notice on the person owning the vehicle ordering such person to remove the same or cause the same to be removed within ten (10) days. The Code Enforcement Officer/Building Inspector may determine the ownership of any parcel of land in the City from the current assessment roll. If the vehicle is owned by a lessee, the owner of the property will be notified by a carbon-copy letter.
- B. In the event that said vehicle(s) is not removed from the premises within the time required in the notice, the City shall have the right to enter upon the premises and to remove and dispose of the vehicle(s). The expense of such removal and disposal shall be a lawful charge against the vehicle owner or the owner of the premises and may be collected, if necessary, in a civil action instituted in the name of the city in accordance with the provisions of this chapter.

#### **§ 189-5. Penalties for offenses.**

Any person committing an offense against this chapter shall, upon conviction, be subject to a fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for a term not exceeding fifteen (15) days, or to both a fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense.

# Chapter 194

## Water

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| § 194-1. Compliance required                            | § 194-15. Repairs to meters.                   |
| § 194-2. Application for permit.                        | § 194-16. Seals.                               |
| § 194-3. Tapping mains or distribution pipes.           | § 194-17. Testing.                             |
| § 194-4. Payment or tapping mains and supplying meters. | § 194-18. Reading meters.                      |
| § 194-5. Stop and waste cock.                           | § 194-19. Water bills.                         |
| § 194-6. Steam boilers.                                 | § 194-20. Default in payment of water bills.   |
| § 194-7. Number of services.                            | § 194-21. Penalty added to unpaid water rents. |
| § 194-8. Maintenance of service pipe.                   | § 194-22. Failure to have repairs made.        |
| § 194-9. Protection from freezing.                      | § 194-23. Damage to hydrants.                  |
| § 194-10. Right of entry.                               | § 194-24. Obstruction of hydrants.             |
| § 194-11. Shutting off water.                           | § 194-25. Disturbing valve box.                |
| § 194-12. Change of pressure.                           | § 194-26. Cross-connections.                   |
| § 194-13. Supply to service outside City.               | § 194-27. Penalties for offenses.              |
| § 194-14. Temporary supply.                             | § 194-28. Meter rates.                         |

[Adopted 11-1968]

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### § 194-1. Compliance required.

These rules and regulations are prescribed by the Commissioner of Public Works, and every person who shall be supplied or whose property shall be supplied with water by the Water Department of the City of Mechanicville must agree to comply and must comply with these rules and regulations, and the same shall constitute a part of the contract existing between such person and the Water Department.

### § 194-2. Application for permit.

Applications for permits to connect service or supply pipes with either the city mains or curb connections must be made in writing to the Commissioner of the Department of Public Works by the owner of the premises or his/her agent, on blank forms provided for that purpose, setting forth the name of the street, the house or lot number, the name of the owner and when such service is to be installed.

### § 194-3. Tapping mains or distribution pipes.

No person, other than a regular employee of the Water Department, shall be permitted to tap or

make any connections with any city main or distribution pipe, and any other person or persons who shall tap or make any connection with any city main or distribution pipe shall incur and be liable to a payment of the penalty of one thousand dollars (\$1,000.00), and the water shall be shut off from such unauthorized connection.

#### **§ 194-4. Payment for tapping mains and supplying meters.**

No meter tap or connection with any main shall be made until there has been paid to the Commissioner of Accounts a sum, to be determined by the Commissioner of Public Works or his/her agent, sufficient to defray the expenses of excavating and backfilling necessary trench, tapping water main and furnishing and installing meter, service pipe, fittings and curb box. The actual cost of work and material will be deducted from the deposit and the balance refunded to the owner. The service line from curb cock to meter must be furnished and maintained by the owner. The service line from the main to the curb cock will be maintained by the Water Department.

#### **§ 194-5. Stop and waste cock.**

Just inside the basement or foundation wall of the building into which the service pipe extends, a stop and waste cock shall be conveniently located and arranged so that the water may be shut off to repair the meter.

#### **§ 194-6. Steam boilers.**

In all places where steam boilers or hot-water tanks are supplied with water from the city water mains, the owner or consumer must see that the plumber places, and it is hereby required that there be placed, a suitable safety valve, vacuum valve, or other proper devices to prevent damage from collapse or explosion when water is shut off. The Water Department, its employees or the City of Mechanicville shall not be liable for any damage resulting from the sudden shutting off of the supply of water from any steam boiler or from any fixture deriving its supply from the city water works.

#### **§ 194-7. Number of services.**

In no case, except in that of mills and factories, shall permission be granted to supply two or more premises from a single tap, nor there more than one (1) service supply pipe to any premises without special permission, in writing, from the Water Superintendent.

#### **§ 194-8. Maintenance of service pipe.**

The owner of property into which water is introduced by a special pipe will be required to maintain in perfect order, at his own cost and expense, said service pipe from curb cock to his/her own premises, including all fixtures therein provided for delivering or supplying water



for any purpose, and the curb box must be kept in view and the top thereof even with the sidewalk or street grade at all times and in a serviceable condition. In case such service and fixtures are not so kept in repair the water may be shut off from the premises until the requirements of this rule are complied with. The Water Department may make such repairs as are necessary to conform to this rule and may charge the cost thereof to the owner of the property wherever this rule is violated. The City may collect such cost from the owner of such property, and the water may be shut off from such property until such charges are paid.

#### **§ 194-9. Protection from freezing.**

Service pipes in buildings shall be located in parts thereof best protected from frosts. In buildings where there is no cellar, the pipes shall be carried to the center of the building or to an unexposed part previous to being carried upward. In all cases where the service pipes pass through areas of basements having windows, grating or traps open to the weather, the openings shall be closely covered and the windows and doors closed to the outside air during the cold weather. In all exposed situations the service pipes and fixtures shall be properly wrapped with felt or other non-conducting substance if necessary to protect said service from freezing. Said protection shall be at the expense of the owner.

#### **§ 194-10. Right of entry.**

Employees of the Water Department, upon presentation of a badge, identification card, or insignia identifying him/her as a Water Department employee, may enter and must be permitted to enter upon any premises, at all reasonable hours, for the purpose of inspecting the meter and all work in connection with the service.

#### **§ 194-11. Shutting off water.**

- A. Water may be shut off by the Water Department from any service or main for the purpose of making or constructing new work or making repairs in the water system or of enforcement of payment of moneys or charges due the city and Water Department for water supply and for other matters in accordance with these rules and regulations. In case of making or constructing new work or of making repairs, the right is reserved to shut off the water from any consumer, with notice, for as long a period as may be necessary. Except as otherwise stated in these rules and regulations, three (3) days' written notice will be given to the owners of the premises, as shown by the last assessment roll of said city, by mail, addressed to them at such premises, before the water is shut off for nonpayment or violation of rules. It is understood and agreed, however, that the Water Department or the City of Mechanicville shall not be liable for any damage which may result to any person or premises from the shutting off of the water from any main or service for any purpose whatever, even in cases where no notice is given.
- B. When the water supply has been shut off for a failure to comply with these rules and regulations, it shall not again be turned on, except by the Water Department, until compliance is made with these rules and regulations in the matter and payment made by

the owner of the premises concerned to the Commissioner of Accounts of all expenses incurred by the Water Department in so shutting off such water supply, and an additional charge of ten dollars (\$10.00) for turning on water, which must be paid in advance. Any person who shall be found guilty of turning on such water supply contrary to the provisions of this rule shall be liable to a fine of not exceeding one thousand dollars (\$1,000.00) and, in default of payment thereof, to imprisonment of one day for each dollar of such fine remaining unpaid.

- C. In case any provision of these rules is not complied with at any premises or the owner of any premises fails to do any matter required to be done by him/her in accordance with these rules and regulations or such owner fails to make any payment of money payable to the City of Mechanicville or the Water Department under or in accordance with these rules and regulations or any payment of water rents or rates due to the City of Mechanicville or Water Department for supply of water or otherwise with reference to such premises, the Water Department may shut off the water supply from such premises until such provision of these rules is complied with, such matter is done and such payment is made. When any water supply is so shut off, no advance payment made to said City for the supply of water at such premises, or any part of such payment, need be refunded by reason of such shutting off of such water supply.

#### **§ 194-12. Change of pressure.**

The City of Mechanicville, or Water Department, shall not be liable for any damage or loss of any kind to property or persons which may arise from or be caused by any change in or increase of water pressure or the shutting off of the same from any cause whatever.

#### **§ 194-13. Supply to service outside City.**

Persons outside of the City limits desiring a supply of water in a private main or supply pipe must agree to comply, and must comply, with the rules and regulations of the Water Department. Any addition to, or connection with, such private mains or supply pipes for the purpose of supplying water to other premises shall not be made until a written permit is granted by the owner of said pipes to the party or parties desiring such connections and a copy thereof is filed with the Commissioner of Accounts and said party or parties agree to comply with the rules and regulations of the Water Department. The Water Department reserves the right to refuse to permit such outside connections and to discontinue the supply of water from the same at any time.

#### **§ 194-14. Temporary supply.**

Temporary supplies of water will be furnished only upon application to the Commissioner of Accounts, in writing, in such form as provided in §194-2 hereof. Such application may be granted and a permit issued thereon by the Commissioner of Accounts upon the payment to him by the applicant of the sum of twenty-five dollars (\$25.00) as a deposit. Upon the termination of the temporary supply hookup, the Commissioner of Accounts shall refund to the applicant the

amount so deposited, retaining, however, for the use of the city, such amount as may be owed to the city for the use of water by such applicant or for such temporary hookup.

- A. Unless the water supplied through any temporary hookup shall have been measured by a meter installed at the direction of the Commissioner of Public Works, a charge of five dollars (\$5.00) per week shall be made for water supplied under such temporary hookup. The Commissioner of Public Works shall have the authority to order or to dispense with the installation of a meter in any temporary supply line.
- B. Permits under this rule shall expire thirty-five (35) days from the issuance thereof and may be revoked at any time prior to the expiration of such period by the Commissioner of Public Works.
- C. When temporary connections are made with a fire hydrant, standard hydrant wrenches and reducing caps shall be used. Any person or persons who shall make connections with hydrants contrary to the provisions of this rule shall be punished as provided by §194-1C hereof.

#### **§ 194-15. Repairs to meters.**

All repairs to meters shall be made by regular employees of the Water Department only. Repairs to five-eighths-inch, three-fourths-inch and one-inch meters made necessary by ordinary wear and tear will be furnished by the Water Department at the expense of the owner thereof. Larger meters will be repaired at the expense of the owner thereof. Repairs to any meter made necessary by misuse, hot water or freezing must be paid for by the property owner. When a meter becomes so worn or damaged that replacement is necessary, it must be replaced at the expense of the property owner. Upon refusal of the owner to pay for such repairs or replacements, the water will be shut off and not turned on again until said charges are paid.

#### **§ 194-16. Seals.**

All meters shall be sealed, and seals must not be broken by other than regular employees of the Water Department.

#### **§ 194-17. Testing.**

Persons making complaints as to the correctness of meter bills and claiming to be overcharged can, by applying to the office of the Water Superintendent within ten (10) days after meter bills have become due, have the meter examined and dial reread by depositing the cost of the projected test at the Commissioner of Accounts' office and making a written request to have the meter taken out and tested. The cost of the test shall be the responsibility of the applicant. The Commissioner of Accounts is authorized to correct any charge due to a fault in the meter or to incorrect reading of the dial but shall not have the power to reduce meter bills for any other reason whatsoever.

**§ 194-18. Reading meters. [Amended 10-2015]**

Meters will be read twice a year, the first reading to commence in March of each year and the second reading to commence in August of each year. The readings shall be made by an authorized agent of the Water Department wearing a badge inscribed "Inspector, Water Department of the City of Mechanicville." Only persons wearing such badge should be recognized.

**§ 194-19. Water bills. [Amended 10-2015]**

Bills for water shall be due and payable at the Office of the Commissioner of Accounts without penalty in May and October of each year.

**§ 194-20. Default in payment of water bills.**

The public will be notified by the Commissioner of Accounts by a notice in the official newspaper of said city when water bills are due. Such announcement shall have the same effect as if bills were mailed to each consumer. In case of default of payment for the period of ten (10) days of a water bill after the same is due, the Water Department may shut off the water supply at the premises to which such bill relates until such bill is paid.

**§ 194-21. Penalty added to unpaid water rents.**

- A. The Commissioner of Accounts is hereby authorized and directed to add a penalty to water rents unpaid as follows: a penalty of two percent (2%) shall be due if the outstanding bill is not paid within thirty (30) days of the due date. For each month thereafter, one percent (1%) shall be imposed until the water rents are fully paid.
- B. Outside Water users shall also be subject to an additional penalty if the bill is not paid by January 31 of the following year such payment is due. The penalty shall be an additional ten percent (10%) of the total of the bill. [Adopted 10-2013]

**§ 194-22. Failure to have repairs made.**

No rebate from any water bill will be made in cases where the charges result from the failure on the part of the owner or consumer to promptly repair any broken, frozen, or defective fixture or service.

**§ 194-23. Damage to hydrants.**

In case any damage to a street hydrant is done by a person having a permit and taking water from said hydrant for construction or other uses, the holder of the permit shall pay such damages and all costs and expenses that may be incurred by reason thereof on demand to the City of Mechanicville, and in addition thereto his permit may be revoked.

**§ 194-24. Obstruction of hydrants.**

Any person placing any obstructions that would prevent free access to any fire hydrants shall be liable to a fine of ten dollars and five dollars (\$10.00 and \$5.00) additional for every two (2) hours such obstruction shall remain after receiving notice thereof and, in default of payment of such fine, to imprisonment of one day for every dollar of such fine remaining unpaid.

**§ 194-25. Disturbing valve box.**

Any person who has disturbed or displaced a valve box so that the valve stem cannot be reached by a key or who has covered a valve box or a manhole cover of a valve chamber with dirt, paving, plank or other material shall immediately replace the valve box and remove the obstruction. Any person found guilty of violating the provisions of this rule shall be punished in the manner provided by §194-27 hereof.

**§ 194-26. Cross-connections.**

- A. No connection shall be made between the city water system and any other water supply whatsoever. Any such connections now existing shall be removed.
- B. Persons or corporations desiring to use a private water supply in conjunction with the city water system must apply to the Commissioner of Public Works for permission and must file a plan of proposed connections in the office of the Commissioner of Public Works. Such plan will be approved, and use thereof permitted, if the piping arrangements are such that the city system is entirely disconnected during the use of the private supply.
- C. No sink, lavatory, urinal, water closet, laundry tray, or any other fixture, device or tank shall be connected to the city water system in such a manner that, either by reason of its construction or connections, under conditions of low pressure, insufficient water supply or any other reason whatsoever, un-potable or contaminated water contained in such fixtures can be returned to the city water system by syphonage.

**§ 194-27. Penalties for offenses. [Amended 10-2013]**

Any person violating any provision of these rules and regulations shall be guilty of an infraction and, upon conviction, shall be liable to and punished by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment not exceeding fifteen (15) days, or both such fine and imprisonment, except as otherwise provided in these rules and regulations.

**§ 194-28. Meter rates [Amended 11-2017]**

Water rates shall be the rate for the use of water from the Mechanicville Water Department and

shall be set by the City Council as follows, and shall be a charge against the owner of the property wherein the water is consumed and shall be a lien on such real property wherein such water is consumed:

- A. Rates for filtered water for residents and outside water users other than those under contract with the City of Mechanicville shall be set by resolution of the City Council after a public hearing.
- B. Users of water outside the city limits of the City of Mechanicville who purchase water pursuant to a contract with the City of Mechanicville shall be governed by the provisions of their individual contracts.

**§ 194.29 Emergency Water Regulations [Amended 08-2010]**

- A. In the event that the Commissioner of Public Works determines that a water emergency exists, and Public Notice of such emergency by newspaper publication is made, it shall be a violation for any person, property owner, or entity to use water derived from the City's Municipal System for the watering of lawns or outside flora, vehicle washing, or any other usage whereby water is not returned to the City's Municipal Sewer System. This Ordinance shall not apply to Commercial Car washes, Garden Centers/Nurseries, and Auto and Auto Body Repair establishments.
- B. Any violation of this Ordinance shall be deemed a violation and violators shall be subject to a maximum fine of two hundred fifty dollars (\$250.00) for the first violation. Any subsequent violation during the same emergency period shall be subject to a maximum fine of five hundred dollars (\$500.00).
- C. Each day that the violation exists during the emergency period shall be deemed a separate violation.

# **Chapter 200**

## **Zoning**

[Adopted 11-1968]

### **ARTICLE I General Provisions**

§ 200-1.	Purpose.	§ 200-3.	Title.
§ 200-2.	Interpretation.	§ 200-4.	Repealer.

### **ARTICLE II Word Usage and Definitions**

§ 200-5.	Word usage.	§ 200-6.	Definitions.
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### **ARTICLE III Establishment of Districts**

§ 200-7.	Types of Districts.	§ 200-9.	Interpretation of District
§ 200-8.	Zoning map.		Boundaries.
§ 200-8(BB)	Planned Development District.		

### **ARTICLE IV District Regulations**

§ 200-10.	General provisions.	§ 200-14.	Restricted Commercial
§ 200-11.	Residential District.		District.
§ 200-12.	Multifamily/Townhouse	§ 200-15.	Light Industrial District.
	Residential District.	§ 200-16.	Heavy Industrial District.
§ 200-13.	General Commercial District.	§ 200-16(AA)	Waterfront/Mixed Use.
		§ 200-16(BB)	Planned Development
			District.

### **ARTICLE V Special Permit Uses**

§ 200-17.	General provisions.	§ 200-19.	Standards applicable to all
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- § 200-18. Plan required. special permit uses.
- § 200-20. Special permit uses in Residential Districts.
- § 200-21. Special permit uses in Commercial and Industrial Districts

## ARTICLE VI Supplemental Regulations

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|---|---|
| <p>§ 200-22. Purpose.</p> <p>§ 200-23. Location of accessory buildings on a lot.</p> <p>§ 200-24. Existing lots record.</p> <p>§ 200-25. Minimum frontage.</p> <p>§ 200-26. Access to improved street.</p> <p>§ 200-27. Average front yard.</p> <p>§ 200-28. Height exceptions.</p> <p>§ 200-29. Courts.</p> <p>§ 200-30. Requires off-street parking space.</p> <p>§ 200-31. Required off-street loading space.</p> <p>§ 200-32. Prohibited uses.</p> <p>§ 200-33. Removal of topsoil.</p> <p>§ 200-34. Sand and gravel mining.</p> <p>§ 200-35. Lots in two districts.</p> <p>§ 200-36. Business access through Residence District.</p> | <p>§ 200-37. Yard exceptions.</p> <p>§ 200-38. Areas below fifty-five-foot contour line.</p> <p>§ 200-39. Nonconforming uses.</p> <p>§ 200-40. Unsafe structures.</p> <p>§ 200-41. Alteration of nonconforming building.</p> <p>§ 200-42. Extension of nonconforming Use.</p> <p>§ 200-43. Effect on existing building permits.</p> <p>§ 200-44. Restoration of damaged buildings.</p> <p>§ 200-45. Discontinuance of non-conforming use.</p> <p>§ 200-46. Change of use.</p> <p>§ 200-47. Displacement of conforming use.</p> <p>§ 200-48. District changes.</p> |
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## ARTICLE VII Site Plan Review [Amended 08-2014]

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| <p>§ 200-49. Statutory authority; purpose.</p> <p>§ 200-50. ZBA/Planning Commission rules and regulations.</p> <p>§ 200-51. Projects requiring site-plan Review; exceptions.</p> <p>§ 200-52. Prior approvals.</p> <p>§ 200-53. Concept review/sketch plan Conference.</p> | <p>§ 200-54. Preliminary site plan.</p> <p>§ 200-55. Review and action by ZBA/Planning Commission</p> <p>§ 200-56. Documentation required prior to approval.</p> <p>§ 200-57. Action upon approval or disapproval; appeals.</p> |
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**ARTICLE VIII**  
**Signs**  
**[Amended 04-1997]**

§ 200-59.	Title.	§ 200-67.	Maintenance required;
§ 200-60.	Purpose.		revocation of permit.
§ 200-61.	Definitions.	§ 200-68.	Removal of certain signs.
§ 200-62.	Restrictions on size, type and locations.	§ 200-69.	Nonconforming advertising signs.
§ 200-63.	Permit required.	§ 200-70.	Variances and special permits.
§ 200-64.	Application for permit.		Appeals.
§ 200-65.	Fee.	§ 200-71.	Revocation of business license.
§ 200-66.	Issuance of permit.	§ 200-72.	amendments.
		§ 200-73.	

**ARTICLE IX**  
**Fences**  
**[Adopted 04-1997, amended 10-2013]**

§ 200-74.	Definitions.	§ 200-77.	Height limitations.
§ 200-75.	Approval required.	§ 200-78.	Location restrictions.
§ 200-76.	Application for permit; issuance.	§ 200-79.	Materials and composition.

**ARTICLE X**  
**Administration**

§ 200-80.	Enforcement.	§ 200-84.	Required site-plan approval.
§ 200-81.	Building permit.	§ 200-85.	Hearings.
§ 200-82.	Certificate of Occupancy.	§ 200-86.	Variances.
§ 200-83.	Board of Appeals.	§ 200-87.	Penalties for offenses.
		§ 200-88.	Notice of violation.

**ARTICLE XI**  
**Amendments**

§ 200-89.	Authority.
§ 200-90.	Initiation.

**ARTICLE XII**  
**Portable Buildings**

**[Adopted 10-2013]**

- § 200.91. Definition: Portable Buildings**
- § 200.92. Setback, area and spacing regulations.**
- § 200.93. Installation requirements.**

**ARTICLE XIII**  
**DRIVEWAYS**  
**[Adopted 10-2013]**

- § 200-94. Setbacks.**
- § 200-95. Approvals.**

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**ARTICLE I**  
**General Provisions**

**§ 200-1. Purpose.**

For the purposes enumerated in the General City Law, the City Council of the City of Mechanicville in the County of Saratoga, under the authority of said General City Law, hereby ordains, enacts and publishes this chapter.

**§ 200-2. Title.**

This chapter shall be known and may be cited as the "City of Mechanicville Zoning Ordinance."

**§ 200-3. Interpretation.**

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, morals, safety, or the general 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 highest standards, shall govern.

**§ 200-4. Repealer.**

The ordinance entitled "An ordinance regulating and limiting the height and bulk of building

hereafter erected, and regulating and determining the area of yards, courts, and open spaces, and regulating the density of population, and regulating and restricting the location of trades, and industries and the location of buildings designed for specific uses, and establishing the boundaries of zones for the said purposes, and providing penalties for the violation of its provisions," adopted in 1944, and all amendments and changes thereto, is hereby repealed and declared to be of no effect as of the effective date of this chapter.

#### **§ 200-5. Word usage.**

For the purpose of this chapter, certain words or phrases herein shall be interpreted as follows, except where the context clearly indicates the contrary: words used in the singular include the plural; words used in the present tense include the future tense; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "shall" is always mandatory; and the word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

#### **§ 200-6. Definitions.**

For the purpose of this chapter, certain terms or words herein shall be interpreted as follows:

**ACCESSORY USE** – A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ALTERATION, STRUCTURAL** – Any change in the supporting members of a building, such as bearing walls, footing foundations, columns, beams, girders, floor joists, or roof rafters.

**AREA, BUILDING** – The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

**AREA, NET SITE** – The total area within the property lines, excluding external streets.

**BASEMENT** – A story partly underground but having at least one half (½) of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purposes of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet or if used for business or dwelling purposes.

**BOARDINGHOUSE** – Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire, with or without meals. A rooming house or a furnished rooming house shall be deemed a boardinghouse.

**BUILDING** – Any structure having a roof for the shelter, housing or enclosure of persons, animals, chattels, or property of any kind.

**BUILDING, ACCESSORY** – A subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

**BUILDING HEIGHT** – The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING, PRINCIPAL** – A building in which is conducted the main or principal use of the lot on which said building is situated.

**CELLAR** – An enclosed space within the foundation walls of a building and having more than one half (½) of its height below the average level of the adjoining ground. In no event shall a cellar be considered a dwelling.

**CLUB, MEMBERSHIP** – An organization catering exclusively to members and their guests or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club.

**COURT, INNER** – A court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

**COURT, OUTER** – A court extending to a street line or opening upon any front, side, or rear yard.

**COVERAGE** – That percentage of the plot or lot area covered by the footprint of the building area.

**DUMP** – A lot or land or part thereof used primarily for the disposal, by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DWELLING** – A building designed or used as the living quarters for one (1) or more families. The term "dwelling," "one (1)-family dwelling," "two (2)-family dwelling" or, "dwelling group" shall not be deemed to include an automobile court or rooming or tourist home.

**DWELLING, MULTIPLE** – A building used or designed as a residence for three (3) or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats, and group houses.

**DWELLING, ONE-FAMILY** – A detached building containing one (1) dwelling unit only.

**DWELLING, TWO-FAMILY** – A detached building containing two (2) dwelling units.

**DWELLING UNIT** – A dwelling or portion thereof providing complete living facilities for one (1) family.

**FAMILY** – One (1) or more persons related by blood, adoption, or marriage living and cooking together as a single housekeeping unit or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption, or marriage.

**FENCE** – A barrier, stockade, or other device constructed of wood, brick, wire, or other material excluding concrete, not exceeding eight (8) inches in width, intended for use as a boundary or means of protection or confinement. [Amended 10-2013]

**FLOOR AREA OF A BUILDING** – The sum of the gross horizontal area of all of the floors of a building and its accessory buildings on the same lot, excluding cellar and basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

**GARAGE, PRIVATE** – An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation, or service is conducted therein nor space therein for more than one car is leased to a nonresident of the premises.

**GARAGE, PUBLIC** – Any garage, other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, or equipping of automobiles or other motor vehicles.

**GASOLINE STATION** – Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles, but not including the painting thereof by any means.

**GRADE, FINISHED** – The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**HOME OCCUPATION –**

A. An occupation or a profession which:

- (1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- (2) Is carried on by a member of the family residing in the dwelling unit;
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- (4) Which conforms to the following additional conditions:
  - (a) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto;

- (b) Not more than one person outside the family shall be employed in the home occupation;
- (c) There shall be no exterior display, no exterior sign (except as permitted under Article VIII), no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building; and
- (d) No offensive noise, vibration, smoke, dust, odors, heat,, or glare shall be produced.

B. In particular, a home occupation includes but is not limited to the following:

- (1) Art studio;
- (2) Dressmaking;
- (3) Professional office of a physician, dentist, lawyer, engineer, architect, or accountant within a dwelling occupied by the same; and/or
- (4) Teaching with musical instruction limited to a single pupil at a time.

**HOSPITAL** – Unless otherwise specified, the term "hospital" shall be deemed to include a sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment, or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

**HOTEL** – A building containing rooms intended or designed to be used or which are used, rented, or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building. Any hotel providing vehicular access within twenty (20) feet of the entrance of more than one half (½) the guest rooms shall be deemed to be a motel.

**JUNKYARD** – A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal, or discarded material or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

**LOT** – A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

**LOT, CORNER** – A lot which has an interior angle of less than one hundred thirty-five degrees (135°) at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred thirty-five degrees (135°).

**LOT, DEPTH OF** – A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

**LOT, INTERIOR** – A lot other than a corner lot.

**LOT, THROUGH** – An interior lot having frontage on two (2) parallel or approximately parallel streets.

**LOT, WIDTH OF** – The mean width measured at right angles to its depth.

**MOBILE HOME** – Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle and which is used, designed to be used and capable of being used as a detached single-family dwelling. [Adopted 06-1969]

**MOBILE HOME LOT** – A portion or parcel of land considered as a unit which is used or occupied by a mobile home and the customary accessories and open spaces belonging to the same. A mobile home lot shall have the same requirements as any residential building lot. [Adopted 06-1969]

**MOBILE HOME PARK** – Any parcel of land or a combination of adjacent parcels of land which is planned and improved for the placement of two (2) or more mobile homes. [Adopted 06-1969]

**MOTEL** – A building or group of buildings used, rented, or hired out to be occupied for sleeping purposes by guests, generally on a transient basis, with a provision for close vehicular access to the guest rooms by the guest room user.

**NONCONFORMING USE** – A building, structure or use of land which lawfully existed prior to the time of adoption or amendment of this chapter but which does not conform to the regulations of the district or zone in which it is situated by reason of said adoption or amendment.

**NURSERY SCHOOL** – A school designed to provide daytime care or instruction for two (2) or more children from two (2) to five (5) years of age, inclusive, and operated on a regular basis.

**NURSING OR CONVALESCENT HOME** – Any dwelling with fewer than fifteen (15) sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

**OPEN SPACE** – An unoccupied space open to the sky on the same lot with the building. Where such space is required, it shall be not less than two hundred fifty (250) square feet for each dwelling unit, may be located in a required yard and shall be located and designed to be usable for play space for small children, laundry drying, or other open use. Driveway or parking areas shall not be included in such space.

**PARKING LOT**- An area divided into individual spaces intended for parking motor vehicles. [Adopted 10-2013]

**PARKING SPACE** – An off street space available for the parking of one (1) motor vehicle and having the dimensions of not less than nine feet (9)’ by eighteen feet (18’) exclusive of passage ways and driveway appurtenant thereto and giving access thereto and having direct access to a street or alley or private roadway. [Amended 04-2009]

**PEDESTRIAN-ORIENTED HARDSCAPE** – Paved pedestrian paths or gathering areas clearly defined, marked, signed, and in contrasting color from surrounding non-pedestrian paved areas. [Adopted 04-2009]

**PORTABLE BUILDING-** Any prefabricated structure assembled off site and delivered to the site as a complete unit or a building purchased in kit form and assembled onsite, which can be moved without disassembly to another location. [Adopted 10-2013]

**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 any floor and the ceiling next above it.

**STREET** – A public or private way which affords the principal means of access to abutting properties.

**STREET GRADE** – The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

**STRUCTURE** – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**YARD** – An unoccupied space open to the sky on the same lot with a building or structure.

**YARD, FRONT** – An open, unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

**YARD, REAR** – An open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

**YARD, SIDE** – An open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

### **ARTICLE III**

#### **Establishment of Districts**

#### **§ 200-7. Types of districts.**

A. The City of Mechanicville is hereby divided into the following types of districts:

20010



- (2) Residential Districts:
- (3) Multifamily/Townhouse Residential District; [Adopted 07-1990]
- (4) General Commercial Districts;
- (5) Restricted Commercial Districts;
- (6) Light Industrial Districts;;
- (7) Heavy Industrial Districts;
- (8) Waterfront Mixed Use Districts; [Adopted 04-2009] and
- (9) Planned Development District; [Adopted 04-2012]

**§ 200-8. Zoning map. [Amended 04-2009]**

- A. The zoning map of the City of Mechanicville dated April 9, 1962, is hereby amended to reflect a change in that designation of real property located on North Main Street in the City described as Tax Map Parcel #262.38-1-3 on the 2008 tax roll from a Heavy Industrial District to a Waterfront Mixed Use District.
- B. The zoning map of the City of Mechanicville dated April 9, 1962, is hereby amended to reflect the changes and amendment reflected in a certain zoning map dated July 1, 2013. [Amended 10-2013]
- C. The zoning map of the City of Mechanicville dated April 9, 1962, as amended is hereby amended to reflect the changes and amendment reflected in a certain zoning map dated October 12, 2016. [Amended 11-2016]

**§200-8(BB) Planned Development District. [Amended 04-2012]**

That the zoning map of the City of Mechanicville dated April 9, 1962, as amended, be amended to change a portion of that real property known as the Mechanicville Industrial Park to a Planned Development District.

**§ 200-9. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries;

- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such a distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said Zoning Map;
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line; and
- E. Where the boundary of a district follows a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the city unless otherwise indicated.

## **ARTICLE IV**

### **District Regulations**

#### **§ 200-10. General provisions.**

- A. Except as herein specified, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. Except as herein specified, no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller front yards, rear yards, side yards, or inner or outer courts than is specified herein for the district involved.
- C. Except as herein specified, no part of a yard or other space about any building required for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
- D. The regulations for each district, unless otherwise indicated or provided for in this chapter, shall be deemed to be the minimum requirements in every instance. The listing of any use either as being permitted in or as being excluded from any particular district shall be deemed to be an exclusion of such use from any more restrictive district, unless the text specifically indicates the contrary.

#### **§ 200-11. Residential District.**

- A. Permitted principal uses shall be as follows: one-family dwelling; two-family dwelling; public school, park or recreation facility; municipally operated utility; church or place of worship; rectory, convent or similar religious building or use; private school authorized

by the State Department of Education; private nonprofit recreation facility; and agricultural or gardening use, but no sale of products on the premises.

- B. Permitted accessory uses shall be as follows: private garage or parking space; garden house, greenhouse or similar accessory use to a dwelling, including private swimming pool; customary home occupation; and signs, in conformity with the provisions of Article VIII.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: farm produce sales stand; utility substation; membership club; nursery school; hospital; real estate office; real estate development sign; cemetery; multiple dwelling; nursing home; museum; art gallery; public library not operated for profit; funeral home; and mobile home. [Amended 06-1969]
- D. Minimum lot area shall be four thousand (4,000) square feet, except for new dwelling construction on lots not previously of record, where five thousand (5,000) square feet shall be required. For any additional dwelling units in excess of the first, a lot area of twenty-five hundred (2,500) square feet for each dwelling unit and a usable open space of two hundred fifty (250) square feet for each dwelling unit shall be required.
- E. Minimum lot dimensions shall be as follows:
  - (1) Width: 45 feet; and
  - (2) Depth: 100 feet.
- F. Maximum building height shall be as follows:
  - (1) In stories: three; and
  - (2) In feet: 40.
- G. Minimum yards shall be as follows:
  - (1) Front: 25 feet;
  - (2) Rear: 20 feet; and
  - (3) Side: not less than five (5) feet, but the sum of two (2) side yards shall be not less than fourteen (14) feet.
- H. Maximum coverage by principal and accessory buildings shall be forty percent (40%).
- I. Minimum off-street parking space shall be in accordance with § 200-30.

**§ 200-12. Multifamily/Townhouse Residential District [Adopted 07-1990].**

- A. Permitted principal uses shall be as follows: single-family home on a single lot; condominium, townhouse and multifamily residential structure containing two (2) or more dwelling units in which the dwelling units are for sale individually or for rent; public school, park or recreational facility; and church or place of worship. More than one (1) structure containing permitted principal uses is permitted on one lot of record.

- B. Permitted accessory uses shall be as follows: private garage or parking space, garden house, or tool shed.
- C. Density requirement. No residential structure(s) containing two (2) or more dwelling units shall be erected, altered or used which does not provide a lot area of at least twenty five hundred (2,500) square feet for each family or dwelling unit.
- D. Minimum lot area. The minimum lot area for a single-family home shall be four thousand (4,000) square feet. The minimum lot area for all other residential structures is five thousand (5,000) square feet.
- E. Minimum yards shall be as follows:
  - (1) Front: 20 feet;
  - (2) Rear: 15 feet; and
  - (3) Side: not less than five (5) feet, but the sum of two (2) side yards of any principal building shall be not less than fourteen (14) feet.
- F. Minimum off-street parking space shall be in accordance with § 200-30.

**§ 200-13. General Commercial District.**

- A. Permitted principal uses shall be as follows: one (1)-family dwelling; public school, park or recreation facility; municipally operated utility; church or place of worship; rectory, convent or similar religious building or use; private school authorized by the State Department of Education; private nonprofit recreation facility; agricultural or gardening use, but no sale of products on the premises; retail store; office for professional, banking or business purpose; eating and drinking establishment; personal service establishment, but not including any dry-cleaning or laundry plant, except by special use permit, self-service laundry or dry-cleaning store; public utility substation; veterinary hospital; public or private parking lot; gasoline station; automotive sales or service establishment; business school; funeral home; commercial recreation facility; membership club; and motel or hotel.
- B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, but not including any open storage or manufacture for off-premises sale, provided that signs shall be as provided in Article VIII.
- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: two-family dwelling; multiple dwelling; hospital; nursing home; nursery school; cemetery; open storage area; and fuel storage area.
- D. Minimum lot area shall be as follows: none, except that where any dwelling use is provided there shall be twenty five hundred (2,500) square feet of lot area for each dwelling unit and two hundred fifty (250) square feet of usable open space for each dwelling unit.

E. Minimum lot dimensions shall be as follows: none.

F. Maximum building height shall be as follows:

- (1) In stories: three; and
- (2) In feet: 45.

G. Minimum yards shall be as follows:

- (1) Front: none;
- (2) Rear: 15 feet; and
- (3) Side: it shall be at least five (5) feet, and where the lot abuts any land in a residence district, the abutting side yard shall be ten (10) feet.

H. Maximum coverage by principal and accessory buildings shall be eighty-five percent (85%).

I. Minimum off-street parking space shall be in accordance with § 200-30.

#### **§ 200-14. Restricted Commercial District.**

A. Permitted principal uses. The following uses are permitted, provided that no new dwelling use shall be permitted except as hereinafter expressly provided: parking lot or garage; automobile sales, service or repair establishment; gasoline station; sign in accordance with Article VIII; warehouse or storage building; commercial recreation facility; hotel or motel; boardinghouse or rooming house; nursing home; hospital; business and professional office; and restaurant or lunch room.

B. Permitted accessory uses shall be as follows: all uses customarily accessory to a permitted principal use.

C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: multiple dwelling and dry cleaning or laundry plant.

D. Minimum lot area shall be as follows: none, except that where any dwelling use is provided, there shall be twenty five hundred (2,500) square feet of lot area for each dwelling unit and two hundred fifty (250) square feet of usable open space for each dwelling unit.

E. Minimum lot dimensions shall be as follows: none.

F. Maximum building height shall be as follows:

- (1) In stories: 3; and
- (2) In feet: 45.

G. Minimum yards shall be as follows:

- (1) Front: there shall be a minimum setback requirement of ten (10) feet to provide for access drives and off-street parking;
- (2) Rear: none, except that where the yard abuts a residence district, the abutting yard shall be at least ten (10) feet; and
- (3) Side: it shall be at least five (5) feet, and where the yard abuts a residence district the abutting yard shall be ten (10) feet.

H. Maximum coverage by principal and accessory buildings shall be as follows:

- (1) For nonresident use: sixty percent (60%); and
- (2) For lot with any dwelling use: fifty percent (50%).

I. Minimum off-street parking space shall be in accordance with § 200-30.

#### **§ 200-15. Light Industrial District.**

A. Permitted principal uses shall be as follows:

- (1) Industrial and manufacturing uses, including construction, assembly, packaging, and warehousing operations, provided that:
  - (a) No use shall be of a type that will create any objectionable effluent, odor, smoke, dust, fumes, light, noise, radiation, or other effect in any residence district area;
  - (b) No use listed as a prohibited use in § 200-32 shall be permitted; and
  - (c) No new dwelling use shall be permitted.
- (2) Uses permitted in a Commercial District other than any dwelling use.
- (3) All railroad uses.
- (4) Truck terminal.
- (5) Warehousing.

B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, provided that they meet the requirements of such uses as shown above; parking area or garage for visitor, employee or business vehicles; signs in accordance with Article VIII; and storage related to a permitted use.

- C. Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: junkyard.
- D. Minimum lot area shall be five thousand (5,000) square feet.
- E. Minimum lot dimensions shall be as follows:
  - (1) Width: 50 feet;
  - (2) Depth: 100 feet.
- F. Maximum building height shall be as follows:
  - (1) In stories: 3;
  - (2) In feet: 45.
- G. Minimum yards shall be as follows: same as Commercial District.
- H. Maximum coverage by principal and accessory buildings shall be fifty percent (50%).
- I. Minimum off-street parking space shall be in accordance with § 200-30.

**§ 200-16. Heavy Industrial District. [Amended 08-2014]**

- A. Permitted uses shall be as follows:
  - (1) All uses not otherwise prohibited by law (except any residential use); and/or
  - (2) Junkyards or automobile wrecking yards and scrap iron, scrap paper or rag storage, sorting or baling, provided that they are conducted within a building or where entirely enclosed within a fence or by other means approved by the ZBA/Planning Commission.
- B. Permitted accessory uses shall be as follows: all uses customarily incidental and accessory to a permitted principal use, provided that they meet the requirements of such uses as shown above; parking area or garage for visitor, employee or business vehicles; sign in accordance with Article VIII; and storage related to a permitted use.
- C. Uses requiring a special use permit. The following uses may be permitted if approved by the ZBA/Planning Commission and shall be subject to the securing of a permit therefor and to such conditions, restrictions and safeguards as may be deemed necessary by said ZBA/Planning Commission for the purpose of protecting the health, safety, morals, or the general welfare of the community: all uses of land, buildings and structures, or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, or similar substances or conditions.

**200-16(AA) Waterfront Mixed Use District. [Adopted 04-2009]**

A. The following uses shall be permitted in any area of the City of Mechanicville designated as a Mixed Used District:

- (1) Dwelling, one-family;
- (2) Dwelling, multi-family, or apartment or condominium;
- (3) Municipal building;
- (4) Professional and General Office;
- (5) Residential home business;
- (6) Retail and Commercial Uses, including but not limited to, retail stores, Restaurants, Fast Food Establishments, Hotel, Theater, Conference Center, Drive Through Service of retail facility, Banks, Grocery store, Drugstore, Personal service shop, Health Club, Fitness or Recreation center, Day-care or Pre-school center, Retail Bakery, club or lodge, Dry Cleaner (pick up only) or Automatic Laundry or Laundromat, Farmers Market, Outdoor Retail or Recreational Events, or similar activity and any related Accessory including but not limited to pools, pavilions, storage structures, and maintenance structures.
- (7) Planned Unit Development;
- (8) Signs. Signs relating to the above-permitted uses under this Article public utility structures and facilities, such as electric lines, poles, gas mains, telephone and telegraph lines, and poles necessary to service the district (excluding major utility substations, major transmission lines, pipes, poles, or mains.)

B. Dimensional Requirements:

- (1) Lot Area: Minimum 22,000 square feet;
- (2) Maximum Building Height: 75 Feet;
- (3) Front Yard Setback: 0’;
- (4) Side Yard Setback: 0’;
- (5) Rear Yard Setback: 15’ minimum;
- (6) Maximum Lot Coverage by principal and accessory buildings shall be ninety (90%);
- (7) Multiple principal uses shall be permitted on any Lot.



C. Parking Requirements:

- (1) Parking shall be established in accordance with §200-30 provided, however, that uses within a contiguous area of any downtown District designated area, may be permitted to aggregate the parking on the respective sites as long as there exists between the respective uses a cross easement agreement for parking which has been filed with the Clerk upon issuance of any building permits on the effected sites/parcels.
- (2) The ZBA/Planning Commission may consider shared use of parking spaces, where appropriate, to allow an appropriate reduction in the total number of parking spaces that would otherwise be required. [Amended 08-2014]

**§200-16(BB) Planned Development District. [Adopted 04-2012] [Amended 08-2014]**

- A. **Purpose.** In order to meet the objectives of this chapter and to encourage and promote the most attractive and economic development of land which under appropriate conditions may include a mixture of land use types not otherwise permitted, to encourage job-supporting and tax-producing new development planned in accordance with modern planning standards, to protect the quality and property values of existing development, to create a pattern of development which preserves unique natural features such as but not limited to outstanding natural topography and geologic features and prevents soil erosion, to increase the range of services and facilities available to serve the City's present and future population, and to otherwise promote and enhance the public health, safety, and general welfare, the following provisions with regard to Planned Development Districts are adopted:
- B. **Establishment.** A zoning district to be delineated as a Planned Development District is hereby established.
- C. **Application; review; public hearing; action.** The review process, considerations, and actions of the ZBA/Planning Commission with respect to the development within a Planned Development District shall be governed by Chapter 200, Article VII of the City Code, except as modified by this article.
- D. **Procedures and Escrows:**
  - (1) The owner of the land or agent thereof shall submit an application for site plan approval to the ZBA/Planning Commission in conformity with the Site Plan Review process as set forth in Chapter 200 Article VII of the City Code.
    - (a) An escrow amount shall be established by the applicant to pay for consultant's fees, including engineering and legal fees, incurred in the evaluation of the site plans. An estimate of anticipated fees shall be provided to the applicant.

## **E. District Regulations**

### **(1) Permitted uses.**

- (a) Stores and shops for the conduct of retail business, banks, post office, and establishments for the performance of various personal services, provided that such uses are part of a planned shopping complex of at least three (3) acres.
  - (b) Theater, disco, bowling alley, skating rink, commercial recreation facility, membership club, or other place of amusement, provided that all principal activities are conducted in a fully enclosed building.
  - (c) Institutional health care facilities, including hospitals, veterinary hospitals, and long-term care facilities where the occupants reside for extended periods within the facility.
  - (d) Office use.
  - (e) Hotel or Motel.
  - (f) Public or private parking lot or garage; automotive sales or service establishment, automobile sales, service, or repair establishment.
  - (g) Park or recreation facility, church or place of worship, business school.
  - (h) Solar power generating facilities.
  - (i) Municipally operated utility, public utility substation.
  - (j) Light industrial uses, including construction, assembly, packaging and warehousing operations, and storage building provided that:
- (2) No use shall be of a type that will create any objectionable effluent, odor, smoke, dust, fumes, light, noise, radiation, or other effect in any residence district area and is in compliance with the rest of this chapter and supplemental PDD regulations.
- (3) Permitted accessory uses shall be as follows:
- (a) Office of a physician, lawyer, surgeon, or dentist, and similar professional offices; garages, and other areas for parking of motor vehicles. In areas of open or outdoor parking only one tenth (1/10) of the area may be for commercial vehicles of one (1) ton or less; Parish house, rectory or church schoolrooms;

- (b) All uses customarily incidental and accessory to a permitted principal use; parking area or garage for visitor, employee or business vehicles; and storage related to a permitted use;
- (4) Uses requiring a special use permit (in conformity with the provisions of Article V) shall be as follows: Open storage area, fuel storage area.
- (5) Minimum lot area shall be at least one (1) acre for commercial and light industrial uses.
- (6) Minimum lot dimensions shall be as follows:
  - (a) Width: no minimum
  - (b) Depth: no minimum
- (7) Maximum building height shall be as follows:
  - (a) In stories: 5
  - (b) In feet: 75
  - (c) Minimum yards shall be as follows:
  - (d) Front: no minimum
  - (e) Rear: no minimum
  - (f) Side: no minimum
- (8) There shall be no maximum coverage by principal and accessory buildings restriction.
- (9) Minimum off-street parking space shall be in accordance with § 200-30.

F. **Compliance with standards.** All Planned Development Districts and all buildings and uses within such districts shall be required to comply with the following specified development standards and requirements, except that the ZBA/Planning Commission is hereby authorized to modify or waive the standards with respect to individual buildings and lots within a planned unit development, as the ZBA/Planning Commission deems appropriate.

G. **Location.** Location of the Planned Development shall be in conformance with the City's Comprehensive Plan.

H. **Minimum site area.** The site plan for a PDD shall not be less than one acre for a commercial for a light industrial development; provided, however, that where an applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article, projects with less acreage will be considered by the ZBA/Planning Commission. The calculation of such land area shall not include existing streets, easements, and parks or otherwise dedicated land or water areas in excess of five percent (5%) of the minimum gross acreage, lands officially designated on the official map of the City. Sites proposed for development for two (2) or more classifications shall consist of

the aggregate gross land area required for each use. The proposed development shall conform to the City of Mechanicville Comprehensive Plan.

- I. **Additional Requirements** Once a site plan is approved, no further changes can be made to the structures or amenities of the site, nor shall any changes be made to the uses allowed in the approved plan, unless those changes are resubmitted to the ZBA/Planning Commission for review and approval.
- J. **Setbacks and building coverage.** All normal dimensional standards and requirements related to buildings and lots within a Planned Development District shall be subject to ZBA/Planning Commission review and determination as a part of the site development plan and/or subdivision plat approval procedure, as appropriate.
- K. **Streets and storm drainage.** All areas covered by buildings and all paved portions of the site shall be provided with suitable storm drainage. Where the expansion, reconstruction or other alteration of off-site drainage facilities and structure is required as a result of the additional burdens imposed by a proposed development, such development shall not be approved until the necessary off-site improvements have been made or provisions have been made for such improvements.
- L. **Off-street parking.** Off-street parking facilities shall be provided in number and design subject to the following special standards for Planned Development Districts:
  - (1) All maintenance vehicles or equipment shall be stored in enclosed structures only, which structures shall conform in architectural theme to the principal buildings of the planned development.
  - (2) The ZBA/Planning Commission may waive up to thirty percent (30%) of the total required residential parking facilities as part of its site plan approval when it is determined by the ZBA/Planning Commission that, due to the relationship of the land uses, the total required facilities may not be necessary to meet the intent of these regulations. In all cases, it shall be expressly demonstrated on the site development plan that sufficient space remains for the provision of the total amount of parking required, and the site development plan shall bear such designation. All such undeveloped parking space shall be used and maintained as additional landscaped grounds until required for parking. Written guaranties, satisfactory to the City Attorney, shall be submitted by the applicant for the eventual improvement of any such spaces, which may have been waived, within six (6) months of the date of written notice to the property owner by the ZBA/Planning Commission that such spaces have been determined as necessary and must be constructed.
  - (3) Parking shall be situated so that it is adequately screened from the city streets and, to the maximum extent possible, from all other vantage points around the parcel, either by dense, year-round landscaping or topographically concealed. Parking shall be to the side or rear of buildings.

**M. Street trees and landscaping.** In addition to the normal requirements for buffer landscaping to screen and protect adjoining residential properties, and for on-site landscaping necessary to assure an attractive development, provide shade and prevent soil erosion, it shall be required that street trees be planted within parking areas at the rate determined by the ZBA/Planning Commission.

**N. Recreation area and open space.**

- **Open space.** All portions of any planned development which are not used for one (1) or more of the purposes permitted by this chapter shall be designed and maintained as permanent open space and shall be landscaped or preserved in accordance with plans approved by the ZBA/Planning Commission.
- **Walkways.** Planned developments shall be provided with safe and convenient pedestrian walkways as determined necessary by the ZBA/Planning Commission to connect buildings, parking facilities, public and commercial facilities, school bus stops and recreation and open space areas. Walkways should be paved, level surfaces to allow walkers of all abilities to easily move about.

**O. Utilities and services.**

- (1) All utilities shall be placed underground and shall be situated to the extent possible between the paved roadway and designated street line, or in commonly owned areas, to simplify location and repair of such lines. Wherever possible, utilities should be routed around structures, paved areas and separately owned private lands.
- (2) Refuse collection, storage and disposal. Plans for the collection, storage and disposal of refuse within any planned unit development shall be subject to ZBA/Planning Commission approval as part of its review of site development plans. The outside storage of refuse, if permitted, shall be in rodent proof containers conveniently located and enclosed or otherwise screened from view.
- (3) Fire protection. Planned developments shall be provided with proper access for fire-fighting equipment and personnel. Hydrants shall be provided in such number and location and with such water supply and pressure as may be determined adequate by the ZBA/Planning Commission, based upon the recommendation of the Fire Chief.
- (4) Exterior lighting shall be provided in accordance with a lighting plan approved by the ZBA/Planning Commission. Under no circumstances shall lighting be designed in such a way to allow unshielded light to project beyond the boundaries of the parcel. The design is encouraged to have some lights turn off when not required, except those lights that serve security and safety concerns. Further, consideration should be given to avoid, as much as possible, up-lighting which could create sky-shine at night.

- P. **Ownership; maintenance responsibilities.** At the time of submission of a detailed site development plan to the ZBA/Planning Commission for approval, the applicant shall be required to prepare and submit a written program for the maintenance of any commonly owned area, including open space and recreation areas, walkways, driveways, parking areas and other common utilities and facilities. This program shall fix the responsibility for the maintenance program on either the landlord or a home association, or a combination thereof, and shall demonstrate, to the satisfaction of the ZBA/Planning Commission and the City Attorney, how such responsibility will be legally bound and enforceable. If authorized and approved by the City Council, community areas may be dedicated to the City by the applicant.
- Q. **Expiration of site development plan approval.** If no construction is begun within one (1) year of ZBA/Planning Commission approval of the site plan, the site plan approval shall be deemed expired.
- R. **No construction until requirements are met.** No building permits shall be issued for construction within a Planned Development District until improvements are constructed or financial security is posted. Construction may also not occur until such other requirements and conditions as established by the ZBA/Planning Commission have been met.
- S. **Signs.** The following section supersedes any other sign ordinances in the City of Mechanicville Zoning Ordinance.

(1) **Purpose.** The purpose of this section is to:

- (a) Maintain character of the community and enhance physical appearance of planned developments.
- (b) Ensure compatibility of design of signs relating to the commercial or other land use portions of a planned development.
- (c) Prevent visual and physical congestion created by signs designed to compete for the visual attention of motorists.
- (d) Protect the visual character of the City by encouraging signs that are visually compatible with development.

(2) **General standards.** The following standards and specifications shall be included in plans presented to the ZBA/Planning Commission during site plan review of the commercial portion of any proposed planned unit development or during sign permit review of proposed signs for existing planned unit developments:

(a) **Illumination and non-stationary signs.**

- i. Signs shall not be designed to include neon tubing such that the tubing is part of the visible exterior of the sign. Signs shall not be

illuminated by or contain flashing, blinking, rotating or sequential, or other moving lights.

*ii.* Signs shall not be constructed to be or to include moving, rotating or fluttering parts or banners or to have any part that projects or moves beyond the allowed surface area.

*iii.* Interiorly lit signs are prohibited.

**(b) Design and aesthetics.**

*i.* **General.** The purpose of these design standards is to promote construction of signs that are compatible with the design and composition of the planned unit development and are legible, yet do not create visual distraction or confusion for passing motorists. The design should complement existing adjacent land uses and the visual character of the City.

*ii.* **Materials, finish and coloring.** Durable materials, such as wood, metal, or plastic, shall be used to construct the commercial plaza sign and individual business signs. The material chosen shall be approved by the ZBA/Planning Commission and should be consistent with the materials used to construct residential and commercial portions of the planned unit development that are visible from the roadway and neighboring properties. Finish and coloring shall also complement the composition of the entire planned unit development project and surrounding community.

*iii.* **Colors.** Sign colors shall be chosen to minimize or reduce significant or distracting contrast, to eliminate visible competition between the colors of the freestanding sign, its constituent identity signs and individual signs on storefronts, except for the recognized logo of stores with retail space exceeding seventy five hundred (7,500) square feet.

*iv.* **Lettering, layout and composition.** The composition of all signs for the complex, including the freestanding plaza sign, identity signs on the plaza sign and individual business signs, should be reasonably consistent in lettering and layout, such that:

1. A limited variety of lettering styles can be chosen that are visually compatible and readable for motorists and customers in the complex.
2. A form of message layout should be chosen and presented in plan details to provide a certain proportion of lettering size and quantity to overall sign space.

3. Temporary or portable signs shall be permitted, but only with a permit from the Zoning Inspector. Such permits shall not be renewable and shall not exceed fifteen (15) days in duration.

(3) **Commercial plaza sign.** One freestanding sign may be proposed for a road front location which may indicate the name of the commercial plaza and the name of the tenants.

(a) **Dimensions.**

- i. **Height.** The height of a freestanding sign for identifying the commercial plaza shall be established at the discretion of the ZBA/Planning Commission; however, in no case should the lighted portion of the sign exceed twenty-five (25) feet as measured from the finished grade of the road surface fronting the plaza. In no case may the total height of the sign structure exceed thirty (30) feet from the finished grade of such road surface.
- ii. **Sign area.** There shall be a maximum of two (2) faces for the freestanding commercial plaza sign. Each face shall be no greater than one hundred fifty (150) square feet. The area of the freestanding sign faces may be increased, up to a maximum of three hundred (300) square feet each, at the discretion of the ZBA/Planning Commission. The ZBA/Planning Commission shall include the following criteria in its determination,
  - iii. A landscaped area at the base of the sign.
  - iv. Increased setback of the sign from the road frontage.
  - v. Lighting and design of the sign.
  - vi. Overall visual quality of the freestanding sign.

(b) **Location, orientation and setback.**

- i. **Location.** The freestanding commercial plaza sign shall be located along the longest property border of the commercial portion of the planned unit development which faces a major roadway. Where the commercial portion of the planned unit development has significant lengths of frontage along more than one major roadway, an additional sign may be placed to identify an alternate entry to the plaza, not to exceed ten (10) square feet. However, only one (1) of the road-facing signs may bear the identity signs for the individual tenants of a commercial plaza.



- ii.* **Orientation.** A freestanding sign may have two (2) faces and may be oriented so that the width of the face is perpendicular to the roadway so that each face can be read by motorists. No sign shall have more than two (2) faces.
- iii.* **Setback.** The required setback of the sign shall be at the discretion of the ZBA/Planning Commission. The ZBA/Planning Commission shall consider the total distance to the traveled roadway along with the other factors in its determination regarding appropriate setback requirements. The ZBA/Planning Commission shall establish a setback which furthers the purpose of the sign ordinance and which will minimize visual and visible congestion of the highway and will promote safe flow of traffic.
- iv.* **Landscaping.** Suitable landscaping shall be provided around the sign.

**(4) Individual business signs.**

- (a) One (1) individual identity sign may be constructed for each tenant store located between the anchor stores. Such sign may be attached to the store's front facing a roadway or interior of a mall complex or may project perpendicularly from the front wall of the store. No other signs are permitted. Individual identity signs for tenant stores of less than seventy-five hundred (7,500) square feet may not extend above or below the fascia. For signs on the fascia, the length of said sign shall not exceed the store's frontage in linear feet minus eight (8) feet. If the sign extends perpendicular from the store front, it may not be larger than eight (8) square feet and shall be a minimum of seven point five (7.5) feet in height from the pavement.
- (b) Anchor stores of seventy-five hundred (7,500) square feet or greater of retail space may have an individual business sign to be attached to the storefront. Such sign shall not exceed an area equal to the store's frontage in linear feet times one point five (1.5) feet (for example, twenty-five (25) linear feet of frontage by one point five (1.5) feet equals thirty-seven point five (37.5) square feet). Each sign shall be attached to the storefront or the fascia and shall not project above the top of the vertical portion of the front roofline. In no case shall a roof-mounted sign be permitted. A vertical sign attached to a sloping roofline shall not be permitted.

**(5) Administration.**

- (a) Plans and details for proposed signs for commercial portions of planned unit developments shall be presented for review and approval by the ZBA/Planning Commission during the site plan review of the planned unit development.

- (b) No additional permanent or temporary signs or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged, or altered without a thorough review and approval by the ZBA/Planning Commission.
- (c) Upon approval of said plans, the application shall be filed with the Building Inspector for a sign construction permit. Compliance with approved sign plans shall be enforced by the Building Inspector.

#### **T. Severability.**

- (a) **Validity.** If any part or provision of this Ordinance or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance or the application thereof to other persons or circumstances, and the City Council of the City of Mechanicville hereby declares that it would have passed this Ordinance or the remainder thereof had such invalid application or invalid provision been apparent.
- (b) **Repeal.** All ordinances, local laws and parts thereof inconsistent with this Ordinance are hereby repealed.
- (c) **Effective Date.** This Ordinance shall become effective upon filing pursuant to the City Code. This decision shall not affect the validity of the remaining portions of this regulation.

### **ARTICLE V Special Permit Uses**

#### **§ 200-17. General provisions.**

The special permit uses specified in §§ 200-11C, 200-13C, 200-14C, 200-15C, and 200-16C shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards of this chapter and § 27-b of the General City Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

#### **§ 200-18. Plan required.**

A plan for the proposed development of a lot for a special permit use shall be submitted with an application for a special permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other information necessary to determine if the proposed special permit use meets the requirements of this chapter.

**§ 200-19. Standards applicable to all special permit uses.**

The location and size of the use, the nature and intensity of the operations involved and the size of the site in relation to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature, and height of buildings and structures will not discourage the appropriate use of adjacent land and buildings or impair the value thereof. The operation of the use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights than would be the operation of any permitted principal or accessory use.

**§ 200-20. Special permit uses in Residential Districts. [Amended 08-2014]**

- A. The use shall be located on a lot large enough to accommodate the building or buildings involved and necessary off-street parking or garaging space and meet all yard requirements of the district.
- B. The height of buildings shall not exceed that required in the district, provided that a height in excess of this requirement shall be permitted up to fifty percent (50%) over the requirement if all yards are increased to equal the height of the tallest building.
- C. In case of a nursery school, the exterior area to be used by children shall be completely fenced.
- D. The ZBA/Planning Commission, in acting on any application, may impose such additional requirements as it may deem necessary to meet the needs of a particular case.
- G. In the case of a mobile home, a masonry foundation in accordance with the city's Building and Housing Codes must be provided on the mobile home lot to provide a stable and durable support for the entire base perimeter of the mobile home. The mobile home lot must be landscaped in a manner not to detract from neighboring dwelling lots.

**§ 200-21. Special permit uses in commercial and industrial districts. [Amended 08-2014]**

- A. The use shall be located on a lot large enough to accommodate the building or buildings involved, necessary off-street parking or garaging space and off-street loading space and be situated so as to minimize the hazards of traffic access and egress.
- B. The particular use involved shall not be such as to create any observable nuisance or effect beyond the boundary of the lot that is more intense than that of a permitted principal use in the district.

- C. In a commercial district, the height of buildings shall not exceed that required in the district, provided that a height in excess of this requirement shall be permitted up to 50% over the requirement if all yards are increased to equal the height of the tallest building.
- D. In the case of a junkyard, the area used for such purpose shall be completely fenced in a manner that prevents a view of the operation from the lot line to a minimum height of eight feet above lot line grades.
- E. The ZBA/Planning Commission, in acting on any application, may impose such additional requirements as it may deem necessary to meet the needs of a particular case.

## **ARTICLE VI**

### **Supplemental Regulations**

#### **§ 200-22. Purpose.**

The provisions of this chapter shall be subject to such exceptions, additions, or modifications as herein provided by the following supplementary regulations.

#### **§ 200-23. Location of accessory buildings on a lot.**

- A. In any residence district, a permitted accessory use housed in a building may not be placed in any required front yard, side yard, or rear yard, provided that a garage, tool or storage shed, swimming pool, may extend into a required side yard or rear yard if it is to the rear of the back of the dwelling it is to serve and is set back at least five (5) feet from any lot line. In any commercial or industrial district, an accessory building shall not be located in any required yard. [Amended 10-2013]
- B. Except as allowed in Subsection A, all accessory uses, including all swimming pools, shall meet the applicable setback requirements.

#### **§ 200-24. Existing lots of record.**

In any district, where a lot has existed as a lot of record prior to the effective date of this section and such lot has been owned separately from any adjoining lot or lots and such lot fails to meet the minimum area, width, or depth requirements of the district in which located, a building permit for a permitted use shall be issued, provided that the following requirements are met:

- A. The owner of such lot is required to add to such lot any adjoining land in his ownership in order to permit a lot to be created that can meet requirements as far as possible.
- B. The yard requirements for the district are met.

- C. The size of the lot is such that there is three thousand (3,000) square feet of area for each permitted dwelling unit.
- D. The lot has access to an improved street and has no less than twenty-five (25) feet of frontage on such street.

**§ 200-25. Minimum frontage.**

In any residence district, every lot shall have a frontage at the street property line not less than seventy-five (75%) of the required minimum lot width.

**§ 200-26. Access to improved street.**

In any district, the use proposed shall be so located on the lot that the lot is accessible from a street improved to permit the passage of emergency vehicles.

**§ 200-27. Average front yard.**

In a case where a lot is adjoined on each side by lots having building setbacks, in the front yards, less than that required by this chapter, the lot in question may provide a front yard equal to the average depth of the adjoining front yards, provided that in no case shall the front yard be less than one half (½) that required.

**§ 200-28. Height exceptions.**

The maximum height requirement of this chapter shall not be interpreted to prevent the erection of necessary mechanical equipment, steeples, ornamental cornices or spires, and similar architectural features above the maximum height, provided that such exceptions shall be the minimum required for the purpose they are designed to serve.

**§ 200-29. Courts.**

A building court entirely surrounded by walls shall not be less in horizontal cross-section area than two hundred (200) square feet for each story of wall height nor have a minimum side dimension of less than ten (10) feet. Any other court shall not have a depth more than one and one half (1 ½) times its width.

**§ 200-30. Required off-street parking space. [Amended 08-2014]**

All parking spaces provided pursuant to this section shall be on the same lot with the building or an adjoining lot, except that the ZBA/Planning Commission may permit the use of a lot within four hundred (400) feet of the building lot if it determines that it is impractical to provide parking

on the same lot with the building. The parking space requirements shall be required and each parking area shall be satisfactorily developed and maintained to permit its continued use for that purpose.

- A. **For each dwelling unit in a one- or two-dwelling-unit building:** one (1) parking space for each such unit.
- B. **For each dwelling unit in a multiple-dwelling structure:** for existing construction, one parking space for each dwelling unit; for new construction, one and one half (1 ½) parking spaces for each dwelling unit.
- C. **For a retail store, service establishment or similar business use:** one (1) parking space for each establishment, plus one (1) additional space for each two hundred (200) square feet of sales space in excess of five hundred (500) square feet.
- D. **For an office or professional establishment:** one (1) parking space for each establishment, plus one (1) additional space for each two hundred (200) square feet in excess of five hundred (500) square feet.
- E. **For an industrial, manufacturing or storage use:** one (1) parking space for each two (2) employees.
- F. **For a theater, bowling alley or commercial recreation establishment:** one (1) parking space for each five (5) seats or each five customer spaces.
- G. **For a restaurant or place serving beverages:** one (1) parking space for each three (3) customer seats.
- H. **For a club or similar use:** one (1) parking space for each five (5) seats in any dining or meeting hall.
- I. **For a hotel:** one (1) parking space for every three (3) guest rooms; for a motel: one (1) parking space for each guest unit, plus one (1) space for each employee.
- J. **For a rectory, parsonage or church office:** two (2) parking spaces, with one (1) additional space for each employee.
- K. **For a public school:** in accordance with the New York State Education Department.
- L. **For a nursery school:** in accordance with the New York State Department of Social Services.
- M. **For a hospital or nursing home:** one (1) parking space for each two (2) members of the medical or nursing staff, plus one (1) space for each two (2) service employees, plus one (1) space for each three (3) beds.
- N. **For a funeral home:** ten (10) parking spaces for every viewing area.

### **§ 200-31. Required off-street loading space.**

A loading space shall be an open area or space within a building accessible to the street by commercial vehicles on the same lot as the building, with the following minimum dimensions: length: thirty (30) feet; width: ten (10) feet; height: ten (10) feet. The following loading space requirements shall be required:

- A. For each non-dwelling use in any residence district: one (1) loading space for each such use, provided that any requirements listed below do not apply;
- B. For any retail store building, office or service building or comparable structure: one loading space for the first ten thousand (10,000) square feet of floor area, with one (1) additional space for each twenty thousand (20,000) square feet of floor area in excess of the first ten thousand (10,000) square feet;
- C. For any manufacturing, industrial or storage use: one loading space for each building so used, plus one additional loading space for each twenty thousand (20,000) square feet of floor area.

### **§ 200-32. Prohibited uses.**

- A. In all districts, uses not specifically permitted shall be prohibited.
- B. A mobile home park shall not be permitted in any district. No mobile home shall be permitted on a lot adjacent to a lot on which an existing mobile home unit is situated. A lot of sufficient size for use of a residential building, in accordance with this chapter, shall be required under all circumstances between lots upon which mobile homes are erected or proposed to be erected. No mobile home will be permitted in a General Commercial, Restricted Commercial, Light Industrial, or Heavy Industrial Zone. [Adopted 06-1969]

### **§ 200-33. Removal of topsoil.**

In any district, no topsoil shall be removed from a lot except in conjunction with the construction or alteration of a building on the lot or in conjunction with an incidental improvement in grading.

### **§ 200-34. Sand and gravel mining. [Amended 08-2014]**

No sand and gravel shall be mined in any district, except by special use permit. No excavation for such use shall be permitted within one hundred (100) feet of any residence structure, and no washing or other apparatus shall be used except in an industrial district. In addition to any other conditions that may be imposed by the ZBA/Planning Commission, said ZBA/Planning Commission may require the posting of a bond by the applicant to cover the estimated cost of restoring the excavation to a reasonable grade and condition.

**§ 200-35. Lots in two districts.**

Where a district boundary line divides a lot in one (1) ownership at the effective date of this section, the regulations for the less restricted portion of the lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has frontage on a street in the less restricted district.

**§ 200-36. Business access through residence district.**

All commercial or industrial district uses, when located in such districts, shall have access to a street with frontage in such districts and not across land in any residence district.

**§ 200-37. Yard exceptions.**

The following building features may project into any required yard, provided that such projection shall not be closer to any side lot line than four (4) feet nor to any front or rear yard line than fifteen (15) feet: open unenclosed porches, unroofed terraces, bay windows, open fire escapes, cornices, eaves, and other architectural features.

**§ 200-38. Areas below fifty-five-foot contour line.**

In any area located below the fifty-five (55)-foot contour line, as evidenced by the United States Geological Survey Map, the plans for any building proposed to be erected therein shall first be reviewed by the City Engineer, who shall report on their feasibility and suggest any special precautions or construction techniques to minimize high-water damage.

**§ 200-39. Nonconforming uses.**

The lawful use of any land or building existing prior to or at the time of the effective date of this chapter or any amendments thereto may be continued although such use does not conform to the provisions of this chapter or any amendment thereto, except as hereinafter provided.

**§ 200-40. Unsafe structures.**

Any structure or portion thereof declared unsafe by proper authority may be restored to a safe condition.

**§ 200-41. Alteration of nonconforming building.**

A nonconforming building may be repaired or structurally altered, provided that it does not



extend the area or volume of space occupied by the nonconforming use and provided that it complies with the latest requirement of the New York State Uniform Fire Prevention and Building Code.

**§ 200-42. Extension of nonconforming use.**

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this chapter or any amendment thereto shall not be deemed the extension of such nonconforming use.

**§ 200-43. Effect on existing building permits.**

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground-story framework of which, including the second (2<sup>nd</sup>) tier of beams, shall have been completed within six (6) months (or one [1] year) of the date of the permit and which entire building shall be completed according to such plans as filed within one year (or two [2] years) from the date of this chapter.

**§ 200-44. Restoration of damaged buildings.**

No building damaged by fire or other casualty or act of God to the extent of more than fifty percent (50%) of the existing floor area or volume shall be repaired or rebuilt except in conformity with the regulations of this chapter and the current New York State Uniform Fire Prevention and Building Code.

**§ 200-45. Discontinuance of nonconforming use.**

Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter.

**§ 200-46. Change of use.**

Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.

**§ 200-47. Displacement of conforming use.**

No nonconforming use shall be extended to displace a conforming use.

**§ 200-48. District changes.**

Whenever the boundaries of a district shall be changed so as to transfer an area from one (1) district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

**ARTICLE VII**  
**Site Plan Review [Amended 08-2014]**

**§ 200-49. Creation of ZBA/Planning Commission: Statutory authority; purpose.**

- A. The ZBA/Planning Commission is hereby authorized, pursuant to City Law § 27-A, to review and approve site development plans as set forth in more detail hereinafter. However, the ZBA/Planning Commission shall not entertain any application for site development plan approval for a project that involves any property which has a written violation until that violation is brought into compliance.
- B. The purpose of this article is to ensure that any proposed development and use of land within the City of Mechanicville will have a harmonious relationship with the existing or permitted use of contiguous land and of adjacent neighborhoods and to ensure that the health, safety, welfare, comfort, and convenience of the public is fully considered in the development of the City of Mechanicville.
- C. The site review process has three (3) steps:
  - (1) Concept review/sketch plan conference (optional);
  - (2) Preliminary site plan review and action; and
  - (3) Final site plan review and action.

**§ 200-50. ZBA/Planning Commission rules and regulations. [Amended 08-2014]**

The ZBA/Planning Commission is hereby authorized to promulgate such rules, regulations, and procedures as it deems reasonably necessary to administer the duties and responsibilities delegated to it by this article and any amendments thereto.

**§ 200-51. Projects requiring site plan review; exceptions [Amended 10-2009, 10-2013, 08-2014, 11-2017]**

- A. No building permit shall be issued and no use shall be established or continued without first obtaining a site plan approval from the ZBA/Planning Commission as required in this article, except as specified in Subsection B.

B. The following uses are not subject to site plan review:

(1) Additions to existing commercial or industrial facilities that are less than one hundred (100) square feet or five percent (5%) of existing structures, whichever is greater, but not exceeding three thousand (3,000) square feet.

(2) Accessory uses:

(a) Uses and structures that are clearly accessory to an existing principal use/structure, such as:

- i.* Aboveground deck;
- ii.* Gazebo;
- iii.* Freestanding air-conditioning machinery;
- iv.* Fence;
- v.* Flagpole;
- vi.* Garden shed not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- vii.* Tool shed; not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- viii.* Storage shed; not exceeding one hundred forty-four (144) square feet of floor space in area and ten (10) feet in elevation; [Amended 10-2013]
- ix.* Noncommercial greenhouse; and/or
- x.* Swimming pools.

(b) These accessory uses must be utilized in conjunction with the principal uses and meet all the requirements of existing zoning and planning ordinances.

- i.* General farming or plant nursery use permitted by right.

(3) An allowable change in use of a structure or portion thereof of less than fifteen hundred (1,500) square feet, which structure is located in a General or Restricted Commercial District and which proposed change of use complies with the requirements of that district, including parking and signage, irrespective of a change of ownership or period of vacancy.

C. Except as exempted by § 200-51B, the following require ZBA/Planning Commission review and approval.

(1) Any erection or alteration of any building or use for the purpose of commercial, industrial or multifamily activity, including:

- (a) Commercial building;
- (b) Industrial building;
- (c) Single, Two Family/Multifamily dwelling; [Amended 10-2013]
- (d) Condominium (commercial and residential);
- (e) Boardinghouse;
- (f) Private club;
- (g) Planned unit development (PUD);
- (h) All public facilities, such as schools, churches and firehouses, not previously exempted by local, state or federal law;
- (i) Antennas and satellite dishes with square footage exceeding four (4) square feet;
- (j) Ground mounted, free standing solar energy systems whose solar panels exceed twenty (20) square feet of surface area;
- (k) Windmills exceeding height of six (6) feet;
- (l) outside wood burning furnaces;
- (m) Any other facility or structure not otherwise enumerated herein, except as noted in Subsection B of this section including: [Amended 10- 2013]
  - i. Garden shed exceeding one hundred forty-four (144) square feet in area and ten (10) feet in elevation;
  - ii. Tool shed exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
  - iii. Storage shed exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
  - iv. Portable buildings exceeding hundred forty-four (144) square feet in area and ten (10) feet in elevation;
- (n) All additions, deletions and structural or site changes to facilities noted in Subsection (c)(1) above.
- (o) Outdoor sales including:
  - i. All outside/outdoor retail business conducted by an established retail business on its usual retail site;

- ii. Transient business and/or sales to which a special use permit had not been granted for more than two (2) years;

(2) Vacant tenancy/change of ownership.

- (a) All changes of tenancy or ownership in an existing facility covered in this section, other than noted exceptions in Subsection B, when any of the following exist or are proposed:
- (b) Site or facility has been unused and/or vacant for the preceding twelve (12) months. A site or facility shall not be deemed used or occupied if the use during the twelve (12)-month period is of a nonpermanent nature, which may be less than eight (8) days per calendar month during the twelve(12)-month period.
- (c) A new tenant/owner requires any site amenities of a different quantity or nature than has already been approved and developed on the site.
- (d) With respect to existing sites where a change of tenant/owner is being proposed, the ZBA/Planning Commission, as part of its site plan review and approval process, shall have the discretion to waive or reduce any of the requirements of this article in such instances where the applicant demonstrates that the reduction or waiver of said requirement would not adversely impact the abutting properties or neighborhood.

**§ 200-52. Prior approvals.**

Prior to submission of an application for site plan review, the applicant must have received any required approval from the Code Enforcement Officer/Building Inspector.

**§ 200-53. Concept review/sketch plan conference. [Amended 08-2014]**

1. Any applicant to whom this article applies, prior to submission of an application for site plan review, may submit to the Code Enforcement Officer/Building Inspector a conceptual sketch plan for review by the ZBA/Planning Commission. Such submission shall then be provided to the ZBA/Planning Commission for review with a flexible design that may be changed as deemed necessary prior to the work required for a detailed site plan. The aforementioned materials shall be submitted to the ZBA/Planning Commission a minimum of seven days in advance of scheduled presentation.
2. Such submission shall include the following as minimum requirements:
  - a. At least ten (10) copies of a sketch plan, eight and one half (8½) inches by eleven (11) inches in size, outlining the proposed design concept, locating the general massing of buildings (height and bulk), delineating existing and proposed

structures and showing the location of parking, signage, circulation routes (roads and walks), features of historic concern, landscaping elements, watercourses, drainage ditches, wetlands or other natural features. The sketch may be hand-generated; and

- b. Ten (10) copies of the tax map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, and easements within two hundred (200) feet of the boundaries thereof.
- c. During the sketch plan conference, the applicant will be advised of any requirements that will be waived. The ZBA/Planning Commission reserves the right to reinstate a requirement should there be a change of circumstances.

#### **§ 200-54. Preliminary site plan. [Amended 08-2014]**

- A. **An application** for site plan review is complete when a request for site plan review has been made, in writing, on forms provided to the applicant by the Code Enforcement Officer/Building Inspector and filed with said Code Enforcement Officer/Building Inspector, along with a filing fee, proof of notification, and ten (10) sets of folded site plans, and when the requirements as set forth in this article have been met, except as waived by the ZBA/Planning Commission. Submission must be made at least seven (7) days prior to presentation of material at a ZBA/Planning Commission meeting.
- B. **Filing fee.** An application form for site plan review shall be accompanied by, and not be accepted without, the payment of a fee as set from time to time by resolution of the City Council (see fee schedule on file in the city offices). No further fee shall be required for site plan approval. However, in the event that the applicant is seeking retroactive approval, in that the intended use and/or construction of proposed buildings or structures is found by the Code Enforcement Officer/Building Inspector to have already been commenced, then an additional filing fee in the amount as set from time to time by resolution of the City Council shall be required.
- C. **State Environmental Quality Review Act (SEQR).**

(1) The proposed development in question may be subject to the provisions of the State Environmental Quality Review Act (SEQR). First, the ZBA/Planning Commission should identify the type of action the proposed development is according to SEQR. Depending on the size, location and other factors, it may be a Type I or an unlisted action. To make a decision, the ZBA/Planning Commission should consult 6 NYCRR 617 or Article 8 of the Environmental Conservation Law. The ZBA/Planning Commission should also review the environmental assessment form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with SEQR regulations.

(2) If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft

environmental impact statement is filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed. When the draft environmental impact statement is completed, the time frame for ZBA/Planning Commission review begins sixty-two (62) days. If another agency has determined that the proposal in question may have a significant effect on the environment, the ZBA/Planning Commission shall not issue a decision until a final environmental impact statement has been filed.

- (3) When compliance with SEQR is complete, the ZBA/Planning Commission shall act on the application within sixty-two (62) days. The ZBA/Planning Commission's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.
- d. The ZBA/Planning Commission's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the ZBA/Planning Commission's statement will contain the reasons for such findings. In such a case, the ZBA/Planning Commission may recommend further study of the site plan and resubmission after it has been revised or redesigned.

#### **D. Notification of property owners.**

- (1) The following persons shall be notified of the submission of a site plan: all owners of property which is contiguous, abutting, adjacent, or is situated across an established road from the actual or proposed boundary lines of the property which is the subject of the site plan review and to such other property owners as the ZBA/Planning Commission may direct. The applicant shall be required to determine the names and addresses of such owners, and the applicant shall thereupon notify such persons of the site plan review request by certified or registered mail, such mailings to be posted at least ten (10) days prior to the hearing date, with the cost of such mailings to be paid by the applicant.
- (2) The applicant shall file the proof of certified or registered mail receipts and a copy of the notification with the ZBA/Planning Commission Secretary at least three (3) business days prior to the hearing date. Failure to do so will cause the hearing to be adjourned and application to be denied pending proper notice. Notification must state what the project content will be.
  - (a) Specific site plan requirements for preliminary site plan may be as follows:
    - i. Site plan drawn to an acceptable scale, i.e., one inch equals fifty (50) feet or less. Site plan must be a commercially reproduced print before final approval will be granted;

- (b) The site plan shall indicate existing zoning and special districts and shall include:
  - i.* Floor elevations of buildings so as to assure positive surface drainage and proper elevation relationship to adjacent developments;
  - ii.* A small-scale location map and a North arrow, title block and date;
  - iii.* Existing and finished grade contours and erosion-control measures so as to assure the adequate disposal of on-site water, if required by the ZBA/Planning Commission;
  - iv.* The location of all existing and proposed utilities; and
  - v.* The location of required test borings. Groundwater elevation and soil profiles may be required.
- (3) A lighting plan shall delineate the type of lighting fixtures to be used and the proposed lighting pattern;
- (4) A landscape plan shall delineate the arrangement, species and dimensions of all existing and proposed landscaping materials. Consideration must include the preservation and supplementation of existing vegetation and the screening of parking and service areas from public view. At least thirty percent (30%) of the area shall be landscaped. Where the applicant can demonstrate that the landscape plan of the development will meet with the objectives of this subsection, the ZBA/Planning Commission may consider and approve projects with less landscaped area. In order to demonstrate that a proposed landscape plan will meet the objectives of this subsection as above provided, the applicant must establish that the proposed landscape plan is necessary in order to avoid undue hardship or that the nature of the land and its location in relation to other properties and areas of the city is such as not to cause substantial damage to the general character of the neighborhood. Within the first year, if any elements of a landscape plan do not survive, either through neglect or conditions unknown, such elements shall be removed and replaced;
  - (a) Traffic flows shall be shown so as to provide for the safety and the ease of vehicular movement, including denotation of fire lanes where applicable. A traffic engineering report may be required upon request of the ZBA/Planning Commission;
  - (b) A parking plan shall delineate the number of parking spaces and the parking arrangements, with the size of each space to be in accordance with that specified in the latest edition of the Transportation and Traffic Engineering Handbook and this chapter. No on-street parking is permitted. The parking standards as provided in §200-30 of this chapter shall be met.



The parking standards in §200-30 represent minimum requirements and may be increased as part of the approval of a site development plan;

- (c) If requested by the ZBA/Planning Commission, the site plan shall have affixed thereto the stamp and signature of either a land surveyor, professional engineer, architect, or landscape architect (licensed to practice in New York State);
- (d) An interior design plan (seating plan) shall be required, and the capacity of the building shall be noted;
- (e) Pedestrian walkways, entrances and exits, and parking designed for use by the handicapped shall be provided in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, the New York State Vehicle and Traffic Law and the Americans with Disabilities Act. Where the provisions of those three statutes conflict, the more stringent provisions shall be met;
- (f) A written engineering report may be required describing the watershed area, projected runoff and velocities through proposed storm sewer systems, including any downstream impacts. A quantitative projection of sanitary sewage flow and, where other nondomestic discharge is anticipated, a qualitative projection shall also be required. If the site is not serviced by the municipal sanitary sewer system, an engineering report on the existing septic system servicing the site shall be required, or, if no septic system presently exists on the site, an engineering plan of the proposed septic system shall be required in accordance with the latest addition of New York State Department of Health Individual Residential Wastewater Treatment Systems Design Handbook;
- (g) Service, storage and utility areas shall be designed to the side or rear yard of the building and shall be appropriately screened by walls, earth berms, fencing, and/or vegetation, subject to approval by the ZBA/Planning Commission;
- (h) Paving, parking, or storage shall not be permitted within seven (7) feet of any side or rear line of the site plan presented, and no parking or paving except for entrances will be permitted within ten (10) feet of the front line of said site plan. These areas shall be maintained as a landscaped area. Where such a requirement restricts the effective development of a site, the ZBA/Planning Commission may take any appropriate action it deems necessary to modify these requirements while maintaining the intent of this provision;
- (i) A scaled elevation drawing of the exterior of all buildings on the site shall be required, which shall include any and all signs to be displayed on the site, whether affixed to a structure or freestanding, with all sizes, materials, design, and lighting denoted;

- (j) The dimensions of outdoor display areas will be clearly designated on the plans and shall not infringe upon green areas. The plans shall also indicate the items to be displayed;
- (5) A statement indicating whether or not proposed signs conform to Article VIII, Signs, of this chapter and whether or not variances will be sought for those aspects of the sign which are in conflict with said Article VIII;
- (6) The site plan shall show all fences, outbuildings, and/or any other features new or existing on the site;
- (7) A map of site topography at no more than five (5)-foot contour intervals. If general site grades exceed five percent (5%) or portions of the site have susceptibility to erosion, flooding, or ponding, a solid overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided; and/or
- (8) The site plan may be required to show any other elements which the ZBA/Planning Commission determines are integral to the proposed development.
- (9) A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 162 of this Code.

**§ 200-55. Review and action by ZBA/Planning Commission. [Amended 08-2014]**

A. **General considerations.** The ZBA/Planning Commission's review of a site plan may include, as appropriate, but is not limited to the following:

- (1) Adequacy and arrangement of vehicular traffic, access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;
- (2) Adequacy and arrangement of pedestrian traffic, access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience including handicap accessibility;
- (3) Location, arrangement, appearance, and sufficiency of off-street parking, and loading including handicap parking and accessibility;
- (4) Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;
- (5) Adequacy of storm water, retention basins, and drainage facilities;
- (6) Adequacy of water supply and sewage disposal facilities;

- (7) Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or noise buffer between the applicant's land and adjoining lands, including the maximum retention of existing vegetation;
- (8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation;
- (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness, or other objectionable features by use of fencing, walls, etc.;
- (10) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;
- (11) Adequacy of waste storage and disposal;
- (12) Snow clearance and removal. The means employed to address snow and ice removal from sidewalks, parking lots, and driveways must be sufficient to safely and adequately handle the type and volume of snow and ice which can reasonably be anticipated to be deposited by nature on the site without subjecting green space areas to damage and while maintaining the minimum required parking spaces;
- (13) Special attention to the adequacy of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion;
- (14) Consideration of the location and preservation of historical sites or landmarks; and/or
- (15) Compatibility of site plan with City Comprehensive Plan.

**B. Consultant review.** The ZBA/Planning Commission may consult with the City Code Enforcement Officer/Building Inspector, fire officials, other local and county officials, and its designated private consultants in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.

**C. Public hearing.** The ZBA/Planning Commission may conduct a public hearing on the proposed site plan. If a public hearing is considered desirable by the majority of the members of the ZBA/Planning Commission, such public hearing may be conducted any time before granting site plan approval and shall be advertised in a newspaper of general circulation in the city at least seven (7) days before the public hearing. Cost of such notice shall be borne by the applicant.

**D. ZBA/Planning Commission action on site plan approval.** The ZBA/Planning Commission shall maintain a record of all waived requirements, available for inspection by the applicant. Within sixty-two (62) days of the receipt of a completed application, as defined in this article, except as waived by the ZBA/Planning Commission, the ZBA/Planning Commission shall act on it. If a public hearing is held, the ZBA/Planning Commission shall take action on the application within sixty-two (62) days of the

hearing. In either event, the time within which the ZBA/Planning Commission must render its decision may be extended by mutual consent of the applicant and the ZBA/Planning Commission. The ZBA/Planning Commission's minutes shall record its official action, stating whether or not the site plan is approved, disapproved or approved with modification.

- E. **Modifications or disapproval.** The ZBA/Planning Commission's resolutions and minutes may include recommendations of desirable modifications to be incorporated in the site plan, and conformance with the modifications shall be considered a condition of approval. If the site plan is disapproved, the ZBA/Planning Commission's minutes will contain the reasons for such findings. In such a case, the ZBA/Planning Commission may recommend further study of the site plan and new submission to the ZBA/Planning Commission after it has been revised or redesigned.
- F. **ZBA/Planning Commission's written statement to applicant.** The ZBA/Planning Commission's action shall be in the form of a written statement to the applicant stating whether or not the final site plan is approved, disapproved or approved with modifications. The statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the site plan is disapproved, the ZBA/Planning Commission's statement will contain the reasons for such findings. In such case, the ZBA/Planning Commission may recommend further study of the site plan and resubmission to the ZBA/Planning Commission after it has been revised or redesigned.

**§ 200-56. Documentation required prior to approval. [Amended 08-2014]**

- A. **Required referral.** Prior to giving approval on the site development plan, the ZBA/Planning Commission shall refer the plan to the appropriate county agency for advisory review and a report in accordance with § 239-M of the General Municipal Law.
- B. **Record of application for and approval status.** All necessary permits from city, state, and county officials shall be provided, including the New York State Department of Transportation, New York State Department of Health, New York State Department of Environmental Conservation, and the Saratoga County Planning Department, and a Traffic Commission report shall be provided.
- C. **Material specifications.** Detail sizing and final material specification of all required public improvements shall be provided.
- D. **Construction schedule.** An estimated project construction schedule shall be provided.

**§ 200-57. Action upon approval or disapproval; appeals. [Amended 08-2014]**

- A. **ZBA/Planning Commission shall endorse its approval.** Upon approval of the site plan and payment by the applicant of all reimbursable costs due to the city, the ZBA/Planning Commission shall endorse its approval on four (4) commercially reproduced copies of the

site plan and shall forward one (1) copy to the Code Enforcement Officer/Building Inspector with these considerations:

- (1) Costs incurred by the ZBA/Planning Commission for consultation, engineering, and legal fees, if any, or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant, as may be deemed appropriate with regard to the size, complexity and proposed value of the site;
  - (2) No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty determined by the ZBA/Planning Commission in consult with the Code Enforcement Officer/Building Inspector has been posted for improvements not yet completed;
  - (3) The Code Enforcement Officer/Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with city, county or other officials, and state agencies, as appropriate;
  - (4) Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this chapter, the ZBA/Planning Commission shall integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.
- B. **Disapproval of site plan.** Upon disapproval of a site plan, the ZBA/Planning Commission shall so inform the Code Enforcement Officer/Building Inspector, and such officer shall deny a building permit to the applicant. The ZBA/Planning Commission shall also notify the applicant, in writing, of its decision and its reasons for disapproval.
- C. **Appeals.** The ZBA/Planning Commission shall bear sole and final authority in its decisions pursuant to this article. Decisions of the ZBA/Planning Commission shall be subject only to judicial review in the manner prescribed by law in Article 78 of the Civil Practice Law and Rules (CPLR).
- D. **Site plan approval with modifications or conditions.** Where the ZBA/Planning Commission has approved a site plan with modifications or conditions, the site plan will not be endorsed until those modifications have been made or conditions met. A detailed site plan (four [4] copies) showing modifications and changes will be provided to the ZBA/Planning Commission by the submitter.
- E. **Duration of site plan approval.**
- (1) After receiving approval, with or without modifications, from the ZBA/Planning Commission on a preliminary site plan, the applicant shall submit a final detailed site plan to the ZBA/Planning Commission for approval. If more than six (6) months have elapsed since the ZBA/Planning Commission's action on the preliminary site plan and if the ZBA/Planning Commission finds that conditions

have changed significantly in the interim, the ZBA/Planning Commission may require a resubmission of the preliminary site plan for review.

- (2) Length of approval of site plan. If construction is not commenced and diligently pursued within six (6) months of the date of final approval of site plan by the ZBA/Planning Commission, such approval shall be null and void, unless extended by majority vote of the ZBA/Planning Commission.

#### **§ 200-58. Penalties for offenses.**

Notwithstanding any contrary provisions contained in this chapter heretofore enacted by the City of Mechanicville:

- A. **Violations of article.** Any persons who commit or permit any act or acts in violation of any of the provisions of this article shall be deemed to have committed an offense and shall be liable for any such violation or the penalty therefor. Every week such violation shall continue or shall be permitted to exist shall constitute a separate additional violation of this article. Any physical deviation from an approved site plan or breach of conditions imposed in the resolution of approval shall be deemed a violation of this article.
- B. **Penalty.** Any person violating any of the provisions of this article, upon conviction therefor, shall be punished by a fine not exceeding two hundred fifty dollars (\$250.00) in amount or by imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment.
- C. **Additional action or proceeding.** In addition to the above-described penalties and punishment, the City Council may also maintain an action or proceeding in the name of the City of Mechanicville in a court of competent jurisdiction to compel compliance with, or to restrain by injunction, the violation of this article.

### **ARTICLE VIII**

#### **Signs [Amended 04-1997]**

#### **§ 200-59. Title.**

This article may be known and cited as the "Sign Ordinance of the City of Mechanicville."

#### **§ 200-60. Purpose.**

The purpose of this article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, to create a more attractive economic and business climate, to enhance and protect the physical appearance of the community, to preserve the scenic and natural beauty of designated areas, and to provide a more enjoyable and pleasing community.

## **§ 200-61. Definitions.**

For the purpose of this article, the terms used herein are defined as follows:

**AREA OF SIGN** – That area determined by circumscribing the exterior limits of the mass of each display erected on one (1) sign structure. The structure supporting the sign is not included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. Only one (1) face of a double-facing sign is included as area of such sign.

**FACADE OF BUILDING** – The front or face of a building or the outer surface of a building which faces a private or public street or highway. The facade shall not be interpreted to extend above the roofline of the building.

**SIGN** – Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, work, model, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of an announcement, direction, or advertisement. "Sign" includes any billboard but does not include the flag, pennant, or insignia of any nation or group of nations or of any state, city or other political unit or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. However, "sign," as defined herein, shall not include a similar structure or device located within a building.

- A. **ADVERTISING SIGN** – Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.
- B. **BUSINESS SIGN** – A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed a "business sign."
- C. **FLASHING SIGN** – Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.
- D. **ILLUMINATED SIGN** – Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

## **§ 200-62. Restrictions on size, type, and location. [Amended 08-2014]**

The size, type and location of any sign or advertising device shall be allowed only in accordance with the following regulations, and wherever districts are set forth in these regulations the same shall refer to the districts set forth in §§ 200-11 through 200-16 of this chapter.

### **A. Signs in commercial and industrial districts.**

- (1) The signs permitted in residential districts shall be allowed.

- (2) Business signs relating to the use conducted in the building or on the immediate premises thereof shall be allowed, provided that such signs shall not exceed a combined total of forty (40) square feet in area. In the event that the facade of the building or buildings on said premises shall exceed eight hundred (800) square feet in area, a square footage for signs equal to five percent (5%) of the area of the facade of the building or buildings on said premises in which said business is conducted shall be allowed, but in no event shall the total area of any such sign or signs exceed one hundred (100) square feet unless a special permit therefor is secured from the ZBA/Planning Commission. Such signs shall be at least three (3) feet clear of the ground and shall be less than ten (10) feet from above ground level. No sources of illumination which may be focused or spotted, as opposed to general neon or bulb illumination, shall be directed toward any adjacent property or public street.
- (3) A business sign in existence on the date of the enactment of this article which does not conform to the specifications of this section may continue to be used but may not be extended, except that all intermittent or flashing illumination shall be converted to a constant light source.
- (4) Temporary signs advertising the sale or rental or construction or improvement of the premises on which they are located shall be allowed, provided that such signs shall not exceed a combined total of ten (10) square feet in area and shall be promptly removed by the agent or owner when the circumstances leading to their erection no longer apply.
- (5) Advertising signs shall not be permitted in any commercial or industrial district.
- (6) In any commercial or light industrial district, a freestanding sign shall be allowed by. It shall not exceed sixteen (16) feet in height and shall not contain more than thirty-six (36) square feet of signage; either single or multiple, the total shall not exceed thirty-six (36) square feet.
- (7) A sign shall not be located in such a manner as to obstruct the line of sight of moving vehicles.

#### **§ 200-63. Permit required.**

After the effective date of this article and except as otherwise herein provided, no person shall erect any signs allowed herein without first obtaining a permit therefor from the Code Enforcement Officer/Building Inspector.

#### **§ 200-64. Application for permit.**

Application for the permit shall be made, in writing, in duplicate, upon forms prescribed and



provided by the Code Enforcement Officer/Building Inspector and shall contain the following information:

- A. The name, address, and telephone number of the applicant;
- B. The location of the building, structure, or land to which or upon which the sign is to be erected;
- C. A detailed drawing or blueprint showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; the position of lighting or other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings or structures and to any private or public street or highway;
- D. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event that the applicant is not the owner thereof;
- E. Certification of an electrical inspection for any sign having electrical connections.

#### **§ 200-65. Fee.**

A fee as set by resolution of the City Council and on file in the city offices shall be paid to the Code Enforcement Officer/Building Inspector for each sign permit issued. Where work for which a permit is required by this article is started or proceeded with prior to obtaining a permit therefor, the fee specified above will be doubled, but the payment of such double fee shall not relieve any person or persons from fully complying with the requirements of this article in the execution of the work nor from the penalties prescribed in this article.

#### **§ 200-66. Issuance of permit.**

It shall be the duty of the Code Enforcement Officer/Building Inspector, upon the filing of an application for a permit to erect a sign, to examine such plans, specifications and other data submitted to him/her with the application and, if necessary, the building or premises upon which it is proposed to erect the sign or other advertising structure. If it shall appear that the proposed sign is in compliance with all the requirements of this article and other laws and ordinances of the City of Mechanicville and that the necessary fee has been paid, the Code Enforcement Officer/Building Inspector shall, within seven (7) days, issue a permit for the erection of the proposed sign. If the sign authorized under any such permit has not been completed within six (6) months from the date of the issuance of such permit, the permit shall become null and void but may be renewed within thirty (30) days from the expiration thereof, for good cause shown, upon payment of an additional fee set by resolution of the City Council and on file in the city offices.

#### **§ 200-67. Maintenance required; revocation of permit.**

No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this article. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and the sign must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

- A. In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer/Building Inspector shall give written or personal notice specifying the violation to the named owner of the sign and the named owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of such sign and the owner of the land within thirty (30) days from the date of such notice.
- B. In the event that such sign shall not be so conformed within thirty (30) days, the Code Enforcement Officer/Building Inspector shall thereupon revoke the permit, and such sign shall be removed by the named owner of the sign and/or the named owner of the land. Upon failure of said persons to remove such sign within thirty (30) days from the expiration of said thirty (30)-day period, the Code Enforcement Officer/Building Inspector is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which such sign is located.

**§ 200-68. Removal of certain signs.**

- A. Any business sign existing on or after the effective date of this article which no longer advertises any existing business conducted or product sold on the premises shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein. The Code Enforcement Officer/Building Inspector, upon determining that any such sign exists, shall notify the owner of the premises, in writing, to remove said sign within thirty (30) days from the date of such notice. Upon failure of the owner to comply with such notice within the prescribed time, the Code Enforcement Officer/Building Inspector is hereby authorized to remove or cause removal of such sign and shall assess all costs and expenses incurred in said removal against the land or building on which the sign is located.
- B. If the Code Enforcement Officer/Building Inspector shall find that any sign regulated by this article is unsafe or insecure or is a menace to the public, he shall give written notice to the named owner of the sign and the named owner of the land upon which the sign is erected, who shall remove or repair said sign seven (7) days from the date of said notice. If said sign is not removed or repaired, the Code Enforcement Officer/Building Inspector shall revoke the permit issued for such sign, as herein provided, and may remove or repair said sign and shall assess all costs and expenses incurred in said removal or repair against the land or building on which such sign was located. The Code Enforcement Officer/Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice.

**§ 200-69. Nonconforming advertising signs.**

- A. A nonconforming advertising sign is an advertising sign which was installed under laws or ordinances in effect prior to the effective date of this article but which is in conflict with the provisions hereof.
- B. All nonconforming advertising signs facing on other streets within the city shall be removed within five (5) years from the effective date of this article.

**§ 200-70. Variances and special permits. [Amended 08-2014]**

The ZBA/Planning Commission may, in appropriate cases and after public notice and hearing, vary or modify the application of this article in harmony with its general purpose and intent and act on special permits wherever the same are required by the terms of this article.

**§ 200-71. Appeals. [Amended 08-2014]**

Any person aggrieved by any decision of the Code Enforcement Officer/Building Inspector relative to the provisions of this article may appeal such decision to the ZBA/Planning Commission.

**§ 200-72. Revocation of business license.**

A violation of any of the provisions of this article shall be grounds for revocation of any business license previously granted to the violator by the City of Mechanicville.

**§ 200-73. Amendments. [Amended 08-2014]**

The City may, from time to time, on its own motion or on recommendation of the ZBA/Planning Commission, after public notice and hearing, amend, supplement, change, modify, or repeal this article pursuant to the provisions of the City Law applicable thereto.

**ARTICLE IX**  
**Fences**  
**[Adopted 04-1997]**

**§ 200-74. Definitions.**

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

**FENCE** – A barrier, stockade or other device constructed of wood, brick, wire, or other material excluding concrete, not exceeding six (6) feet in height and eight (8) inches in width, intended for use as a boundary or means of protection or confinement. [Amended 10-2013]

**FRONT YARD** – Applies to that portion of the yard in front of the rear building line of any building. All corner properties adjacent to a public street, alley, or highway shall also be considered as a front yard for purposes of this article. However, this definition shall specifically not apply for purposes of swimming pool protection.

**HEIGHT** – The distance measured from the existing grade to the top of the fence.

#### **§ 200-75. Approval required. [Amended 10-2013]**

No fence, wall, or other type of structure or construction, including construction barriers, shall be erected, installed, or placed without the approval of the Code Enforcement Officer/Building Inspector. The Code Enforcement Officer/Building Inspector shall secure approval of the Bureau of Fire Prevention, where applicable.

#### **§ 200-76. Application for permit; issuance.**

Any person or persons, corporation, firm, or association intending to erect a fence shall, before any work is commenced, make application to the Code Enforcement Officer/Building Inspector on a form provided by the Code Enforcement Officer/Building Inspector. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence, the materials proposed to be used therein, which must be in accordance with this chapter, and any other pertinent local law regulating construction within the City, and be accompanied by an appropriate fee. Upon approval by the Code Enforcement Officer/Building Inspector, a permit shall be issued which will be in effect for a period of one year from the date thereon. Said permit shall be available on the job during the progress of the work so that it may be inspected by proper city officials

#### **§ 200-77. Height limitations.**

- A. Rear of homes or buildings. No fence shall be more than six (6) feet (6) six inches in height at the rear of homes or buildings situated in a residentially zoned district.
- B. Side of homes or buildings. Fences on side yards may be extended to a height of six (6) feet (6) six inches from the rear fence line to a point even with the front of the structure (home or building). Fences cannot extend beyond structures on adjacent properties, on either side. No other fence or portions of fence shall be higher than forty-eight (48) inches. This restriction shall apply to construction in all zoning districts.

#### **§ 200-78. Location restrictions.**

Any fence erected under this article shall be placed at least six (6) inches from any property

line. Any fence erected in a front yard shall be placed at least one (1) foot back from the sidewalk, but in no event may it be less than one (1) foot back from the front line and/or property line.

**§ 200-79. Materials and composition.**

- A. Any fence, wall, or similar structure, as well as shrubbery, which unduly cuts off light or air which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction to combating fires which may affect public safety is hereby expressly prohibited. Further, no fence shall be erected in a front yard in a residential district or along a public right-of-way unless the fence is uniformly less than fifty percent (50%) solid.
- B. The following fences and fencing materials are specifically prohibited:
  - (1) Barbed wire;
  - (2) Short, pointed fences;
  - (3) Canvas fences;
  - (4) Cloth fences;
  - (5) Electrically charged fences;
  - (6) Poultry fences;
  - (7) Turkey wire;
  - (8) Temporary fences, such as snow fences;
  - (9) Expandable fences and collapsible fences, except during construction of a building;
  - (10) Any protective barrier, concrete, or otherwise, used as a divider or as a means of preventing access to a prohibited area. [Adopted 10-2013]
- C. All chain-link fences erected shall be erected with the closed loop at the top of the fence.
- D. All entrances or gates shall open into the property.
- E. Notwithstanding the provisions of this section, the Code Enforcement Officer/Building Inspector may issue a permit for the construction of a security fence for commercial and industrial properties upon due application to and approval by the Code Enforcement Officer/Building Inspector of the City of Mechanicville.
- F. The Code Enforcement Officer/Building Inspector may deny such application if it is found that the fence is not appropriate. Upon such denial, the applicant may appeal the

decision of the Code Enforcement Officer/Building Inspector to the ZBA/Planning Commission by notice within thirty (30) days of such denial. [Amended 08-2014]

- G. All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.
- H. On any corner lot, no structure, fence or planting over three (3) feet in height nor any obstruction to vision other than a post or trimmed tree shall be maintained within a triangular area formed by the lot lines along the streets to the points on such lines a distance of fifty (50) feet from their intersection and the line connecting such points.

## **ARTICLE X Administration**

### **§ 200-80. Enforcement.**

This chapter shall be enforced by the Code Enforcement Officer/Building Inspector. No building permit or certificate of occupancy shall be issued by him except where the provisions of this chapter have been complied with.

### **§ 200-81. Building permit.**

- A. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the Code Enforcement Officer/Building Inspector. All applications for such permits shall be on forms provided by the Code Enforcement Officer/Building Inspector. There shall be submitted with all applications two (2) copies of a plot plan drawn to scale showing the dimensions of the lot and the location of the building on the lot. For a special permit or site plan approval, the application shall be in accordance with Article V, Special Permit Uses, or Article VII, Site Plan Review, respectively.

#### **B. Building permit renewals.**

- (1) A building permit will be issued for a period of one (1) year. Building permits are not automatically renewed;
- (2) If the project has not been initiated as stipulated by the building permit, a new application must be submitted;
- (3) The applicant will be required to abide by current code ordinances.

### **§ 200-82. Certificate of Occupancy. [Amended 08-2014]**

No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Code Enforcement Officer/Building Inspector. A temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the Code Enforcement Officer/Building Inspector. For previously existing construction, the Code Enforcement Officer/Building Inspector may, on request, issue such a certificate if he/she determines that the use of buildings in question meets the requirements of this chapter.

**§ 200-83. ZBA/Planning Commission. [Amended 08-2014]**

- A. **Appointment and organization.** The Zoning Board of Appeals, previously created in conformity with the provisions of Article 5-A of the General City Law shall henceforth be named the Zoning Board of Appeals/Planning Commission. (ZBA/Planning Commission).
- B. **Membership** The ZBA/Planning Commission shall consist of seven (7) members appointed by the Mayor as follows: four (4) members for a term of one (1) year, two (2) members for a term of two (2) years and one (1) member for a term of three (3) years. All members of the ZBA/Planning Commission shall be residents of the City of Mechanicville. The ZBA/Planning Commission may elect one of its members as Chairman, provided that the Mayor has not designated a member as Chairman. In the event of any vacancy on the ZBA/Planning Commission, the Mayor shall appoint a new member to serve the unexpired term. All members shall continue in office until their successors have been duly appointed and qualified.
- C. **Powers** The ZBA/Planning Commission shall have the authority and all powers as granted pursuant to Article 5-A of the General City Law and is hereby authorized, pursuant to City Law § 27-A, to review and approve site development plans in accordance with the provisions of the City Code.
- D. **Rules of procedure.** In conformity with law and the provisions of this chapter, the ZBA/Planning Commission may adopt rules of procedure for the conduct of its business, provided that such rules and any amendments and additions thereto shall be a part of its written record.
- E. **Applications; fees.**

- (1) All matters coming before the ZBA/Planning Commission for its action shall be accompanied by a written application on forms provided by the ZBA/Planning Commission or by a written memorandum if by the Code Enforcement Officer/Building Inspector. Where a public hearing before the ZBA/Planning Commission is required by law or this chapter, the applicant shall pay to the city a fee as set from time to time by resolution of the ZBA/Planning Commission to cover the costs of the hearing. All applications shall be filed with the Code

Enforcement Officer/Building Inspector, who shall record the same and transmit the application to the ZBA/Planning Commission;

- (2) If the applicant should desire or if the Zoning ZBA/Planning Commission should deem it necessary that stenographic minutes of the meeting should be taken, then the applicant shall pay the full expense of the minutes. In the event that the applicant should desire a stenographic transcript of the proceedings before the ZBA/Planning Commission or in the event the ZBA/Planning Commission should feel a stenographic transcript should be taken, then the applicant will be required to pay to the city an additional fee as set by the ZBA/ Planning Commission

#### **§ 200-84. Required site plan approval. [Amended 08-2014]**

When a use or development requires a variance or special use permit, the applicant shall submit a detailed site plan to the ZBA/Planning Commission as required for a special permit use and comply with the provisions of this Code regarding site plan review as set forth in Chapter 200.

#### **§ 200-85. Hearings.**

Each required hearing shall be preceded by five (5) days' public notice in a newspaper of general circulation in the City of Mechanicville and five (5) days' prior written notice to the applicant at the address given on the application. The day of the hearing shall not be counted in determining notice time.

#### **§ 200-86. Variances. [Amended 08-2014]**

##### **A. Use variances.**

- (1) The ZBA/Planning Commission, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein;
- (2) No such use variance shall be granted by a ZBA/Planning Commission without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the ZBA/Planning Commission that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;



- (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (d) The alleged hardship has not been self-created. The ZBA/Planning Commission, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**B. Area variances.**

- (1) The ZBA/Planning Commission shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.
- (2) In making its determination, the ZBA/Planning Commission shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination the ZBA/Planning Commission shall also consider:
  - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;
  - (c) Whether the requested area variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA/Planning Commission but shall not necessarily preclude the granting of the area variance.
- (3) The ZBA/Planning Commission, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

**§ 200-87. Penalties for offenses. [Amended 10-2013]**

For violations of any provisions of this chapter, the owner, general agent or contractor, or any other person who shall violate or assist in the violation of any provision of this chapter shall be subject to a conviction of an offense. Such violation shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.00) or imprisonment for not more than fifteen (15) days, or both, for each and every day that the violation continues to exist from the date from the date that written notice has been served pursuant to § 200-88.

**§ 200-88. Notice of violation. [Amended 10-2013]**

Upon determination by the Code Enforcement Officer/Building Inspector that a violation of this chapter exists, he/she shall send written notice to the last known owner of record of the property by certified mail return receipt requested as determined by the assessment records, informing the owner of the violation and the specific provisions of this chapter involved and stating that if no action is taken to remove such violation within seven (7) days, he/she will institute proceedings to compel compliance with this chapter.

**ARTICLE XI  
Amendments**

**§ 200-89. Authority.**

This chapter may be amended in conformity with the provisions of law.

**§ 200-90. Initiation. [Amended 08-2014]**

The City Council may, on its own initiative or on petition or on recommendation of the ZBA/Planning Commission, amend, supplement,, or repeal the regulations and provisions of this chapter after public notice and hearing.

**ARTICLE XII  
Portable Buildings  
[Adopted 10-2013]**

**§ 200.91. Definition: Portable Buildings**

Any prefabricated structure assembled off site and delivered to the site as a complete unit or a building purchased in kit form and assembled onsite, which can be moved without disassembly to another location.

## **§ 200.92. Setback, area and Spacing Regulations.**

All portable buildings shall comply with the area, setback and spacing regulations applicable in the zoning district in which they are located and with the following additional regulations.

- A. Portable buildings in residential districts shall be set back a minimum of ten (10) feet from the rear lot lines. In all other districts the portable building shall maintain the same rear yard as is required for a principle structure located on the lot.
- B. Portable buildings shall maintain a five (5) foot side yard setback in all districts
- C. Portable structures shall otherwise comply with the area, height regulations applicable in the district in which they are located.
- D. No portable structure shall be permitted in any front yard.
- E. On corner lots, portable structures must setback half ( $\frac{1}{2}$ ) the setback distance of the adjacent structure facing the side street.
- F. All portable structures used for temporary vending shall be excluded from these requirements.

## **§ 200.93. Installation Requirements.**

If the portable structure has a total area exceeding one hundred (100) square feet the following installation requirements shall apply:

- A. A building permit shall be required.
- B. A site plan showing the principle structures and the proposed location of the portable.
- C. Structure shall be submitted with the building permit application.
- D. The structure shall be set on a permanent foundation or piers capable of carrying and distributing all imposed loads. The structure also shall be provided with a means to prevent wind uplift. This may be accomplished with trailer tie downs or permanently attached to the foundation or piers. A sketch showing how these items will be constructed shall be submitted for review.
- E. The foundation shall bear on undisturbed soil a minimum of two (2) feet below the finished grade.
- F. All portable structures used for nonresidential uses shall be certified by a third party that the structural system meets the loading criteria set forth in the building code. This letter of certification shall bear the seal of a registered New York State Engineer and shall be submitted with the building application.

**ARTICLE XIII**  
**DRIVEWAYS**  
**[Adopted 10-2013]**

**§ 200-94. Setbacks.**

Driveways placed and/or installed in any district within the City must be set back a minimum of six (6) inches from any side or rear property line.

**§ 200-95. Approvals.**

Prior to construction and installation, the Commissioner of Public Works shall approve all curb cuts.

# Disposition List

The following is a chronological listing of legislation of the City of Mechanicville adopted since the 2017 publication of the Code and Charter. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation such as resolutions are available from the office of the City Clerk. The last legislation reviewed for the publication of the 2017 Code were the 2017 amendments adopted 11-08-2017. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the City Clerk.

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
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# APPENDIX

## INDEX

**DEFINITIONS NOTE:** For the convenience of the Code user, all terms defined in the in this Code are included in the Index under the § heading “Definitions.”

NOTE: Charter references are in the following format: C., § 1

### -A-

**ABANDONED VEHICLES**, see **VEHICLES, ABANDONED**

### **ABANDONMENT**

Public use of lands, C., § 48

### **ACCESSORY STREUCTURES**

Signs, 200-62

Telecommunications facilities, 175-7  
Zoning, 200-23

### **ACCESSORY USES**

General Commercial District, 200-13  
Heavy Industrial District, 200-16  
Light Industrial District, 200-15  
Multifamily/Townhouse Residential District, 200-12  
Residential District, 200-11  
Restricted Commercial District, 200-14  
Site plan review, 200-51  
See also, **NONCONFORMING USES; PROHIBITED USES; SPECIAL PERMIT USES**

### **ACTING CODE ENFORCEMENT OFFICER/BUILDING INSPECTOR**

Buildings, Department of , 9-2  
Powers and duties, 9-2

### **ADOPTION OF CHARTER AMENDMENTS DURING CODIFICATION**

General provisions, Ch. I, Art. II

### **ADOPTION OF STATE CODE**

Construction and fire prevention, C., § 72, Art. I

### **ADULT ENTERTAINMENT**

Action on application, 62-7  
City Council, 62-7  
Definitions, 62-2  
Fees, 62-3 – 4  
Hearings, 62-7  
Licenses and permits, 62-3, 62-4, 62-6, 62-8  
Meetings, 62-7  
Noise, 62-7  
Nuisances 62-7  
Penalties for offenses, 62-6, 62-8, 62-9  
Restrictions, 62-5  
Zoning, 62-6

### **ADVERTISING**

Costs and expenses, C., §32  
Noise, 136-4  
Penalties for offenses, 64-2  
Signs, 200-62, 200-69  
Use of poles and trees prohibited, 64-1

### **AREOSOL SPRAY PAINT CAN**

Graffiti, 118-3

### **AIR GUN** see, **FIREARMS, EXPLOSIVES AND FIREWORKS**

### **ALCOHOLIC BEVERAGES**

Definitions, 67-1  
Exceptions, 67-3  
Penalties for offenses, 67-4  
Possession and consumption on public lands, 67-2  
Private property, minors, 67-5

### **AMPLIFIERS**

Noise, 136-3

### **ANALYSES**, see **MEASUREMENTS, TESTS AND ANALYSES**

### **ANCHORING**

Flood damage prevention, 111-15  
Manufactured homes, 111-18

### **ANIMAL CONTROL OFFICER**

Dogs, 70-4, 70-10 – 19  
Farm animals, 70-20 – 24  
Noise, 136-3

### **APPEALS**

Buildings, unsafe, 83-4  
Fences, 200-71  
Records, public access to, 46-9  
Signs, 200-71  
Site plan review, 200-57  
ZBA/Planning Commission, 111-19

### **APPEALS BOARD**, see **BOARD OF APPEALS**

### **APPEARANCE TICKETS**

Dogs, 70-7

**APPOINTMENTS**, see  
specific boards, departments, officers, etc.

### **AREAS OF SPECIAL FLOOD HAZARD**

Flood damage prevention, 111-5, 111-6, 111-8, 111-11, 111-14, 111-16  
Manufactured homes, 111-18  
Vehicles, recreational, 111-18

### **AREA, YARD AND BULD REGULATIONS**

General Commercial District, 200-13  
Heavy Industrial District, 200-16  
Light Industrial District, 200-200-15  
Multifamily/Townhouse Residential District 200-12  
Residential District, 200-11  
Restricted Commercial District, 200-14  
Waterfront/Mixed Use District, 200 16(AA)  
Zoning, 200-23, 200-25, 200-27, 200-37

### **ASSESSMENTS**

Assessor, C., §§ 39, 41, 44, 6-1, 6-2  
Board of Assessment Review, C., § 45  
Charter, C., § 35

City Council, C., § 33

Filing and confirmation, C., § 41  
Hearings, C., §§ 27, 28, 37  
Improvements, C., §§ 25, 30, 40  
Liens, C., § 43  
Notices, C., § 27  
Streets and sidewalks, 164-9

### **ASSESSOR**

Assessments, C., §§ 33, 35, 36, 39  
Notices, C., § 36  
Powers and duties, C., §§ 34, 43, 44

### **ASSISTANT FIRE CHIEF**

Fire Department, 21-2, 21-5, 21-7,  
Powers and duties, 21-2, 21-5, 21-7  
Salaries and compensation, 21-2  
Terms of office, 21-7

### - B -

### **BACKFILLING**

Sewers, 159-22

### **BARKING**, see **NOISE**

### **BARRICADES**

Excavation, 158-26

### **BICYCLES**

Tallmadge Park, 144-10

### **BINGO**

Conduct authorized, 77-1

### **BOARD OF APPEALS**, see **ZBA/PLANNING COMMISSION**

### **BOARD OF ASSESSMENT REVIEW**

Appointments, 6-2  
Assessments. C., § 40  
Boards and commissions 6-1, 6-2  
Creation, 6-1  
Membership, 6-1  
Powers and duties, C., §§ 29, 42  
Terms of office, 6-2

### **BOARD OF CANVASSERS**

Elections, C., § 79

### **BOARD OF SUPERVISORS**

Meetings, C., § 42  
Supervisor, C., § 66

### **BOARDS AND COMMISSIONS**

Board of Assessment Review, 6-1, 6-2  
See also, individual boards and commissions

### **BONDS**

Commissioner of Accounts, C., § 13, C., § 74, C., 47  
Commissioner of Finance, C., § 14, C., § 74  
Excavations, 164-3  
Sand and gravel mining, 200-34  
Telecommunications facilities, 175- 13

### **BOWLING ALLEYS**

Parking regulation s and facilities,

200-30

**BRUSH, GRASS AND WEEDS**

Property maintenance, 80-7

**BUILDING CONSTRUCTION  
AND FIRE PREVENTION**

Adoption of State Code, Ch. 72, Art. I  
Applicability of standards, 80-1 Building  
permits, 80-1-80-6 Buildings, Department  
of, 80-5 Compliance required, 80-4  
Enforcement, 80-5

Fire Inspector, 80-13-80-18

Penalties for offenses, 80-5, 80-6 Property  
maintenance, 80-7-80-12

Special permit uses, 80-3 Variances, 80-3

**BUILDING INSPECTOR**

Appointment, 9-3

Buildings, Department of, 9-3

Powers and duties, 9-3

Salaries and compensation, 9-3

**BUILDING PERMITS**

Action on denial, 80-3

Building construction and fire prevention,  
80-1-80-6 Telecommunications facilities,  
175-4

Zoning, 200-24, 200-43, 200-81

**BUILDINGS, DEPARTMENT OF**

Acting Code Enforcement Officer/

Building Inspector, 9-2

Building construction and fire prevention,  
80-5

Building Inspector, 9-3 Code Enforcement  
Officer/

Building Inspector, 9-1, 9-5

Cooperation of other departments, 9-7

Creation, 9-1

Powers and duties, 9-5 Records, public  
access to, 9-6 Reports, 9-6

Restrictions on employees, 9-4

Salaries and compensation, 9-1

**BUILDINGS, UNSAFE**

Appeals, 83-4

Code Enforcement Officer/

Building Inspector, 83-2, 83-6

Costs and expenses, 83-5, 83-6

Definitions, 83-1 Emergencies, 83-6 Fire  
Chief, 83-2 Notices, 83-2

Order to repair or remove, 83-2 Penalties  
for offenses, 83-5, 83-7 Removal or repair  
by city, 83-5

Unlawful use of premises, 83-3

Zoning, 200-40

**BURNING, OUTDOOR**

Definitions, 86-1

Fires near structures, 86-2

Flammables, 86-2

Garbage, 86-7

Leaves and vegetation, 86-6 Odors, 86-7

Paper, paper goods or cardboard, 86-4

Penalties for offenses, 86-8

Rubbish, 86-3

Streets and sidewalks, 86-5

Yards and buildings, fires in, 86-7

**BUS STOP ZONES**

Parking regulations and facilities,  
183-14

**-C-**

**CERTIFICATES OF COMPLIANCE**

Electrical inspections, 99-2, 99-3

Flood damage prevention, 111-13

**CERTIFICATES OF OCCUPANCY**

Zoning, 200-82

**CERTIFICATES OF SALE**

Vehicles, removal of, 183-17

**CESSPOOLS**

Private sewage disposal systems, 158-9,  
158-10

Sewers, 158-4

**CHIEF OF POLICE-CIVILIAN  
INTERNAL AFFAIRS REVIEW  
COMMISSION**

Police-Civilian Internal Affairs

Review Commission, 39-1

**CHARGES, see COSTS AND  
EXPENSES CHARTER**

Abandonment of use, C., § 48

Accounting, uniform system of, C., § 71

Advertising deemed part of expense,  
C., § 32

Annual estimate, C., § 68

Annual estimate by departments of  
requirements, C., § 67

Assessment for local improvements,  
C., § 40

Assessment of omitted property of  
current year, C., § 39

Assessment of omitted property of  
preceding years, C., § 35

Assessment roll, completion of, C., § 36

Assessment roll, filing and confirmation  
of, C., § 41

Assessment roll, preparation of, C., § 34

Assessment roll to be delivered to Board  
of Supervisors, copy of, C., § 42

Assessments, C., § 48

Assessments, special, C., § 27, C., § 31

Assessor, C., § 34, C., § 36, C., § 43

Audit, allowance and payment, C., § 63

Banking, C., § 62

Board of Assessment Review, C., § 32,

C., § 37, C., § 40

Board of Supervisors, C., § 42, C., § 66

Boundaries, C., § 2

Budget, annual, C., § 69

City Attorney, C., §§ 72, 73, C., § 81

City Commissioners, C. 11-15, § IV,  
C., § 70

City Council, C., § 6, C., § 16, C., § 17, C.,  
§ 21, C., § 22, C., § 26, C., § 33, C., § 47,

C., § 47, C., §§ 53-57, C., § 74, C., § 80

City Council, legislative powers vested  
in, C., § 17

City Judge, C., § 77

City may take and hold property for  
certain purposes, C., § 4

Civil Service Commission, C., § 15

Claims against city, C., § 63 Collection  
of tax by civil action, C., § 50

Commissioner of Accounts, C., § 13,  
C., § 16, C., § 18, C., § 43, C., § 48, C., §

§ 50-55, C., § 70, C., § 74, C., § 77,  
C., § 80

Commissioner of Finance, C., § 14,  
C., § 16, C., §§ 50-55, C.,

§ 70, C., § 74, C., § 77, C., § 80

Commissioner of Public Safety,

C., § 14, C., § 16, C., § 18, C., §§ 50-55, C.,  
§ 70, C., § 77, C., § 80

Commissioner of Public Works,

C., § 13, C., § 16, C., §§ 50-55,

C., § 70, C., § 77, C., § 80

Commissioners may meet and act for  
certain purposes before taking office,  
C., § 80

Correction and verification of tax roll,  
C., § 38

Costs and expenses, C., § 32

Department employees, C., § 18

Department of Public Works, C., § 25

Determination of complaints, C., § 43

Election of officers, C., § 8

Elections, C., § 49, C., § 79, C., § 82;  
C., § 83

Eminent domain, C., § 24

Failure to perform, C., § 28

Fiscal year, C., § 61

General municipal law, C., § 81

Hearing of complaints, C., § 37

Improvements, duty of property  
owners as to, C., § 25 Improvements,

public, C., § 30 Incorporation of the City of  
Mechanicville, C., §§ 3-7

Liability of city in certain actions,  
C., § 81

Mayor, C., § 12, C., § 50, C., § 77

Mayor, conveyance by, C., § 48

Name, C., § 3

Newspaper, official, C., § 23, C., § 57

Notice, C., § 22, C., § 36, C., § 53,

C., § 57

Oath of office, C., § 73

Officers and employees, C., § 77 Officers  
designated, C., § 6 Ordinances and local

laws, C., § 59

Ordinances and local laws, adoption of,  
C., § 21

Ordinances and local laws, amendment or  
repeal of, C., § 58

Ordinances and local laws,

publication of, C., § 57

Penalties for offenses, C., § 21, C., § 76

Petition, C., § 31

Power of city over streets and public  
places, C., § 22

Powers, rights and liabilities, C., § 2

Power to raise money, C., § 24

Procedure, C., § 31

Proof of Charter and ordinances, C., § 60

Public moneys, system for receipt  
and payment of, C., § 64

Real property taxes, C., § 44

Records, C., § 21, C., § 53, C., § 75

Records, public access to, C., § 78

Reports, C., § 19

Sale of real estate belonging to

City, C., § 47

Short title, C., § 1

Streets and sidewalks, C., § 31

Taking of lands held by corporations or for  
public use, C., § 46

Taxation, C., § 43, C., § 44, C., § 65

Tax credits, special, C., § 28

Terms of office, C., § 9

Transfer of property, C., § 5

Water, C., § 71



**CHIEF INSPECTOR**

Electrical inspections, 99-1  
Powers and duties, 99-1

**CHIEF OF POLICE**

Appointment, 39-1  
Police Department, 39-1  
Powers and duties, 39-1  
Salaries and compensation, 39-1

**CITY ATTORNEY**

Powers and duties, C., § 72,  
C., § 81

**CITY COLLECTOR**

Commissioner of Accounts, C., § 13

**CITY COMMISSIONERS**

Adoption of motions, resolutions,  
and ordinances, C., § 9  
Charter, C., § 9 Office hours, C., § 16  
Quorum, C., § 9 Retirement, C., § 16

**CITY COUNCIL**

Absence of members, C., § 55  
Assessments, C., § 33 Charter, C., § 18  
City Court, C., § 21  
Commissioner of Accounts, C., § 8,  
C., § 54  
Commissioner of Finance, C., § 8  
Commissioner of Public Safety, C., § 8  
Commissioner of Public Works, C., § 8  
Eminent domain, C., § 22  
Fees, C., § 22  
Improvements, contracting for, C., § 29  
Mayor, C., § 8  
Meetings, C., § 21, C., § 53, C., § 54  
Ordinances, local laws and resolutions, C.,  
§ 56  
Penalties for offenses, C., § 21, C., § 27  
Powers and duties, C., § 8,  
C., § 19, c., § 18, c., § 26, c., § 34,  
C., § 47, C., § 53, C., § 71, C., §  
81, 56-60, 158-45, 175-4  
Power to sell, C., § 47  
Quorum, C., § 9, C., § 54  
Records, C., § 54, C., § 56  
Rules of procedure, C., § 53  
Sewers, 158-45  
Telecommunications facilities, 175-4

**CITY COURT**

City Council, C., § 21  
Jurisdiction, C., § 21

**CITY JUDGE**

Hearings, C., § 77  
Removal from office, C., § 77

**CITY TREASURER**

Commissioner of Finance, C., § 12

**CIVIL SERVICE COMMISSION**

Powers and duties, C., § 15  
Civil service law, C., § 15

**CLERK OF THE COUNCIL**

Commissioner of Accounts,  
C., § 13, C., § 54

**CODE ENFORCEMENT****OFFICER/BUILDING INSPECTOR**

Appointment, 9-1  
Buildings, Department of, 9-1, 9-5  
Buildings, unsafe, 83-2, 83-6

Fire Inspector, 80-16  
Flood damage prevention, 111-10,  
111-13  
Littering, 129-9  
Powers and duties, 9-5, 80-8,  
80-16, 83-2, 83-6, 111-10,  
111-13, 129-9, 158-38, 189-4,  
200-57, 200-66, 200-80  
Property maintenance, 80-8  
Sewers, 158-38  
Signs, 200-66  
Site plan review, 200-57  
Vehicles, storage of, 189-4  
Zoning, 200-80

**CODE OF ETHICS, see****ETHICS, CODE OF  
COMMERCIAL/INDUSTRIAL  
DISTRICTS**

Vehicles, storage of, 189-3

**COMMISSIONER OF ACCOUNTS**

Apportioning of tax, C., § 43  
Bond s, C., § 11, C., § 80  
City Collector, C., § 11  
City Council, C., § 8, C., § 54  
Clerk of the Council, C., § 11,  
C., § 54  
Confirmation, C., § 43  
Deputy of Commissioner of Accounts,  
C., § 11 Elections, C., § 79 Hearings,  
C., § 77  
Meetings, C., § 11, C., § 80  
Penalty for unpaid taxes, 169-3  
Powers and duties, C., § 11, C., §  
18, C., § 70, 164-10,  
169-3, 194-17  
Qualifications, C., § 51  
Records, C., § 11, C., § 19  
Removal from office, C., § 77  
Reports, C., § 19, C., § 70  
Salaries and compensation, C., § 13,  
C., § 50  
Sidewalks, 164-10  
Term limits, C., § 7  
Terms of office, C., § 8, C., § 79  
Vacancies, C., § 58 Water, 194-17

**COMMISSIONER OF FINANCE**

Bonds, C., § 12, C., § 80  
City Council, C., § 8 City Treasurer, C., §  
14  
Deputy Commissioner of Finance,  
C., § 12  
Elections, C., § 79  
Hearings, C., § 77  
Investment policy, 28-3, 28-6  
Meetings, C., § 80  
Officer and employees, C., § 14  
Powers and duties, C., § 12, C., § 18,  
C., § 70, 28-3, 28-6  
Qualifications, C., § 51  
Records, C., § 12, C., § 21  
Removal from office, C., § 77  
Reports, C., § 12, C., § 21, C., § 70  
Salaries and compensation,  
C., § 12, C., § 50  
Term limits, C., § 7  
Terms of office, C., § 8, C., § 79  
Vacancies, C., § 58

**COMMISSIONER OF PUBLIC  
AFFAIRS**

Mayor, C., § 10

**COMMISSIONER OF PUBLIC  
SAFETY**

City Council, C., § 8  
Deputy Commissioner of Public Safety, C.,  
§ 16  
Elections, C., § 79 Hearings, C., § 77  
Meetings, C., § 80  
Park Commission, 144-2  
Powers and duties, C., § 16, C., § 18,  
C., § 70  
Qualifications, C., § 51  
Records, C., § 19  
Removal from office, C., § 77  
Reports, C., § 21, C., § 70  
Salaries and compensation, C., § 16,  
C., § 50  
Term limits, C., § 7  
Terms of office, C., § 8, C., § 79  
Vacancies, C., § 52

**COMMISSIONER OF  
PUBLIC WORKS**

City Council, C., § 8  
Deputy Commissioner of Public Works, C.,  
§ 13  
Election s, C., § 79 Hearings, C., § 77  
Meetings, C., § 80  
Powers and duties, C., § 13, C., §  
18, C., § 70, 158-48, 158-49,  
164-10  
Qualifications, C., § 51  
Records, C., § 21  
Removal from office, C., § 77  
Reports, C., § 21, C., § 70  
Salaries and compensation, C., §  
13, C., § 50  
Sewers, 158-48, 158-49  
Sidewalks, 164-10  
Streets and sidewalks, C., § 13  
Term limits, C., § 7  
Terms of office, C., § 8, C., § 79  
Vacancies, C., § 52

**COMMISSIONS, see BOARDS  
AND COMMISSIONS  
COMMUNICATIONS FACILITIES,  
see TELECOMMUNICATIONS  
FACILITIES COMPENSATION,  
see specific boards, departments,  
officers, etc.**

**COMPREHENSIVE PLAN**

Site plan review, 200-55

**CONFLICTS OF INTEREST**

Investment policy, 28-4  
Procurement policy, 42-13

**CONTROL MANHOLE, see  
MANHOLES CORRUGATED  
CARDBOARD**  
Recycling, 161-11

**COSTS AND EXPENSES**

Advertising, C., § 32  
Buildings, unsafe, 83-5, 83-6  
Electrical inspections, 99-1  
Flood damage prevention, 111-11, 111-14  
Graffiti, 118-6  
Hydrants, 194-23  
Improvements, C., § 25, C., § 40  
Improvements, public, C., § 30  
Private sewage disposal systems, 158-11  
Property maintenance, 80-9  
Sand and gravel mining, 200-34

Sewers, 158-5, 158- 15, 158-32 - 158-3  
 Sidewalks, 164-10  
 Signs, 200-67, 200-68  
 Site plan review, 200-55, 200 -57  
 Streets and sidewalks, C. , § 34, C., § 35, 164-9  
 Vehicles, removal of, 183- 17  
 Vehicles, storage of, 189-4  
 Water, 194-4, 194-8, 194-9, 194-11, 194-15

See also **FEES**  
**COUNTY BOARD OF SUPERVISORS**, see **BOARD OF SUPERVISORS**

## **COURTS**

Zoning, 200-29

## **CURFEW**

Enforcement, 91-3 Establishment, 9 1-1  
 Minors, 9 1- 1 -91-3  
 Parent/guardian responsibility, 9 1-2  
 Penalties for offenses, 91 -2, 91-3  
 Warrants, 91-3

## **-D-**

## **DANGEROUS DOGS**

Dogs, 70-5

## **DEFINITIONS**

Accessory use, 200-6 Adult book store, 62-2  
 Adult entertainment cabaret, 62-2  
 Adult entertainment enterprise, 62-2  
 Adult theater, 62-2  
 Advertising sign, 200-6 1  
 Alteration, structural, 200-6  
 Animal Control Officer, 70-2 Antenna, 175-3  
 Appeal, 111-4 Applicant, 175-3  
 Application, 175-3  
 Area, building, 200-6  
 Area, net site, 200-6  
 Area of shallow flooding, 111-4  
 Area of sign, 200-6 1  
 Area of special flood hazard, 111-4  
 Aseptic packaging, 161-6  
 Ashes, 161-6 A t large, 70-2  
 Base flood, 111-4  
 Basement, 111-4, 200-6 Boardinghouse, 200-6 BOD, 158- 1  
 Broad-tipped indelible marker, 1 8-2  
 Building, 83-1, 111-4, 200-6  
 Building, accessory, 200 -6 Building drain , 158-1 Building height , 200-6 Building , principal, 200-6 Building sewer, 158- 1  
 Business sign, 200-61 Cellar, 111-4, 200-6  
 City, 115-2, 158- 1, 16 1-6  
 Club, membership, 200-6  
 Code Enforcement Officer/ Building Inspector, 158- 1  
 Collapse zone, 175-3  
 Collocation, 175-3  
 Combined sewer, 158- 1  
 Construction and demolition debris, 161-6  
 Court, inner, 200-6 Court, outer, 200-6  
 Coverage, 200-6  
 Curbside, 161-6 Dangerous dog, 70-2  
 Dangerous or unsafe building or structure, 83- 1

Dead animals, 161-6  
 Deface, 118-2  
 Department of Public Works, 158-1  
 Development, 111-4  
 Discriminatory housing practice, 105-2  
 Dog, 70-2  
 Dump, 200-6  
 Dumpster, 161-6  
 Dwelling, 105-2, 200-6 Dwelling, multiple, 200-6 Dwelling, one-family, 200-6 Dwelling, two-family, 200-6  
 Dwelling unit, 200-6  
 EAF, 175-3  
 Elevated building, 111-4  
 Existing manufactured home park or subdivision, 111-4  
 Expansion to an existing manufactured home park or subdivision, 111-4  
 FAA , 175-3  
 Facade of building, 200-6 1  
 Family, 105-2, 200-6  
 FCC, 175-3  
 Federal Emergency Management Agency, 111-4  
 Fence, 200-74  
 Fire, 86-1  
 Flashing sign, 200-61  
 Flood, 111-4  
 Flood Boundary and Flood way Map (FBFM), 111-4  
 Flood elevation study, 111-4  
 Flood Hazard Boundary Map (FHBM), 111-4  
 Flooding, 111-4  
 Flood Insurance Rate Map (FIRM). 111-4  
 Flood Insurance Study. 111-4  
 Floodplain, 111-4  
 Flood -prone area, 111-4  
 Flood-proofing, 111-4  
 Floodway, 111-4  
 Floor area of a building, 200-6  
 Front yard, 200-74  
 Functionally dependent use, 111-4  
 Garage, private, 200-6  
 Garage, public, 200-6  
 Garbage, 129-1, 158-1, 161-6  
 Gasoline station, 200-6 Glass, 161-6  
 Grade, finished, 200-6  
 Graffiti, 118-2  
 Hawker, 148-1  
 Height, 175-3, 200-74  
 Highest adjacent grade, 111-4  
 Historic structure, 111-4  
 Home occupation, 200-6 Hospital, 200-6  
 Hotel, 200-6  
 Household recycling container, 161-6  
 Illuminated sign, 200-61  
 Industrial wastes, 158-1, 161-6  
 Intent to consume, 67-1  
 Interest, 18-2  
 Junkyard, 200-6  
 Large household furnishings, 161-6  
 Law, 161-6  
 Litter, 129-1  
 Local administrator, 111-4  
 Lot, 200-6  
 Lot, corner, 200-6  
 Lot, depth of, 200-6 Lot, interior, 200-6  
 Lot, through, 200-6 Lot, width of, 200-6  
 Lowest floor, 111-4

Manufactured home, 111-4 Manufactured home park or subdivision, 111-4  
 Mean sea level, 111-4 Metal cans, 161-6  
 Mobile home, 111-4, 200-6  
 Mobile home lot, 200-6  
 Mobile home park, 200-6 Motel, 200-6  
 Motor vehicle pound, 183-17  
 Municipal officer or employee, 18-2  
 National Geodetic Vertical Datum (NGVD), 111-4  
 Natural outlet, 158- 1  
 New construction, 111-4  
 New manufactured home park or subdivision, 111-4  
 Nonconforming use, 200-6  
 Non-recyclable rubbish, 161-6  
 Nursery school, 200-6  
 Nursing or convalescent home, 200-6  
 Officer, 115-2  
 Official traffic signs and signals, 183-3  
 One-hundred-year flood, 111-4  
 Open container, 67-1  
 Open space, 200-6  
 Operator, 183-6  
 Owner, 70-2  
 Park, 129- 1  
 Parking space, 200-6  
 Peddler, 148-1  
 Peep show, 62-2 Pen, 118-2  
 Person, 83-1, 105-2, 136- 1, 148-1, 158- 1, 161-6  
 pH, 158-1  
 Plastics, 161-6  
 Play vehicle, 186- 1  
 Principally above ground, 111-4  
 Private hauler, 161-6  
 Private property, 129- 1  
 Private residence, 161-6  
 Properly shredded garbage, 158- 1  
 Property, 118-2  
 Public place, 129- 1  
 Public sewer, 158-1  
 Recreational vehicle, 111-4  
 Recyclable container product, 161-6  
 Recyclable paper product, 161-6  
 Recyclable rubbish, 161-6 Recyclers, 161- 6  
 Refuse, 129-1  
 Regulation, 161-6 Regulatory flood way, 111-4  
 Related facilities, 175-3  
 Repaving, 164- 11  
 Rubbish, 129-1  
 Sanitary landfill, 161-6 Sanitary sewer, 158-1  
 Satellite antenna, 175-3  
 Scavenging, 161-6  
 Scrap metal, 161-6  
 Sewage, 158- 1  
 Sewage treatment plant, 158-1  
 Sewage works, 158- 1  
 Sewer, 158- 1  
 Sign, 200-61  
 Solicitor, 148-1  
 Solid waste, 129-1, 161-6  
 Solid waste disposal facility, 161-6  
 Sound device or apparatus, 136-1  
 Source separation, 161-6  
 Special wastes, 161-6  
 Start of construction, 111-4  
 Storm drain, 158-1  
 Storm sewer, 158-1  
 Story, 200-6  
 Street, 200-6  
 Street grade, 200-6

Structure, 83-1, 111-4, 200-6  
 Substantial damage, 111-4  
 Substantial improvement, 111-4  
 Suspended solids, 158- 1  
 Taxicab, 172- 1  
 Telecommunications, 175-3  
 Telecommunications tower, 175-3  
 Through streets, 183-4  
 To rent, 105-2  
 To use or operate any sound de- vice or apparatus in, on, near or adjacent to any public street, park or place, 136-1  
 Unnecessary, 136- 1 Usual, 136-1  
 Variance, 111-4  
 Vehicle, 129- 1  
 Watercourse, 158- 1  
 White goods, 161-6  
 Writing and artistic device, 118-2 Written authorization (of the New York State Department of Environmental Conservation) , 161-6  
 Yard, 200-6  
 Yard, front, 200-6  
 Yard, rear, 200-6 Yard, side, 200-6  
 Yard waste , 161-6

#### **DEMOLITION OF BUILDINGS**

Licenses and permits, 80-10 Property maintenance, 80-10

#### **DENSITY**

Multifamily/ Townhouse Residential District, 200-12

#### **DEPARTMENT OF BUILDINGS, see BUILDINGS , DEPARTMENT OF DEPARTMENT OF PUBLIC WORKS**

Powers and duties, C., § 25

#### **DEPOSITS see FEES DEPUTY COMMISSIONER OF FINANCE**

Appointment, C., § 12  
 Commissioner of Finance, C., § 12  
 Powers and duties, C., § 12

#### **DEPUTY COMMISSIONER OF PUBLIC SAFETY**

Appointment, C., § 14  
 Commissioner of Public Safety, C., § 14  
 Powers and duties, C., § 14

#### **DEPUTY COMMISSIONER OF PUBLIC WORKS**

Appointment, C., § 13  
 Commissioner of Public Works, C., § 13  
 Salaries and compensation, C., § 13

#### **DEPUTY OF COMMISSIONER OF ACCOUNTS**

Appointment, C., § 11  
 Commissioner of Accounts, C., § 11  
 Powers and duties, C., § 11  
 Salaries and compensation, C., § 11

#### **DISCLOSURE PROVISIONS**

Ethics, Code of, 1 8-3

#### **DISCRIMINATION**

Fair housing, 105-3- 105-5

#### **DISORDERLY CONDUCT**

Sewers, 158-37

#### **DISTURBING THE PEACE**

Noise, 136-2

#### **DOCUMENTS, see RECORDS DOGS**

Animal Control Officer, 70-4, 70- 10  
 Animals, 70- 1 -70- 10  
 Appearance tickets, 70-7  
 Change of Ownership, 70-17  
 Com plaints, 70-7  
 Dangerous dogs, 70-5 Definitions. 70-2, 70-13  
 Disposal of feces, 70-3  
 Enforcement , 70-10  
 Impoundment, 70-4  
 Interference with city personnel, 70-8  
 Leashing, 70-3  
 Licensing, 70-14, 70-15  
 Noise, 70-3  
 Nuisances, 70-3  
 Park s and playgrounds, 70-3  
 Penalties for offenses, 70-3, 70-7, 70-9, 70-19  
 Rabies control, 70-6  
 Running at large, 70-3  
 Seizure, 70-4, 70-6, 70-18  
 Warrants, 70-7

#### **DRAINAGE**

Flood damage prevention, 111 -17  
 Property maintenance, 80-7 Sewers, 158-28  
 Streets and sidewalks, 164-8- 164- 11

#### **DRIVEWAYS**

Setbacks 200-91 200-92

#### **DUMPING**

Garbage, rubbish and refuse, 16 1- 1  
 Penalties for offenses, 161-2  
 Solid waste, 16 1- 1, 161-2  
 Unlawful disposal, 16 1- 1

#### **DUST**

Fire Inspector, 80- 18  
 Heavy Industrial District, 200-16  
 Light Industrial District, 200- 15  
 DUTIES, see specific boards, departments, officers, etc.

#### **DWELLING UNITS**

Parking regulations and facilities, 200-30

#### **-E-**

#### **ELECTI ON DISTRICTS**

Fifth Election District, 15-5  
 First Election Di strict , 15-1  
 Fourth Election Di strict, 15-4 Second Election Di strict, 15-2 Sixth Election District , 15-6  
 Third Election District, 15-3

#### **ELECTIONS**

Application of Election Law, C., § 83  
 Board of Canvassers, C., § 79  
 Commissioner of Accounts, C., § 79  
 Commissioner of Finance, C., § 79  
 Commissioner of Public Safety, C., § 79  
 Commissioner of Public Works, C., § 79  
 Date of genera l election, C., § 49  
 Election officers, City Council to appoint, C., § 49  
 Inspectors of Election, C., § 49  
 Mayor, C., § 79

Newspaper and Publication Fees C., § 20  
 Registration, voter, C., § 82  
 Voters, qualified, C., § 82

#### **ELECTRICAL INSPECTIONS**

Certificates of compliance, 99-2, 99-3  
 Chief Inspector, 99- 1  
 Cost s and expenses, 99- 1  
 Inspector, 99- 1, 99-2  
 Penalties for offenses, 99-2, 99-3  
 Requirements, 99-3

#### **EMERGENCIES**

Buildings, unsafe, 83-6 Noise, 136-3

#### **EMERGENCY OR TEMPORARY NO-PARKING ZONES**

Parking regulations and facilities, 183-20

#### **EMERGENCY PARKING RE- STRICTIONS**

Parking regulations and facilities, 183-20 - 183-22  
 Vehicles and traffic, 183-20- 183-22

#### **EMERGENCY VEHICLES**

Zoning, 200-26

#### **EMINENT DOMAIN**

City Council, C., § 22

#### **ENVIRONMENTAL, IMPACT STATEMENT**

Site Plan review, 200-54

#### **ESCROW DEPOSIT, see FEES ETHICS, CODE OF**

Definitions, 18-2  
 Disclosure provisions, 18-3  
 Distribution, 18-5  
 Filing of claims or demands, 18-4  
 Officers and employees, 18- 1 - 18-6  
 Penalties for offenses, 18-6  
 Standards of conduct, 18-3

#### **EXCAVATIONS**

Barricades, 158-26  
 Bonds, 164-3  
 Connection to water or, sewer system, 164- 1  
 Fees, 164-2  
 Licenses and permits, 164-2  
 Lighting, 158-26  
 Penalties for offenses, 164-4, 164-5  
 Repairs after completion, 164-2  
 Restoration of property, 158-26  
 Sewers, 158-22, 158-26  
 Streets and sidewalks, 164-1 - 164-5

#### **EXPENSES, see COSTS AND EXPENSES**

#### **EXPLOSIVES, see FIREARMS, EXPLOSIVES AND FIRE-WORKS**

#### **-F-**

#### **FAIR HOUSING**

Administration and enforcement, 105-8, 105-11  
 Amendments, 105-12  
 Brokerage services, provision of, 105-5  
 Definitions, 105-2  
 Discrimination prohibited, 105-3- 105-5

Exceptions, 105-6, 105-7  
 Fair Housing Officer, 105-8  
 Financing of housing, 105-4  
 General provisions, 105-1, 105-2  
 Interpretation, 105-13  
 Penalties for offenses, 105-9, 105-11  
 Religious organizations and private clubs, 105-7  
 Report of violations, 105-9  
 Sale or rental of housing, 105-3  
 Sales or rentals by owners, 105-6  
 Single-family dwellings, 105-6  
 Suits against violators, 105-10

#### **FAIR HOUSING OFFICER**

Fair housing, 105-8

#### **FEES**

Adult entertainment, 62-3, 62-4  
 City Council, C., § 22  
 Excavations, 164-2  
 Fences, 200-76  
 Flood damage prevention, 111-11  
 Notices, C., § 20  
 Peddling and soliciting, 148-3, 148-7  
 Records, public access to, 46-7  
 Recycling, 161-8  
 Sewers, 158-42 - 158-49  
 Signs, 200-65, 200-66  
 Site plan review, 200-54  
 Snow emergencies, 183-22  
 Solid waste, 161-8, 161-17  
 Taxicabs, 172-5  
 Telecommunications facilities, 175-5  
 Water, C., § 71, 194-14, 194-19-194-21, 194-28  
 Zoning Board of Appeals, 200-83

#### **See also COSTS AND EXPENSES FENCES**

Appeals, 200-79  
 Approval required, 200-75  
 Definitions, 200-74  
 Fees, 200-76  
 General Commercial District, 200-77  
 Heavy Industrial District, 200-77  
 Height regulations, 200-77  
 Junkyards, 200-20  
 Licenses and permits, 200-76  
 Light Industrial District, 200-77  
 Location restrictions, 200-78  
 Materials and composition, 200-79  
 Multifamily/ Townhouse Residential District, 200-77  
 Nuisances, 200-79  
 Nursery school, 200-20  
 Obstructions, 200-79  
 Property maintenance, 80-11  
 Residential District, 200-77  
 Restricted Commercial District, 200-77  
 Stockades, 80-11  
 Zoning, 200-74-200-79

#### **FIFTH ELECTION DISTRICT**

Election districts, 15-5

#### **FIREARMS, EXPLOSIVES AND FIREWORKS**

Fire Inspector, 80-18  
 Heavy Industrial District, 200-16  
 Liability, 108-2  
 Licenses and permits, 108-2  
 Parks and playgrounds, 144-18  
 Penalties for offenses, 108-3

#### **FIRE CHIEF**

Absence of, 21-6  
 Buildings, unsafe, 83-2  
 Deputy, 21-2  
 Fire Department, 21-1, 21-4, 21-5, 21-7  
 Powers and duties, 21-1, 21-4, 21-7, 83-2  
 Terms of office, 21-7

#### **FIRE DEPARTMENT**

Appointments, 21-7  
 Deputy Fire Chief, 21-2, 21-5, 21-7  
 Fire Chief, 21-1, 21-4, 21-7  
 Fire Chief, absence of, 21-2  
 Inspections, 21-1  
 Janitor, 21-4  
 Powers and duties, 21-4  
 Right of City Council to create additional offices, 21-3  
 Second Assistant Fire Chief, 21-6, 21-7  
 Terms of office, 21-7

#### **FIRE HYDRANT, see HYDRANTS**

#### **FIRE INSPECTOR**

Appointment, 80-13  
 Building construction and fire prevention, 80-13-80-18  
 Code Enforcement Officer/ Building Inspector, 80-13 - 18  
 Considerations, 80-17  
 Creation of position, 80-13  
 Dangerous conditions and materials, 80-18  
 Dust, 80-18  
 Explosives, 80-18  
 Flammables, 80-18  
 Garbage, rubbish and refuse, 80-18  
 Hazardous materials, 80-18  
 Inspections, 80-16  
 Notices, 80-14  
 Obstructions, 80-18  
 Powers and duties, 80-13, 80-15, 80-16  
 Registration of Landlords, 80-19 - 20  
 Right of entry, 80-16  
 Rules and regulations, 80-14

#### **FIRE LANES**

Parking regulations and facilities, 183-13

#### **FIRE PREVENTION, see BUILDING CONSTRUCTION AND FIRE PREVENTION FIRES**

Parks and playgrounds, 144-20

#### **FIREWORKS, see FIREARMS, EXPLOSIVES AND FIREWORKS FIRST ELECTION DISTRICT**

Election districts, 15-1

#### **FLAMMABLES**

Burning, outdoor, 86-2  
 Fire Inspector, 80-18  
 Heavy Industrial District, 200-16  
 Sewers, 158-29, 158-30

#### **FLASHING ILLUMINATION, see LIGHTING FLOOD BOUNDARY AND FLOODWAY MAP**

Flood damage prevention, 111-14

#### **FLOOD DAMAGE PREVENTION**

Appeals ZBA/Planning Commission, 111-19

Anchoring, 111-15  
 Applicability, 111-5  
 Areas of special flood hazard, 111-5, 111-6, 111-8, 111-11, 111-14 - 111-16  
 Certificates of compliance, 111-13  
 Code Enforcement Officer/ Building Inspector, 111-10, 111-13  
 Costs and expenses, 111-11, 111-14  
 Definitions, 111-4  
 Designation of local administrator, 111-10  
 Drainage, 111-17  
 Encroachments, 111-14  
 Fees, 111-11  
 Flood Boundary and Floodway Map, 111-14  
 Flood Insurance Rate Map, 111-6, 111-11, 111-14, 111-16  
 Flood Insurance Study, 111-6  
 General standards, 111-14  
 Inspections, 111-13  
 Insurance, 111-7  
 Interpretation and conflict with Other laws, 111-7  
 Liability, 111-9  
 Licenses and permits, 111-11, 111-12  
 Manufactured home parks and subdivisions, 111-14  
 Manufactured homes, 111-18  
 New construction, 111-14, 111-15, 111-17, 111-20  
 New or substantially improved structures, 111-13, 111-14, 111-16, 111-17  
 Nonresidential structures, 111-17  
 Notices, 111-8, 111-13, 111-20  
 Penalties for offenses, 111-8, 111-13  
 Records, 111-19  
 Reports, 111-19  
 Residential structures, 111-16  
 Sewers, 111-15  
 Standards for all structures, 111-15  
 Stop-work orders, 111-13  
 Subdivision of land, 111-14  
 Substantial improvements, 111-14, 111-15, 111-17, 111-20  
 Utilities, 111-15  
 Variances, 111-20  
 Vehicles, recreational, 111-14, 111-18  
 Zoning Board of Appeals, 111-19

#### **FLOOD INSURANCE RATE MAP**

Flood damage prevention, 111-6, 111-11, 111-14, 111-16  
 Manufactured homes, 111-18

#### **FLOOD INSURANCE STUDY**

Flood damage prevention, 111-6

#### **FLOODPLAIN DEVELOPMENT PERMIT, see LICENSES AND PERMITS FOURTH ELECTION DISTRICT**

Election districts, 15-4

**FOWL, see ANIMALS FREEDOM OF INFORMATION, see RECORDS, PUBLIC ACCESS TO FUMES**  
 Heavy Industrial District, 200-16  
 Light Industrial District, 200-15

**FUNCTIONS, see specific boards, departments, officers, etc.**

#### **FUNERAL HOMES**

Parking regulations and facilities,

200-30

**-G-**

**GAMBLING, see GAMES OF CHANCE GAMES OF CHANCE**

Definitions, 115-2  
Licenses and permits, 115-3  
Statutory authority, 115- 1  
Sunday games, 115-3

**GARBAGE, RUBBISH AND REFUSE**

Burning, outdoor, 86-7  
Dumping, 161-1  
Fire Inspector, 80-18  
Heavy Industrial District, 200-16  
Parks and Playgrounds, 144-2 1  
Recycling, 161- 14  
Sewers, 158-2  
Solid waste, 161- 14

**GASES**

Heavy Industrial District, 200- 16

**GENERAL COMMERCIAL DISTRICT**

Accessory uses, 200- 13  
Area, yard and bulk regulations, 200- 13  
Fences, 200-77  
Height regulations, 200- 13  
Open space, 200- 13  
Parking regulations and facilities, 200- 13  
Permitted uses, 200- 13  
Signs, 200-62  
Special permit uses, 200- 13  
Zoning, 200- 1 3, 200-2 1, 200-23, 200-32, 200-36

**GENERAL PROVISIONS**

Adoption of Charter amendments during codification, Ch. I Art, II  
Adoption of Code, Ch. I, Art. I

**GLARE**

Signs, 200-62

**GLASS**

Recycling, 161 – 1

**GRAFFITI**

Aerosol spray paint can, 118-3  
Cost s and expenses, 118-6  
Defacement of property, 118-3  
Definitions, 118-2 Liability, civil, 118-5  
Liens, 118-6  
Marker, broad-tipped indelible, 118-3  
Minors, 118-5  
Notices, 118-5, 118-6  
Parent/guardian responsibility, 118-5  
Penalties for offenses, 118-4 – 118-6  
Removal of graffiti, 118-6

**GRAVEL MINING, see SAND AND GRAVEL MINING GUARANTIES**

Site plan review, 200-57

**GUNS, see FIREARMS, EXPLOSIVES AND FIREWORKS**

**-H-**

**HANDICAPPED PARKING**

Creation of zones, 183-23  
Enforcement, 183-24  
Parking regulations and facilities, 183-23, 183-24  
Penalties for offenses, 183-24  
Police Department, 183-24  
Signs, 183-23  
Vehicles and traffic, 183-23, 183-24

**HAWKERS AND VENDORS**

Noise, 136-3

**HAZARDOUS MATERIALS**

Fire Inspector, 80- 18

**HEARINGS**

Adult entertainment, 62-7  
Assessments, C., § 27, C., § 31  
City Judge, C., § 77  
Commissioner of Account s, C., § 77  
Commissioner of Finance, C., § 77  
Commissioner of Public Safety, C., § 77  
Commissioner of Public Works, C., § 77  
Mayor, C., § 77 Minutes, C., § 37  
Notices, C., § 77  
Officers and employees, C., § 77  
Site plan review, 200-55  
Telecommunications facilities, 175-8  
Zoning, 200-85  
ZBA/ Planning Commission 200-83

**HEAVY INDUSTRIAL DISTRICT**

Accessory uses, 200- 16  
Area, yard and bulk regulation s, 200-16  
Dust, 200-16  
Explosives, 200-16  
Fences, 200-77  
Flammables, 200- 16  
Fumes, 200- 16  
Garbage, rubbish and refuse, 200- 16  
Gases, 200- 16  
Height regulations, 200- 16  
Noise, 200- 16  
Odors, 200- 16  
Parking regulations and facilities, 200- 16  
Permitted uses, 200- 16  
Sand and gravel mining, 200-34  
Signs, 200-62  
Smoke, 200-16  
Special permit uses, 200-16  
Vibration, 200- 16  
Zoning, 200- 16, 200-2 1, 200-23, 200-32, 200-36

**HEIGHT REGULATIONS**

Fences, 200-77  
General Commercial District, 200-13  
Heavy Industrial District, 200- 16  
Light Industrial District, 200- 15  
Residential District, 200- 11  
Restricted Commercial District, 200- 14

Signs, 200-62

Telecommunications facilities, 175-7  
Zoning, 200-20, 200-28

**HOME OCCUPATIONS**

Signs, 200-62

**HOSPITALS**

Parking regulations and facilities, 200-30

**HOTELS**

Parking regulations and facilities,

200-30

**HYDRANTS**

Cost s and expenses, 194-23 Licenses and permits, 194-23 Obstructions, 194-24  
Penalties for offenses, 194-24 Water, 194-14, 194-23, 194-24

**- I-**

**ILLUMINATION, see LIGHTING IMPOUNDMENT**

Dogs, 70-4  
Vehicles, removal of, 183-17

**IMPROVEMENTS**

Assessments, C., § 25  
City Council, C., § 26  
Costs and expenses, C., § 25, C., § 40  
Lien s. C., § 25  
Notices, c., § 25

**IMPROVEMENTS, PUBLIC**

Assessments, C., § 30  
Costs and expenses, C., § 30

**INSPECTIONS**

Fire Department, 21- 1  
F ire Inspector 80-16  
Flood damage prevention, 111- 13  
Littering, 129-9  
Private sewage disposal systems, 158-8  
Site plan review, 200-57 Water, 194-10

See also **ELECTRICAL INSPECTIONS**

**INSPECTOR**

Electrical inspections, 99-1, 99-2  
Powers and duties, 99-1, 99-2, 158-38  
Sewers, 158-38

**INSPECTORS OF ELECTION**

Appointments, C., § 49 Elections, C., § 49  
Powers and duties, C., § 49

**INSURANCE**

Flood damage prevention, 111-7  
Investment policy, 28-8  
Property maintenance, 80- 10  
Telecommunications facilities, 175-6

**INVESTIGATIONS**

Liability of city in certain actions, C., § 91  
Police-Civilian Internal Affairs  
Review Commission, 39-8  
Sewers, 158-49

**INVESTMENT POLICY**

Authorized financial institutions and dealers , 28- 11  
Collateralizing of deposits, 28-8  
Commissioner of Finance, 28-3, 28-6  
Conflicts of interest, 28-4  
Delegation of authority, 28-3 Designation of depositories, 28-7 Diversification , 28-5  
Insurance, 28-8  
Internal controls, 28-6  
Participants to act responsibly, 28-4  
Permitted investments, 28- 10  
Purchase of investments, 28-12  
Reports, 28-11

Repurchase agreements, 28-13  
Security and custodial agreements, 28-9  
Transfer of funds to Commissioner  
of Finance, 28-6

**-J-**

**JANITOR**

Fire Department, 21-4

**JUNK MAIL**

Recycling, 161-11

**JUNKYARD PERMIT**, see  
**LICENSES AND PERMITS**  
**JUNKYARDS**  
Fences, 200-20  
Zoning, 200-20

**-L-**

**LEASHING**

Dogs, 70-3

**LEAVES AND VEGETATION**

Burning, outdoor, 86-6

**LIABILITY**

Firearms, explosives and fire- works,  
108-2  
Flood damage prevention, 111-9  
Graffiti, 118-5  
Property maintenance, 80-10  
Sewers, 158-15, 158-41  
Telecommunications facilities, 175-6  
Water, 194-6, 194-11

**LIABILITY OF CITY IN  
CERTAIN ACTIONS**

Investigations, C., § 81

**LICENSES AND PERMITS**

Adult entertainment, 62-3, 62-4,  
62-6, 62-8  
Demolition of buildings, 80-10  
Excavations, 164-2  
Fences, 200-76  
Firearms, explosives and fireworks, 108-  
2  
Flood damage prevention, 111-11,  
111-12  
Games of chance, 115-3  
Hydrants, 194-23  
Peddling and soliciting, 148-2- 148-4  
Private sewage disposal systems, 158-7  
Sewers, 158-13, 158-14  
Signs, 200-63-200-67, 200-72  
Taxicabs, 172-2, 172-5, 172-6

Telecommunications facilities, 175-2,  
175-5, 175-7, 175-10, 175- 11  
Water, 194-2,194-13 , 194-14

See also **BUILDING PERMITS**  
**LIENS**

Assessments, C., § 43  
Graffiti, 118-6  
Improvements, C., § 25  
Littering, 129-9  
Property maintenance, 80-9  
Sewers, 158-46  
Vehicles, removal of, 183- 17  
Water, 194-28

**LIGHT INDUSTRIAL DISTRICT**

Accessory uses, 200-15  
Area, yard and bulk regulations, 200-15  
Dust, 200- 15  
Fences, 200-77  
Fumes, 200-15  
Height regulations, 200- 15  
Lighting, 200-15  
Noise, 200- 15  
Odors, 200- 15  
Parking regulations and facilities, 200-15  
Permitted uses, 200-15  
Prohibited uses, 200-15  
Radiation, 200-15  
Sand and gravel mining, 200-34  
Signs, 200-62  
Smoke, 200- 15  
Special permit uses, 200-15  
Zoning, 200- 15,200-21,200-23,  
200-32, 200-36

**LIGHTING**

Excavations, 158-26  
Light Industrial District , 200-15  
Signs, 200-62  
Telecommunications facilities, 175-7

**LITTERING**

Action by city, 129-9  
Code Enforcement Officer/ Building  
Inspector, 129-9  
Definitions, 129-1  
Duty of business owners, 129-7  
Inspections, 129-9  
Liens, 129-9  
Notices, 129-9  
Parks and private property, 129-8  
Penalties for offenses, 129-9, 129-10  
Placement of litter in receptacles, 129-5  
Prohibited acts in public places, 129-4  
Responsibility of property owners, 129-9  
Sidewalks, 129-6  
Sweeping into gutter or street, 129-6  
Truck loads causing litter, 129-3  
Vehicles, throwing litter from, 129-2

**LOTS**

Zoning, 200-24, 200-35

**-M-**

**MAGAZINES**

Recycling, 161-11

**MAINTENANCE OF VACANT  
BUILDINGS**

Sections 84-1 – 84-21

**MANHOLES**

Sewers, 158-34, 158-35

**MANUFACTURED HOME PARKS  
AND SUBDIVISIONS**

Flood damage prevention, 111-14

**MANUFACTURED HOMES**

Anchoring, 111-18  
Areas of special flood hazard, 111-18  
Flood damage prevention, 111-18  
Flood Insurance Rate Map, 111-18  
New or substantially improved  
manufactured homes, 111-18

**MARKER, BROAD-TIPPED  
INDELIBLE**

Graffiti, 118-3

**MAYOR**

City Council, C., § 6  
Commissioner of Public Affairs C., § 10  
Deputy, appointment of, C., § 10  
Elections, C., § 79  
Hearings, C., § 77  
Meetings, C., § 10  
Powers and duties, C., § 10, C., § 48, 172-3  
Records, C., § 19  
Removal from office, C., § 77  
Reports, C., § 19  
Salaries and compensation, C., §12, C., §50  
Taxicabs, 172-3  
Term limits, C., § 7  
Terms of office, C., § 6, C., § 79

**MEASUREMENTS, TESTS  
AND ANALYSES**

Sewers, 158-35  
Water, 194-17

**MEETINGS**

Adult entertainment, 62-7  
Board of Supervisors, C., § 42  
City Council, C., § 21, C., § 53, C., § 54  
Commissioner of Accounts, C. §11, C., § 80  
Commissioner of Finance, C., § 80  
Commissioner of Public Safety, C., § 80  
Commissioner of Public Works, C., §80  
Documents to be provided, 34-1  
Manner of addressing Council, 34-3  
Mayor, C., § 10  
Park Commission, 144-3  
Police-Civilian Internal Affairs  
Review Commission, 39-8  
Rules of order, 34-3  
Solid Waste Recycling Committee, 161-22  
Tape recordings, 34-2  
Telecommunications facilities, 175-4

**MEMBERSHIP**, see specific  
boards, departments, commissions, etc.

**METAL CANS**

Recycling, 16 1- 11

**METERS**

Sewers, 158-43  
Water, C., § 71, 194-4, 194-5,  
194- 15, 194- 18, 194-28

**MINORS**

Alcohol consumption on  
private property, 65-7  
Curfew, 9 1 - 1 -9 1-3  
Graffiti, 118-5

## **MINUTES**

Hearings, C., § 37  
Police-Civilian Internal Affairs  
Review Commission, 39-7 ZBA/Planning  
Commission 200-83

## **MOBILE HOME PARKS**

Zoning, 200-32 MOBILE HOMES  
Zoning, 200-20, 200-32

## **MULTIFAMILY/TOWNHOUSE RESIDENTIAL DISTRICT**

Accessory uses, 200- 12  
Area, yard and bulk regulations, 200- 12  
Density, 200- 12  
Fences, 200-77  
Parking regulations and facilities,  
200- 12, 200-3 1  
Permitted uses, 200-12  
Signs, 200-62  
Zoning, 200-12,200-20,200-23,  
200-25, 200-32, 200-36

## **MUSICAL INSTRUMENTS, see NOISE**

## **-N-**

## **NEW OR SUBSTANTIALLY IMPROVEDSTRUCTURES**

Flood damage prevention, 111- 14

## **NEWSPAPER, OFFICIAL**

Notices, C., § 23, C., § 57

## **NEWSPAPERS**

Recycling, 161- 11

## **NOISE**

Adult entertainment, 62-7  
Advertising, 136-4  
Amplifiers, 136-3  
Animals, 136-3  
Definitions, 136-1  
Disturbing the peace, 136-2  
Dogs, 70-3  
Emergencies, 136-3  
Enumeration of loud, disturbing  
and unnecessary noises, 136-3  
Hawkers and vendors, 136-3  
Heavy Industrial District , 200- 16  
Light Industrial District, 200-15 Penalties  
for offenses, 136-3, 136-5  
Steam whistles, 136-3  
Telecommunications facilities, 175-7  
Vehicles, 136-3

## **NONCONFORMING USES**

Zoning, 200-39, 200-4 1, 200-42,  
200-45-200-48

## **See also ACCESSORY USES; PERMITTED USES; PROHIBITED USES; SPECIAL PERMIT USES NOTICES**

Adult entertainment, 62-7  
Assessments, C., § 27  
Assessor, C., § 36  
Buildings, unsafe, 83-2  
Fees, C., § 20  
Fire Inspector, 80- 16  
Flood damage prevention, 111-8,  
111- 13, 111-20  
Graffiti, 118-5, 118-6

Hearings, C., § 77  
Improvements, C., § 25  
Littering, 129-9  
Newspaper, official, C., § 23, C., § 57  
Ordinances and local laws,  
publication of , C., § 57  
Private sewage disposal systems, 158-8  
Sale of real estate belonging to city,  
C., § 53  
Sewers, 158-25  
Sidewalks, 164- 10  
Signs, 200-62, 200-68  
Site plan review, 200-54, 200-55  
Solid Waste Recycling Committee,161-  
22  
Streets and sidewalks, C., § 35  
Telecommunications facilities,  
175-7, 175-8  
Vehicles, storage of, 189-4  
Water, 194- 11, 194-20  
Zoning, 200-85

## **NOTICES OF VIOLATIONS**

Property maintenance, 80-8  
Sewers, 158-39  
Zoning, 200-88

## **NUISANCES**

Adult entertainment, 62-7  
Dogs, 70-3  
Fences, 200-79  
Parks and playgrounds, 144-16  
Sewers, 158-29  
Vehicles, removal of, 183- 17  
Zoning, 200-20

## **NURSERY SCHOOLS**

Fences, 200-20  
Parking regulations and facilities, 200-30  
Zoning, 200-20

## **NURSING HOMES**

Parking regulations and facilities, 200-30  
Parking zones, 183-20

## **-O-**

## **OBSTRUCTIONS**

Fences, 200-79  
Fire Inspector, 80-18  
Hydrants, 194-24  
Sewers, 158-29  
Sidewalks, 164- 12, 164- 1 3  
Water, 194-25

## **ODORS**

Burning, outdoor, 86-7  
Heavy Industrial District, 200- 16  
Light Industrial District, 200-15  
Sewers, 158-29

## **OFFICERS AND EMPLOYEES**

Buildings, Department of, 9-4  
Commissioner of Finance, C., § 12  
Ethics, Code of, 18- 1 - 18-6  
Hearings, C., § 77  
Penalties for offenses, C., § 77  
Records, public access to, C., § 78  
Removal from office, C., § 77

## **ONE-WAY STREETS**

Vehicle and traffic, 183-7

## **OPEN SPACE**

General Commercial District, 200-13  
Residential District, 200- 11  
Restricted Commercial District, 200- 14

## **ORDINANCES AND LOCAL LAWS**

Adoption, C., § 21  
Amendment or repeal, C., § 58  
Proof of Charter/Ordinances C.,  
Publication, C., § 57  
Records, C., § 59

## **OUTDOOR BURNING, see BURNING, OUTDOOR**

## **-P-**

## **PARENT/GUARDIAN RESPONSIBILITY**

Curfew, 91-2  
Graffiti, 118-5  
Vehicles, play, 186-3

## **PARK COMMISSION**

Commissioner of Public Safety, 144-2  
Creation, 144-1  
Meetings, 144-3  
Membership, 144-2  
Parks and playgrounds, 144- 1, 144-4,  
Powers and duties, 144-4  
Records, 144-3  
Reports, 144-3  
Rules, 144-3  
Terms of office, 144-2

## **PARKING REGULATIONS AND FACILITIES**

Alternate parking, 183- 12  
Bowling alleys, 200-30  
Bus stop zones, 183- 14  
Emergency parking restrictions,  
183-20 - 183-22  
Fire lanes, 183- 13  
Funeral homes, 200-30  
General Commercial District, 200- 13  
Handicapped parking, 183-23, 183-24  
Heavy Industrial District, 200- 16  
Hospitals, 200-30  
Hotels, 200-30  
Light Industrial District, 200-15  
Multifamily/Townhouse Residential  
District , 200-12, 200-31  
No-parking zones, 183- 11  
Nursery schools, 200-30  
Nursing homes, 200-30  
Penalties for offenses, 183-13, 183-19  
Professional offices, 200-30  
Residential District, 200- 11, 200-3  
Restaurants, 200-30  
Restricted Commercial District, 200- 14  
Retail stores, 200-30 Schools, 200-30  
Signs, 183-13, 183- 18  
Snow emergencies, 183-22  
Storage, 183- 15  
Street closings, 183-2 1  
Theaters, 200-30  
Use of streets for motor vehicle  
repairs, 183- 16  
Vehicles and traffic, 183- 11 - 183-24  
Vehicles, removal or, 183- 17  
Zoning, 200-30, 200-31

## **PARKS AND PLAYGROUNDS**

Commercial enterprises, 144-22

Damage to trees and park property, 144- 19  
 Designation by Council, 144- 14  
 Detrimental acts, 144- 17  
 Dogs, 70-3  
 Enforcement, 144-24  
 Establishment of playgrounds and play areas, 144-14, 144-15  
 Firearms, explosives and fireworks, 144-18  
 Fires, 144-20  
 Garbage, rubbish and refuse, 144-21  
 General regulations, 144- 16 - 144-23  
 Hours of use for playgrounds and play areas, 144-23  
 Littering, 129-8, 144-21  
 Nuisances, 144-16  
 Park Commission, 144- 1 - 144-4  
 Patenaude Park, 144-11 - 144-13 Penalties for offenses, 144-24  
 Rules and regulations, 144-15  
 Tallmadge Park , 144-5- 144-10

#### **PATENAUDE PARK**

Creation, 144- 11  
 Hours, 144-13  
 Parks and playgrounds, 144-11 - 144- 13

#### **PATROLMAN**

Appointment, 39-4  
 Police Department, 39-4  
 Powers and duties, 39-4  
 Salaries and compensation, 39-4

#### **PEDDLING AND SOLICITING**

Definitions, 148- 1  
 Employment of assistants, 148-3  
 Fees, 148-3, 148-7  
 Licenses and permits, 148-2- 148-4  
 Orders, 148-6  
 Penalties for offenses, 148-4, 148-8  
 Records, 148-7  
 Restrictions, 148-5

#### **PENALTIES FOR OFFENSES**

Adult entertainment, 62-6, 62-8, 62-9  
 Advertising, 64-2  
 Alcoholic beverages, 67-4  
 Building construction and fire prevention, 80-5, 80-6  
 Buildings, unsafe, 83-5, 83-7  
 Burning, outdoor, 86-8 Charter, C., § 76  
 City Council, C., § 21, C., § 24 Curfew, 91-2, 91-3  
 Dogs, 70-3, 70-7, 70-9  
 Dumping, 161-2  
 Electrical inspections, 99-2, 99-3  
 Ethics, Code of, 18-6  
 Excavation s, 164-4, 164-5  
 Fair housing, I 05-9- 105-11  
 Firearms, explosives and fireworks, 108-3  
 Flood damage prevention, 111-8, 111-13  
 Graffiti, 118-4- 118-6  
 Handicapped parking, 183-24  
 Hydrants, 194-24  
 Littering, 129-9, 129- 10  
 Noise, 136-3, 136-5  
 Officers and employees, C., § 77  
 Parking regulations and facilities, 183-13, 183-19  
 Parks and playgrounds, 144-24  
 Peddling and soliciting, 148-4, 148-8  
 Property maintenance, 80-12

Recycling, 161-12, 161-14, 161-19 - 161-21  
 Sewers, 158-37, 158-40, 158-41, 158-44  
 Sidewalks, 164-16  
 Signs, 200-65, 200-67, 200-72  
 Site plan review, 200-58  
 Snow and ice removal, 164-7  
 Snow emergencies, 183-22  
 Solid waste, 161-14, 161- 15  
 Taxation, C., § 65  
 Taxicabs, 172-6, 172-8  
 Telecommunications facilities, 175- 14  
 Trees, 178-2  
 Vehicles and traffic, 183-5, 183- 10,183-2 1,183-27  
 Vehicles, play, 186-3, 186-4  
 Vehicles, removal of, 183- 17  
 Vehicles, storage of, 189-4, 189-5  
 Water, C., § 71, 194-3, 194-11, 194-21,194-25,194-27  
 Zoning, 200-87

#### **See also PENALTY FOR UNPAID TAXES PENALTY FOR UNPAID TAXES**

Commissioner of Accounts, 169-3  
 Enforcing payment, other methods of, 169-6  
 Installment payment of eligible delinquent taxes, 169-4  
 Interest penalty, 169-3  
 Taxation, 169-3- 169-6  
 Tax liens, 169-4, 169-5

#### **PERMITS, see LICENSES AND PERMITS PERMITTED USES**

General Commercial District, 200-13  
 Heavy Industrial District, 200-16  
 Light Industrial District, 200-15  
 Multifamily/ Townhouse Residential District , 200-12  
 Residential District, 200-11  
 Restricted Commercial District, 200- 14

See also **ACCESSORY USES; NONCONFORMING USES; PROHIBITED USES; SPECIAL PERMIT USES PHONOGRAPHS, see NOISE PISTOLS, see FIREARMS, EXPLOSIVES AND FIREWORKS PLASTIC**  
 Recycling, 161-11

#### **PLAYGROUNDS, see PARKS AND PLAYGROUNDS PLAY VEHICLES, see VEHICLES, PLAY POLICE-CIVILIAN INTERNAL AFFAIRS REVIEW COMMISSION**

Appointments, 39-7  
 Chair of Police-Civilian Internal Affairs Review Commission, 39-7  
 Investigations, 39-8  
 Meetings, 39-7,39-8  
 Membership, 39-7  
 Minutes, 39-7  
 Officers, 39-7  
 Police Department, 39-6- 39-8  
 Powers and duties, 39-6, 39-8  
 Qualifications, 39-7  
 Secretary of Police -Civilian Internal Affairs Review Commission, 39-7

Terms of office, 39-7

Vice Chair of Police-Civilian Internal Affairs Review Commission, 39-7

#### **POLICE DEPARTMENT**

Chief of Police, 39- 1, 39-9  
 Investigation cash fund, 39-10  
 Patrolman, 39-4  
 Personnel, 39- 1 -39-5  
 Police-Civilian Internal Affairs Review Commission, 39-6 - 39-8  
 Police Lieutenant, 39-2 Police Sergeant, 39-3 Powers and duties, 183-24  
 Powers Delegated, Chief 39-9  
 Right of Council to create additional offices, 39-5

#### **POLICE LIEUTENANT**

Appointment, 39-2  
 Police Department, 39-2  
 Powers and duties, 39-2  
 Salaries and compensation, 39-2

#### **POLICE SERGEANT**

Appointment, 39-3  
 Police Department, 39-3  
 Powers and duties, 39-3  
 Salaries and compensation, 39-3

#### **POLITICAL POSTERS**

Signs, 200-62

#### **PORTABLE BUILDINGS**

Setbacks, construction, 200-91-200. 93

**POWERS**, see specific boards, departments, officers, etc.

#### **PRELILMINARY SITE PLAN**

Site plan review, 200-54

#### **PRIVATE SEWAGE DISPOSAL SYSTEMS**

Cesspools, 158-9, 158- 10  
 Compliance with state public health recommendations, 158-9  
 Connection to public sewer required when available, 158-10  
 Costs and expenses, 158-11  
 Health Officer may impose additional requirements, 158-12  
 Inspections, 158-8  
 Licenses and permits, 158-7  
 Notices, 158-8  
 Septic tanks, 158-9, 158-10  
 Sewers, 158-6-158-12  
 When allowed, 158-6

#### **PRIVY**

Sewers, 158-4

#### **PRIVY VAULT**

Sewers, 158-4

#### **PROCUREMENT POLICY**

Annual review, 42-14  
 Authority and administration, 42-3  
 A ward of purchase or contract, 42-9  
 Conflicts of interest, 42-1  
 Contracts and requisitions exceeding \$1,000, 42-5  
 Ethics in awarding contracts, 42-13  
 Evaluation of purchase, 42-2  
 Exceptions, 42- 1  
 Expenditures not to exceed appropriations, 42-4



Inability to obtain proposals, 42- 10  
Public access to procurement information , 42-6  
Purchases and contracts requiring quotes or proposals, 42-8  
Purchase to be formally bid, 42-7 Records, 42-2  
Records, public access to, 42-6  
Unintentional failure to comply, 42- 12

#### **PROFESSIONAL OFFICES**

Parking regulations and facilities, 200-30

#### **PROHIBITED USES**

Light Industrial District, 200- 15  
Zoning, 200-32

See also **ACCESSORY USES; NONCONFORMING USES; PERMITTED USES; SPECIAL PERMIT USES POPERTY MAINTENANCE**

Brush, grass and weeds, 80-7  
Building construction and fire prevention, 80-7 - 80-12  
Code Enforcement Officer/  
Building Inspector, 80-8  
Costs and expenses, 80-9  
Demolition of buildings, 80-10  
Drainage, 80-7  
Fences, 80- 11  
Insurance, 80- 10  
Liability, 80-10  
Liens, 80-9  
Notices of violations, 80-8  
Penalties for offenses, 80-12

**PUBLIC ACCESS TO RECORDS**, see **RECORDS, PUBLIC ACCESS TO PUBLIC HEARING**, see **HEARINGS PUBLIC LAND, SALE OF**, see **SALE OF PUBLIC LANDS PUBLIC NUISANCE**, see **NUISANCES**

#### **-Q-**

**QUALIFICATIONS**, see specific boards, departments, officers , etc.  
**QUORUM**, see specific boards, departments, commissions, etc.

#### **-R-**

#### **RABIES CONTROL**

Dogs, 70-6

#### **RADIATION**

Light Industrial District, 200- 15

#### **RADIOACTIVE WASTES**

Sewers, 158-29

**RADIOS**, see **NOISE RATES**, see **FEES**

Taxation , C., § 44

#### **RECORDS**

Adoption of Schedule 46- 1  
Access Officer, 46-3, 46-6, 46-8, 46-9  
Charter, C., § 21

City Council, C., § 54, C.,§ 62  
Commissioner of Accounts, C., § 13, C.,§ 21  
Commissioner of Finance, C, §14, C., §21  
Commissioner of Public Safety, C., § 21  
Commissioner of Public Works, C., § 21  
Equipment, C., § 75  
Fees, 46-7  
Flood damage prevention, 111- 19  
Location of, 46-4  
Mayor, C., § 2 1  
Meetings, 34- 1  
Ordinances and local laws, C., § 66  
Park Commission, 144-3  
Peddling and soliciting, 148-7  
Procurement policy, 42-2  
Reports C., 19  
Retention and disposition, 46-1  
Sale of real estate belonging to City, C., § 47  
Sit e plan review, 200-55, 200-56  
Zoning Board of Appeals, 200-83

See also **TAPE RECORDINGS**

#### **RECORDS ACCESS OFFICER**

Powers and duties, 46-3, 46-8  
Records, public access to, 46-3, 46-8

#### **RECORDS, PUBLIC ACCESS TO**

Appeals, 46-9  
Buildings, Department of, 9-6 Fees, 46-7  
Grant or denial of access to records, 46-8  
Hours for public inspection, 46-5  
Location of records, 46-4  
Officers and employees, C., § 87  
Procurement policy, 42-6  
Records Access Officer, 46-3, 46-8  
Requests for access to records, 46-6

#### **RECREATIONAL VEHICLES**, see **VEHICLES, RECREATIONAL RECYCLING**

Contract haulers and recyclers, 161-21  
Corrugated cardboard, 161- 11  
Definitions, 161-6  
Extraordinary waste generation, 161-8  
Fees, 16 1-8  
Garbage, rubbish and refuse, 161-14  
Glass, 161- 11  
Junk mail, 161- 11  
Magazines, 161- 11  
Metal cans, 161- 11  
Newspapers, 161-11  
Ordinary waste generation, 16 1 -7  
Ownership of recyclables, 161-12  
Penalties for offenses, 161-12, 161-14, 161-19- 161-21  
Placement for collection, 161-10  
Plastic, 161-11  
Preparation for collection, 161- 11  
Private residents, 161-20  
Rules and regulations, 161-18  
Secondary markets for recyclables, 161- 13  
Solid waste, 161-3-161-14, 161-18- 161- 23  
Source separation, 161- 11  
Storage, 161-9  
Telephone books, 161- 11  
White goods, 161- 11  
Yard waste, 161-11

#### **REGISTRATION**

Elections, C., § 82 Soli d waste, 161- 17

#### **REPORTS**

Buildings, Department of, 9-6  
Charter, C., § 19  
Commissioner of Accounts, C., § 21, C.,§ 70  
Commissioner of Finance, C., § 14, C., § 19, C., § 70  
Commissioner of Public Safety, C., § 19, C.,§ 70  
Commissioner of Public Works, C., § 19, C., § 70  
Fair housing, 105-9  
Flood damage prevention, 111- 19  
Investment policy, 28- 11  
Mayor, C., § 19  
Park Commission, 144-3  
Site plan review, 200-54, 200-56  
Telecommunications facilities, 175-6  
Zoning, 200-38, 200-91

**RESIDENCY REQUIREMENTS**, see specific boards, departments, officers, etc.

#### **RESIDENTIAL DISTRICT**

Accessory uses, 200-11  
Area, yard and bulk regulations, 200-11  
Fences, 200-77  
Height regulations, 200- 11  
Open space, 200-11  
Parking regulations and facilities, 200-11, 200-31  
Permitted uses, 200-11  
Signs, 200-62  
Special permit uses, 200- 11  
Zoning, 200-11, 200-20, 200-23, 200-25, 200-32, 200-36

#### **RESIDENTIAL DISTRICTS**

Vehicles, storage of, 189-2

**RESPONSIBILITIES**, see specific boards, departments, officers, etc.

#### **RESTAURANTS**

Parking regulations and facilities, 200-30

#### **RESTRICTED COMMERCIAL DISTRICT**

Accessory uses, 200- 14  
Area, yard and bulk regulations, 200- 14  
Fences, 200-77  
Height regulations, 200-14  
Open space, 200- 14  
Parking regulations and facilities, 200-14  
Permitted uses, 200- 14  
Setbacks, 200-14  
Signs, 200-62  
Special permit uses, 200-14  
Zoning, 200-14, 200-21, 200-23, 200-32, 200-36

#### **RETAIL STORES**

Parking regulation s and facilities, 200-30

#### **RETIREMENT**

City Commissioners, C., § 16

#### **REVERSE TURNS PROHIBITED**

Vehicles and traffic, 183-9

**RIFLE**, see **FIREARMS, EXPLOSIVES AND FIREWORKS RIGHT OF ENTRY**

Fire Inspector, 80-16

Sewers, 158-38  
Water, 194-10

**ROCKET, see FIREARMS,  
EXPLOSIVES AND FIREWORKS**

**-S-**

**SALARIED EMPLOYEES**

Stenographer/ Secretary to the Mayor,  
50-1 – 3

**SALARIES, see specific boards,  
departments, officers , etc.**

**SALE OF PUBLIC LANDS**

Land acquired by tax sale, 53-1

**SALES**

Housing, 105-3, 105-6  
Real estate belonging to city, C., § 53  
Vehicles, 183-17

**SALES, OUTDOOR**

Site plan review, 200-51

**SAND AND GRAVEL MINING**

Bonds, 200-34  
Costs and expenses, 200-34  
Heavy Industrial District, 200-34  
Light Industrial District, 200-34  
Special permits, 200-34  
Zoning, 200-34

**SCHOOLS**

Parking regulations and facilities, 200-30  
Signs, 200-62

See also **NURSERY SCHOOLS**

**SCREENING**

Signs, 200-62

**SECOND ASSISTANT FIRE CHIEF**

Fire Department, 21-6, 21-7  
Powers and duties, 21-5, 21-7  
Salaries and compensation, 21-5  
Terms of office, 21-7

**SECOND ELECTION DISTRICT**

Election district s, 15-2

**SECRETARY OF POLICE  
CIVILIAN INTERNAL AFFAIRS  
REVIEW COMMISSION**

Police-Civilian Internal Affairs Review  
Commission, 39-7

**SEIZURE**

Dogs, 70-4, 70-6

**SENIOR CITIZEN TAX EXEMPTION**

Exemption granted, 169-2  
Taxation, 169-1, 169-2

**SEPTIC TANKS**

Private sewage disposal systems,  
158-9, 158-10  
Sewers, 158-4

**SETBACKS**

Restricted Commercial District, 200-14  
Telecommunications facilities, 175-7  
Zoning, 200-23

**SEWERS**

Artificial lifting of sewage, 158-21  
Backfilling, 158-22  
Building sewers and connections,  
158-13 - 158-26  
City Council, 158-45  
Code Enforcement Officer/ Building  
Inspector, 158-38  
Commissioner of Public Works,  
158-48, 158-49  
Complaints, 158-49  
Connection to public sewer, 158-24  
Costs and expenses, 158-5, 158-15,  
158-32-158-34  
Damaging or tampering with  
sewer, 158-37  
Definitions, 158-1  
Discharge of storm water and unpolluted  
drainage, 158-28  
Discharge of untreated wastes  
prohibited, 158-3  
Discharge to sanitary sewers  
restricted, 158-27  
Disorderly conduct, 158-37  
Elevation, depth and alignment, 158-20  
Enforcement, 158-39- 158-41  
Excavation s, 158-22, 158-26,  
164-1  
Exception, 158-16  
Fees, 158-42- 158-49  
Flammables, 158-29, 158-30  
Flood damage prevention, 111-15  
Garbage, rubbish and refuse, 158-2  
General provisions, 158- 1  
Grease, oil and sand interceptors, 158-30  
Industrial wastes, 158-34  
Inspectors, 158-38  
Investigations, 158-49  
Joint and connection  
specifications, 158-23  
Liability, 158-15  
Liability for expense, loss or  
damage, 158-4 1  
Licenses and permit s, 158-13, 158- 14  
Liens, 158-46  
Manholes, 158-34, 158-35  
Manner of payment, 158-44  
Measurements, tests and analyses, 158-35  
Meters. 158-43  
Notices of connection, 158-25  
Notices of violations, 158-39  
Nuisances, 158-29  
Obstructions. 158-29  
Odors, 158-29  
Old building sewers, use of, 158-17  
Owner to maintain interceptors, 158-31  
Owner to maintain preliminary treatment  
facilities, 158-33  
Payment, 158-46  
Penalties for offenses, 158-37, 158-40,  
158-4 1, 158-44  
Pipe laying, 158-22  
Pipe specifications, 158- 18  
Preliminary treatment, 158-32

Private sewage disposal systems,  
158-6 - 158-12  
Privy, 158-4  
Privy vault, 158-4  
Prohibited discharges, 158-29  
Protection from damage, 158-37  
Radioactive wastes, 158-29  
Right of entry, 158-38  
Separate sewer for each building  
required, 158- 16  
Septic tanks, 158-4

Sewerage service charge, 158-43  
Sewer fund, 158-47  
Size and slope, 158- 19  
Special arrangements, 158-36  
Streets and sidewalks, 164-8 - 164- 11  
Supervision required, 158-25  
Toilet facilities, 158-5  
Toxic substances, 158-29  
Un sanitary deposit of waste p  
rohibited, 158-2  
Wastes subject to review by Department of  
Public Works, 158-32  
Water pollution, 158-3

**SHOTGUN, see FIREARMS,  
EXPLOSIVES AND FIREWORKS**

**SIDEWALKS**

Commissioner of Accounts, 164-10  
Commissioner of Public Works, 164- 10  
Construction material, 164-15  
Costs and expenses, 164- 10  
Dangerous condition s, 164- 14  
Littering, 129-6  
Maintenance, 164- 13  
Notices, 164-10  
Obstructions, 164-12, 164-13  
Penalties for offenses, 164-16  
Garbage, rubbish and refuse, 161-14  
Ordinary waste generation, 161-7  
Penalties for offenses, 161-14,  
Snow and ice removal, 164-13  
Streets and sidewalks, 164-10,  
164- 12- 164-16

**SIGNS**

Accessory structures, 200-62  
Advertising, 200-62  
Amendments, 200-73  
Appeals, 200-71  
Application for permit, 200-64  
Code Enforcement Officer/  
Building Inspector, 200-66  
Cost s and expenses, 200-67, 200-68  
Definitions, 200-61  
Fees, 200-65, 200-66  
General Commercial District, 200-62  
Glare, 200-62  
Handicapped parking, 183-23  
Heavy Industrial District, 200-62  
Height regulations, 200-62  
Home occupation s, 200-62  
Licenses and permits, 200-63- 200-67,  
200-72  
Light Industrial District, 200-62  
Lighting, 200-62  
Maintenance required, 200-67  
Multifamily/ Town house Residential  
District, 200-62  
Nonconforming advertising signs, 200-69  
Notices, 200-62, 200-68

Parking regulations and facilities,  
183-13, 183-18  
Penalties for offenses, 200-65,  
200-67, 200-72  
Political posters, 200-62  
Removal of certain signs, 200-68  
Residential District, 200-62  
Restricted Commercial District,  
200-62  
Restrictions on size, type  
and location, 200-62  
Schools, 200-62

Screening, 200-62  
Snow emergencies, 183-22  
Special permits, 200-62, 200-70  
Telecommunications facilities, 175-7  
Variances, 200-70  
Vehicles and traffic, 183-4  
Zoning, 200-59- 200-73

**SINGLE-FAMILY DWELLINGS**  
Fair housing, 105-6

**SITE PLAN A PPROVAL**  
Zoning, 200-84

**SITE PLAN REVIEW**  
Accessory uses, 200-51  
Action upon approval or disapproval, 200-57  
Appeals, 200-57  
Code Enforcement Officer/ Building Inspector, 200-57  
Comprehensive plan, 200-55  
Concept review/ sketch plan conference, 200-53  
Costs and expenses, 200-55, 200-57  
Documentation required prior to approval, 200-56  
Environmental impact statement, 200-54  
Exceptions, 200-51  
Fees, 200-54  
Guaranties, 200-57  
Hearings, 200-55  
Inspections, 200-57  
Notices, 200-54, 200-55  
Penalties for offenses, 200-58  
ZBA/Planning Commission, 200-49, 200-50, 200-55  
Preliminary site plan, 200-54  
Prior approvals, 200-52  
Projects requiring site plan review, 200-51  
Records, 200-55, 200-56  
Reports, 200-54, 200-56  
Sales, outdoor, 200-51  
Statutory authority, 200-49  
Vacant tenancy/ change of ownership, 200-51

**SIXTH ELECTION DISTRICT**  
Election districts, 15-6

**SKETCH PLAN**  
Site plan review, 200-53

**SMOKE**  
Heavy Industrial District, 200-16  
Light Industrial District, 200-15

**SNOW AND ICE REMOVAL**  
Deposit onto streets prohibited, 164-6  
Penalties for offenses, 164-7  
Sidewalks, 164-13  
Streets and sidewalks, 164-6, 164-7

See also **SNOW EMERGENCIES**  
**SNOW EMERGENCIES** Fees, 183-22  
Parking regulations and facilities, 183-22  
Penalties for offenses, 183-22  
Signs, 183-22  
Towing, 183-22

**SOLICITING, see PEDDLING AND SOLICITING SOLID WASTE**  
Collection, 161-3-161-11  
Contract collectors, 161-17

Dumping, 161-1, 161-2  
Extraordinary waste generation, 161-8  
Fees, 161-8, 161-17  
Garbage, rubbish and refuse, 161-14  
Ordinary waste generation, 161-7  
Penalties for offenses, 161-14, 161-15  
Placement for collection, 161-10  
Preparation for collection, 161-11  
Recycling, 161-3-161-14, 161-18, 161-23  
Registration of contract collectors, 161-17  
Source separation, 161-11  
Storage, 161-9  
Storage of excessive quantities of waste, 161-15  
Transport, 161-16  
Vehicles to be covered, 161-16

**SOLID WASTE RECYCLING COMMITTEE**  
Meetings, 161-22  
Notices, 161-22  
Powers and duties, 161-22

**SPECIAL PERMITS**  
Sand and gravel mining, 200-34  
Signs, 200-62, 200-70

**SPECIAL PERMIT USES**  
Building construction and fire prevention, 80-3  
General Commercial District, 200-13  
Heavy Industrial District, 200-16  
Light Industrial District, 200-15  
Residential District, 200-11  
Restricted Commercial District, 200-14  
Zoning, 200-17-200-21

See also **ACCESSORY USES; NONCONFORMING USES; PERMITTED USES; PROHIBITED USES SPECIAL USE PERMITS, see SPECIAL PERMITS SPEED OF VEHICLES**  
Vehicles and traffic, 183-8

**SPRING GUN, see FIREARMS, EXPLOSIVES AND FIREWORKS STENOGRAPHER/SECRETARY TO THE MAYOR**  
Appointment, 50-1  
Creation of position, 50-1  
Hours, 50-3  
Powers and duties, 50-2  
Salaried employees, 50-1  
Salaries and compensation, 50-3

**STOP INTERSECTIONS**  
Vehicles and traffic, 183-4

**STOP-WORK ORDERS**  
Flood damage prevention, 111-13

**STORAGE**  
Parking regulations and facilities, 183-15  
Recycling, 161-9  
Solid waste, 161-9, 161-15  
Vehicles, removal of, 183-17

**STORAGE OF VEHICLES, see VEHICLES, STORAGE OF STORM WATER MANAGEMENT, EROSION CONTROL**  
158-28. 162-1 through-162-27

**STORMWATER SYSTEM, ILLICIT DISCHARGES, CONNECTONS, 163-1 through 163-18**

**STREET CLOSINGS**  
Parking regulations and facilities, 183-21

**STREET HYDRANT, see HYDRANTS STREETS AND SIDEWALKS**

Alteration of streets, sidewalks and curbs, 164-8- 164-11  
Assessments, 164-9  
Burning, outdoor, 86-5  
Commissioner of Public Works, C., § 13  
Construction of lateral sewers and drains, 164-8-164-11  
Costs and expenses, C., § 31, 164-9  
Definitions, 164-11  
Excavations, 164-1- 164-5  
Notices, C., § 31  
Repaving of streets, 164-11  
Sidewalk construction, 164-10  
Sidewalks, care and upkeep of, 164-12- 164-16  
Snow and ice removal, 164-6, 164-7  
Work performed by city or let by contract, 164-8

**SUBDIVISION OF LAND**  
Flood damage prevention, 111- 14

**SUNDAY GAMES**  
Bingo, 77-2  
Games of chance, 115-3

**SUPERVISOR**  
Board of Supervisors, C., § 66  
Powers and duties, C., § 66  
Salaries and compensation, C., § 66

**SURETY BOND, see BONDS**

**-T-**

**TALLMADGE PARK**  
Bicycles, 144-10  
Concerts or other scheduled events, 144-8  
Designated play areas, 144-7  
Parks and playgrounds, 144-5 - 144-10  
Play hours, 144-5  
Types of play authorized, 144-6  
Vehicles, 144-9

**TAPE RECORDINGS**  
Meetings, 34-2

**TAXATION**  
Apportionment, C., § 43  
Levy Override, C., §84  
Penalties for offenses, C., § 65  
Penalty for unpaid taxes, 169-3- 169-6  
Real property taxes, C., § 44  
Senior citizen tax exemption, 169-1,169-2  
State and county taxes, C., § 65

**TAXICABS**  
Definitions, 172-1  
Designation of stands, 172-3  
Fees, 172-5  
Licenses and permits, 172-2, 172-5, 172-6  
Mayor, 172-3  
Penalties for offenses, 172-6, 172-8  
Posting of rates, 172-7  
Standing at other than taxicab

stand prohibited, 172-4

#### **TAX LEVY**

Override Legislation, C., § 84

#### **TAX LIENS**

Penalty for unpaid taxes, 169-4, 169-5

#### **TEARING UP PAVEMENT, see EXCAVATIONS**

#### **TELECOMMUNICATIONS FACILITIES**

Accessory structures, 175-7

Annual certification, 175-9

Authority, 175-1

Bonds, 175-13

Building permits, 175-4

City Council, 175-4

Definitions, 175-3

Enforcement, 175-14

Fees, 175-5

Hearings, 175-8

Height regulations, 175-7

Information for Assessor, 175-12

Insurance, 175-6

Liability, 175-6

Licenses and permits, 175-2,

175-5-175-7, 175-10, 175-11

Lighting, 175-7

Meetings, 175-4

Noise, 175-7

Notices, 175-7, 175-8

Penalties for offenses, 175-14

Reports, 175-6

Setbacks, 175-7

Signs, 175-7

Visual impact assessment, 175-6

#### **TELECOMMUNICATIONS SITING**

#### **PERMIT, see LICENSES AND PERMITS TELEPHONE BOOKS**

Recycling, 161-11

#### **TERM LIMITS**

Commissioner of Accounts, C., § 7

Commissioner of Finance, C., § 7

Commissioner of Public Safety, C., § 7

Commissioner of Public Works, C., § 7

Mayor, C., § 7

**TERMS OF OFFICE, see specific  
boards, departments, officers, etc.**

#### **TESTS, see MEASUREMENTS, TESTS AND ANALYSES THEATERS**

Parking regulations and facilities, 200-30

#### **THIRD ELECTION DISTRICT**

Election districts, 15-3

#### **THROUGH STREETS**

Vehicles and traffic, 183-4

#### **TOTLET FACILITIES**

Sewers, 158-5

#### **TOPSOIL, REMOVAL OF**

Zoning, 200-33

#### **TORPEDO, see FIREARMS, EXPLOSIVES AND FIREWORKS TOWERS,**

#### **TELECOMMUNICATIONS, see**

#### **TELECOMMUNICATIONS**

#### **FACILITIES TOWING**

Snow emergencies, 183-22

Vehicles, removal of, 183-17

#### **TOXIC SUBSTANCES**

Sewers, 158-29

#### **TREES**

Cutting down without permission  
prohibited, 178-1

Parks and playgrounds, 144-19

Penalties for offenses, 178-2

#### **TRUCKS, see VEHICLES**

#### **-U-**

#### **UNITED STATES GEOLOGICAL**

#### **SURVEY MAP**

Zoning, 200-38

#### **UNSAFE BUILDINGS, see**

#### **BUILDINGS, UNSAFE**

#### **UTILITIES**

Flood damage prevention, 111-15

#### **-V-**

#### **VACANT TENANCY/CHANGE OF OWNERSHIP**

Site plan review, 200-51

#### **VARIANCES**

Building construction and fire

prevention, 80-3

Flood damage prevention, 111-20

Signs, 200-70

Zoning, 200-86

#### **VEGETATION, see LEAVES**

#### **AND VEGETATION VEHICLES**

Littering, 129-2, 129-3

Noise, 136-3

Solid waste, 161-16

Tallmadge Park, 144-9

See also **EMERGENCY VEHICLES**

#### **VEHICLES, ABANDONED**

Vehicles, storage of, 189-1

#### **VEHICLES AND TRAFFIC**

Adoption of statutory provisions,

183-2

Definitions, 183-3, 183-4, 183-6

Emergency parking restrictions,

183-20 – 183-22

General provisions, 183-1, 183-2

Handicapped parking, 183-23, 183-24

One-way streets, 183-7

Parking regulations and facilities,

183-11 – 183-24

Penalties for offenses, 183-5, 183-10,

183-21, 183-27

Reverse turns prohibited, 183-9

Speed of vehicles, 183-8

Stop intersection s, 183-4

Through streets, 183-4

Traffic signs, location of, 183-4

Vehicle weight limits, 183-25-183-27

#### **VEHICLES, PLAY**

Definitions, 186-1 Interpretation, 186-3

Parent/guardian responsibility, 186-3

Penalties for offenses, 186-3, 186-4

Riding prohibited in certain areas, 186-2

Traffic, infraction, 186-3

#### **VEHICLES, RECREATIONAL**

Areas of special flood hazard, 111-18

Flood damage prevention, 111-14, 111-18

#### **VEHICLES, REMOVAL OF**

Certificates of sale, 183-17

Costs and expenses, 183-17

Definitions, 183-17

Impoundment, 183-17

Liens, 183-17

Nuisances, 183-17

Parking regulations and facilities, 183-17

Penalties for offenses, 183-17

Sale of vehicles, 183-17

Storage, 183-17

Towing, 183-17

#### **VEHICLES, STORAGE OF**

Code Enforcement Officer/ Building

Inspector, 189-4

Costs and expenses, 189-4

Notices, 189-4

Penalties for offenses, 189-4, 189-5

Removal procedures, 189-4

Unregistered vehicles in

commercial/industrial districts, 189-3

Unregistered vehicles in residential

districts, 189-2

Vehicles, abandoned, 189-1

#### **VEHICLE WEIGHT LIMITS**

Residentially zoned areas, 183-25

Restricted hours, 183-26

Vehicles and traffic, 183-25-183-27

#### **VIDRATION**

Heavy Industrial District, 200-16

#### **VICE CHAIR OF POLICE- CIVILIAN**

#### **INTERNAL AFFAIRS REVIEW**

#### **COMMISSION**

Police-Civilian Internal Affairs

Review Commission, 39-7

#### **VIOLATIONS, see PENALTIES**

#### **FOR OFFENSES VISUAL**

#### **IMPACT ASSESSMENT**

Telecommunications facilities, 175-6

#### **-W-**

**WAGES, see specific boards,  
departments, officers, etc.**

#### **WARRANTS**

Curfew, 91-3

Dogs, 70-7

#### **WATER**

Bills, 194-18

Change of pressure, 194-12

Commissioner of Accounts, 194-17

Compliance required, 194- 1  
 Costs and expenses, C., § 30, 194-4,  
 194-8, 194-9, 194- 11, 194-15  
 Cross-connections, 194-26  
 Disturbing valve box, 194-25  
 Duty of Property Owners C., §25  
 Excavations, 164-1  
 Failure to have repairs made, 194-22  
 Fees, C., § 71, 194- 14, 194-19 -  
 194-2 1, 194-28  
 Hydrants, 194-14,194-23,194-24  
 Inspections, 194-10  
 Improvements, C., §26  
 Liability, 194-6,194- 11  
 Licenses and permits, 194-2,  
 194-13, 194- 14  
 Liens, C., § 71, 194-28  
 Maintenance of service pipe, 194-8  
 Meters, C.,§ 71, 194-4, 194-5,  
 194-15, 194-18, 194-19, 194-28  
 Notices, 194- 11, 194-20  
 Number of services, 194-7  
 Obstructions, 194-25  
 Payment for tapping mains and  
 supplying meters, 194-4  
 Payment of water bills, default in, 194-20  
 Penalties for offenses, C., § 71, 194-3,  
 194- 1 1, 194-21, 194-25, 194-27  
 Protection from freezing, 194-9  
 Right of entry, 194-10  
 Seals, 194- 16  
 Shutting off water, 194-11  
 Special Tax Credits, C., § 28  
 Steam boilers, 194-6  
 Stop and waste cock, 194-5  
 Supply to service outside city, 194-13  
 Tapping mains or distribution pipes, 194-3  
 Temporary supply, 194- 14  
 Tests, 194-17  
 Water Department, 194-10

#### **WATER DEPARTMENT**

Powers and duties, 194- 100  
 Water, 194-10

#### **WATER POLLUTION**

Sewers, 158-3

#### **WATER RATES, see FEES**

#### **WEAPONS, see FIREARMS,**

#### **EXPLOSIVES AND FIRE- WORKS**

#### **WHITE GOODS**

Recycling, 161-11

#### **-Y-**

#### **YARDWASTE**

Recycling, 161-11

#### **-Z-**

#### **ZONING**

Accessory structures, 200-23  
 Access to improved street, 200-26  
 Administration, 200-80, 200- 88  
 Adult entertainment, 62-6  
 Amendments, 200-89, 200-91  
 Appeals, 200-71  
 Areas below fifty-five-foot  
 contour line, 200-38  
 Area, yard and bulk regulations,  
 200-23- 200-25, 200-27, 200-37

Authority, 200-89  
 Building permits, 200-24, 200-43, 200-81  
 Buildings, unsafe, 200-40  
 Business access through residence  
 district, 200-36  
 Certificates of occupancy, 200-82  
 Change of use, 200-46  
 Code Enforcement Officer/  
 Building Inspector, 200-80  
 Courts, 200-29  
 Definitions, 200-6  
 Displacement of conforming use, 200-47  
 District changes, 200-48  
 District regulations, 200-10- 200-16  
 Emergency vehicles, 200-26  
 Enforcement, 200-80  
 Establishment of districts, 200-7- 200-9  
 Fences, 200-74 - 200-79  
 General Commercial District, 200-13,  
 200-21,200 -23, 200-32, 200-36  
 General provisions, 200-3, 200-10,  
 200-17  
 Hearings, 200-85  
 Heavy Industrial District, 200-16,  
 200-21, 200-23, 200-32, 200-36  
 Height regulations, 200-20, 200-28  
 Initiation, 200-90  
 Interpretation, 200-3  
 Interpretation of district  
 boundaries, 200-9  
 Junkyards, 200-20  
 Light Industrial District, 200-15,  
 200-21, 200-23,200-32, 200-36





