

PART II GENERAL LEGISLATION

Chapter 45, ADULT USE AND ENTERTAINMENT ESTABLISHMENTS

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 4-21-2003 by L.L. No. 2-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning -- See Ch. 160.

§ 45-1. Title.

This chapter shall be known as the "Adult Use and Entertainment Establishments Regulation Law" of the Village of Cobleskill and shall amend the Zoning Code of the Village.

§ 45-2. Legislative intent.

It is the purpose of this chapter to regulate the creation, opening, commencement and/or operation of adult use and entertainment establishments, as herein defined, in order to achieve the following:

- A. To preserve the character and the quality of life in the Village of Cobleskill.
- B. To control harmful and adverse secondary effects of adult uses, documented in the Village of Cobleskill Adult Entertainment Secondary Effects Study, on the surrounding areas such as decreased property values, parking and traffic problems, increased crime, excess noise, litter and loitering.
- C. To restrict minors' access to adult uses.
- D. To maintain the general welfare and safety for the Village of Cobleskill residents.

§ 45-3. Definitions.

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

ADULT USE AND ENTERTAINMENT ESTABLISHMENTS -- A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age, and are those businesses defined as follows:

- A. ADULT ARCADE -- Any place to which the public is permitted or invited wherein

coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices which are regularly used to show films, motion pictures, videocassettes, slides, or other photographic reproductions, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

B. ADULT BOOKSTORE or ADULT VIDEO STORE --

- (1) A commercial establishment that has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its interior business advertising from the sale or rental for any form of consideration any one or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - (b) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- (2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, principal business purpose shall mean 25% or more of any of the following:
 - (a) The number of different titles or kinds of such merchandise;
 - (b) The number of copies or pieces of such merchandise;
 - (c) The amount of floor space devoted to the sale and/or display of such merchandise; or
 - (d) The amount of advertising that is devoted to such merchandise, either in print or broadcast media.

C. ADULT CABARET -- A nightclub, bar, nonalcoholic or juice bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. ADULT MOTEL -- A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or

- specified anatomical areas; and which advertises the availability of sexually oriented type of material by means of a sign visible from the public right-of-way or by means of off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television;
- (2) Offers sleeping rooms for rent on a regular basis for a period of time that is less than 10 hours; or
 - (3) Allows a tenant or occupant of a room to subrent the room for a period of time that is less than 10 hours.
- E. **ADULT MOTION PICTURE THEATER** -- A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. **ADULT THEATER** -- A theater, concert hall, auditorium or similar commercial establishment which for any form of consideration, features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- G. **MASSAGE PARLOR** -- Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any such person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of "adult use" shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.
- H. **NUDE MODEL STUDIO** -- Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.
- I. **SEXUAL ENCOUNTER CENTER** -- A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or exposure of specified anatomical areas, or activities between persons when one or more of the persons is in a state of nudity or seminude.
- MINOR** -- A person less than 18 years of age.
- NUDITY OR STATE OF NUDITY** -- The appearance of specified anatomical areas.
- PERSON** -- An individual, proprietorship, partnership, corporation, association, or other legal entity.
- REGULARLY** -- More than once annually.
- SEMINUDE** -- A state of dress in which clothing covers no more than the specified anatomical area, as well as portions of the body covered by supporting straps or devices.
- SPECIFIED ANATOMICAL AREAS**
- A. Unless completely and opaquely covered, human genitals, pubic region, buttocks, or female breasts below a point immediately above the top of the areola; and

B. Even if completely and opaquely covered, male genitals in a discernibly turgid state.
SPECIFIED SEXUAL ACTIVITY -- Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions.

§ 45-4. Allowed zoning districts.

All adult use and entertainment establishments as defined herein may only be created, opened, commenced or operated within the Highway-Business (HB) Zoning District and Industrial (I-1) Zoning District within the Village of Cobleskill by special use permit issued by the Planning Board. All adult use and entertainment establishments shall obtain site plan approval from the Planning Board in accordance with Chapter 160, Article VII of the Zoning Law.

§ 45-5. Location within allowed zoning districts.

- A. An adult use and entertainment establishment shall be allowed after issuance of a special permit and approved site plan only in the allowed zoning districts set forth in § 45-4 hereof, and, within such district, shall have minimum area requirements as described in Chapter 160, Article IV, § 160-13B of the Zoning Law, and the structure the adult use is located in and any accessory use/structure shall not be allowed:
 - (1) Within 100 feet of the property line of a parcel used for residential purposes in the Village;
 - (2) Within 750 feet of the property line of a parcel containing a church, synagogue, other place of worship, active cemetery, library, school, licensed day-care facility, park, playground, government facility commonly visited by the public (i.e., post office, Village office, state/federal/county office), nursing home, adult home, or hospital, whether or not such use is located in the Village;
 - (3) On the same parcel as another adult use and entertainment establishment; or
 - (4) Within 750 feet of the property line of another adult use and entertainment establishment, whether or not such use is located in the Village.
- B. The above distances of separation shall be measured from the nearest exterior wall or corner of the structure containing the adult use and entertainment establishment.

§ 45-6. Standards appropriate to special use permit and site plan for adult use and entertainment establishments.

The Village of Cobleskill intends to protect the scenic beauty of the Village and the value of property in the Village. Therefore, adult use and entertainment establishments shall meet all applicable requirements in the Village of Cobleskill Zoning Law and shall be designed to be as least intrusive as possible by using the following additional standards:

- A. Such use and parking area shall be adequately fenced and/or buffered (landscaping/berms) for screening from any adjacent property, and lighting shall be

directed away from adjacent property and public highways.

- B. Parking shall be located in the side or rear yard, and no parking space may be located less than 50 feet from any property line.
- C. Any structure containing the adult use and entertainment establishment and any accessory structure shall have a residential appearance similar to existing dwelling units (excluding mobile homes) in the Village of Cobleskill. Building design shall avoid areas of blank wall sections and windows or one-way windows shall comply with § 45-7. Display prohibited.

§ 45-7. Display prohibited.

All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any specified anatomical area or specified sexual activity.

§ 45-8. Existing adult use and entertainment establishments.

Any adult use and entertainment establishment as defined herein operating at the time of the effective date of this chapter shall cease all activity that defines it as an adult use and entertainment establishment within 30 days of the effective date of this chapter. Any owner of an adult use and entertainment establishment as defined herein operating at the time of the effective date of this chapter in which the principal business purpose involves activities which depict or describe specified sexual activities or specified anatomical areas and discontinuance of such activity within 30 days would constitute a significant financial burden, can apply to the Zoning Board of Appeals for a one-time extension of the use for a period not to exceed eight months. For purposes of this provision, "principal business purpose" shall mean 25% or more of any of the following:

- A. The number of different titles or kinds of such merchandise;
- B. The number of copies or pieces of such merchandise;
- C. The amount of floor space devoted to the sale and/or display of such merchandise; or
- D. The amount of advertising that is devoted to such merchandise, either in print or broadcast media.

§ 45-9. Penalties for offenses.

- A. Any person, firm, corporation or entity found to be violating any provisions of this chapter shall be served with a written notice by the Code Enforcement Officer or his/her designee, stating the nature of the violation and providing for immediate correction thereof. Such notice shall be served by one of the following methods:
 - (1) By personal service;
 - (2) By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Cobleskill; or
 - (3) By posting of such notice in a conspicuous place upon the premises affected, and a copy thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Cobleskill.

- B. Any person, firm, corporation or entity that shall violate any portion of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$500 for each violation. The continuation of a violation of the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.
- C. The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.
- D. Any person, firm, corporation or entity violating any of the provisions of this chapter shall become liable to the Village for any expense or loss or damage occasioned the Village by reason of such violation.
- E. The imposition of penalties herein prescribed shall not preclude the Village or any person from instituting appropriate legal action or proceedings to prevent a violation of this chapter, or to restrain or enjoin the use or occupancy of a building, premises or part thereof in violation of this chapter.

Chapter 48, ALCOHOLIC BEVERAGES

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill: Art. I, 8-15-1983 as L.L. No. 1-1983. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation -- See Ch. 104.

ARTICLE I, Open Containers [Adopted 8-15-1983 as L.L. No. 1-1983]

§ 48-1. Legislative intent.

It is the intent of the Village of Cobleskill as an exercise of its police power to promote the general health, safety and welfare of the residents of the village by enacting this Article since it is the finding of the Board of Trustees that the possession of open containers of alcoholic beverages by persons on public lands, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the village in that such possession contributes to the development of unsanitary conditions and the creation of nuisances. It is further the intent of the Board of Trustees of the Village of Cobleskill that this Article not be considered as a traffic regulation insofar as it relates to motor vehicles or the operation thereof.

§ 48-2. Definitions.

For the purpose of this Article, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.
ALCOHOLIC BEVERAGE -- Includes alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable

of being consumed by a human being.

CONTAINER -- Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

PUBLIC LANDS -- Any highway, street, sidewalk, park, playground or public parking lot.

VILLAGE -- The Incorporated Village of Cobleskill.

§ 48-3. Prohibited acts.

No person shall have in his possession any open container containing an alcoholic beverage on any public land within the village with the intent of the possessor or another to consume the alcoholic beverage on any public lands.

§ 48-4. Presumption.

It shall be presumed that anyone possessing an open container on any public land shall intend to consume the alcoholic beverage on public lands.

§ 48-5. Exceptions. [Amended 8-19-1996 by L.L. No. 6-1996]

The foregoing prohibition shall not apply:

- A. In the event of a fair, picnic or other community gathering for which special permission has been granted by the village.
- B. In the event of a sidewalk cafe in conformance with the provisions of Village Code Chapter 160, Zoning.

§ 48-6. Applicability.

This Article shall apply to all persons on public lands in the village except as provided in § 48-5 above but shall not apply to any person drinking an alcoholic beverage while operating a motor vehicle upon any public highway within the village in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

§ 48-7. Penalties for offenses. [Amended 3-18-1996 by L.L. No. 2-1996]

Each violation of this Article shall be punishable by a fine as set forth in Chapter 1, General Provisions, Article II, General Penalty. A violation of this Article shall constitute disorderly conduct, and any person violating the same shall be declared a disorderly person.

Chapter 52, ANIMALS

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill: Art. I, 5-9-1938; Art. II, 6-2-1975 as L.L. No. 2-1975; Art. III, 9-19-1994 as L.L. No. 4-1994. Amendments noted where applicable.]

ARTICLE I, Swine [Adopted 5-9-1938]

§ 52-1. Keeping of swine prohibited.

No person or persons or corporation shall keep or maintain live swine in any enclosure, buildings, place or pen, within the corporate limits of the Village of Cobleskill, New York.

§ 52-2. Penalties for offenses. ^{1EN}

Any person violating this Article shall forfeit and pay a penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty; and in addition to the penalty imposed for the violation of said Article, it is hereby ordained that a violation thereof shall constitute disorderly conduct and the person violating the same shall be a disorderly person.

ARTICLE II, Dogs [Adopted 6-2-1975 as L.L. No. 2-1975]

§ 52-3. Purposes.

The purposes of this Article are to promote the public welfare and for the preservation and protection of the persons and the property of the inhabitants of the village by enacting regulations and restrictions on the activities of dogs within the village limits.

§ 52-4. Definitions.

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

CLERK -- The duly appointed Village Clerk.

CODES ENFORCEMENT OFFICER -- The Dog Control Officer, a police officer, a peace officer or any person authorized by the Village Board of Trustees to act in connection with the enforcement of this Article. ^{2EN}

DOG -- Any animal of the canine species, male or female, of any age, licensed or unlicensed.

OWNER -- Any person who has licensed a dog, owns a dog, harbors or is keeping or has custody or control of any dog.

§ 52-5. Running at large.

- A. It shall be unlawful and a violation of this Article for any person owning or having charge, care, custody or control of any dog to permit such dog to be upon any private property without the permission of the occupant of such private property except for the property occupied by the owner or person having charge, care, custody or control of such dog.
- B. It shall be unlawful and a violation of this Article for any person owning or having charge, care, custody or control of any dog to permit such dog to be upon any public

property unless such dog is confined in a vehicle or restrained by a chain or leash not exceeding eight (8) feet in length and in charge of a person of sufficient ability to control such dog effectively.

§ 52-6. Barking.

It shall be unlawful and a violation of this Article for any person to keep or permit to be kept on any premises owned or occupied in whole or in part by such person within the village any dog which by its habitual barking, howling or whining shall disturb or annoy other persons. Any dog which barks, howls or whines for prolonged periods of time, daily or for more than two (2) days shall be deemed to be habitually barking.

§ 52-7. Littering. ^{3EN}

It shall be unlawful and a violation of this Article for any person owning, having charge, care, custody or control of any dog which may be on public property to fail to clean up any dog litter or excrement deposited by such dog as soon as is practical and to dispose of the same properly.

§ 52-8. Seizure; redemption.

- A. Every dog seized shall be properly fed and cared for at the expense of the village.
- B. If the dog seized has a proper license tag, the Codes Enforcement Officer shall ascertain the owner of the dog and shall give notice by serving personally such owner or a member of his family who is at least eighteen (18) years of age with a notice, in writing, stating that the dog has been seized and will be destroyed or sold unless redeemed within the period of time provided for herein.
- C. The owner of a dog seized may redeem the dog within seven (7) days, except that the owner of a licensed dog may redeem the dog within twelve (12) days by paying to the Codes Enforcement Officer or Clerk the sum of two dollars (\$2.) as the cost of the seizure. The owner of an unlicensed dog must also exhibit a proper license in order to redeem such dog.
- D. If any dog is not redeemed as provided for herein, the owner shall forfeit all title to the dog, and the dog shall be sold or destroyed by the Codes Enforcement Officer. In the case of sale, the purchaser must pay the purchase price to the Codes Enforcement Officer or Clerk.
- E. The redemption of any dog shall have no bearing upon the prosecution for a violation hereunder.

§ 52-9. Authorization to contract. ^{4EN}

The Village of Cobleskill is hereby authorized to contract with the Town of Cobleskill for furnishing services for the seizing, impounding and destroying of dogs under this Article and to contract with any individuals to serve as Dog Control Officers or enforcement officers.

§ 52-10. Complaints.

Complaints of the violation of any of the provisions of this Article shall be made on forms provided by the village and sworn to by the complainant before a notary public, the Village Clerk or any official authorized to take acknowledgments.

§ 52-11. Penalties for offenses. ^{5EN}

Unless as otherwise provided for in Article 7 of the Agriculture and Markets Law, any person found guilty of violating this Article or any part thereof shall be subject to a penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty; such violation may also be found by the court to be a violation of the Penal Law of the State of New York and be subject to such fine and imprisonment as provided for therein.

§ 52-12. Exemptions.

This Article shall not apply to any dogs owned by a nonresident while passing through the village.

ARTICLE III, Defecation by Dogs [Adopted 9-19-1994 as L.L. No. 4-1994]

§ 52-13. Prohibited acts.

It shall be unlawful for any dog owner or person having possession, custody or control of any dog to allow such dog to defecate on public or private property unless each dog owner or person having possession, custody or control of such dog immediately removes any feces left by his dog on any sidewalk, gutter, street, grassy area between the street and the sidewalk, park, schoolyard or other public or private property and to dispose of same in a safe and sanitary manner.

§ 52-14. Penalties for offenses. ^{6EN}

Any violation of this Article shall constitute a violation punishable by a fine or a civil penalty as set forth in Chapter 1, General Provisions, Article II, General Penalty. For the purposes of enforcing the provisions of this Article, appearance tickets may be issued by police officers and Dog Control Officers.

§ 52-15. Exceptions.

The provisions of this Article shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability, as defined in Subdivision 21 of § 292 of the Executive Law.

**Chapter 58, BUILDING CODES ADMINISTRATION; FIRE LANES;
RENTAL PROPERTY**

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill as indicated in

article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings -- See Ch. 62.
Flood damage prevention -- See Ch. 83.
Historic District and landmarks -- See Ch. 90.
Subdivision of land -- See Ch. 135.
Zoning -- See Ch. 160.

ARTICLE I, Building Codes Administration [Adopted 12-19-2006 by L.L. No. 4-2006]

§ 58-1 Purpose and intent.

This article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Village. This article is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this article, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this article.

§ 58-2 Definitions.

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

BUILDING PERMIT -- A permit issued pursuant to § 58-4 of this article. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this article.

CERTIFICATE OF OCCUPANCY -- A certificate issued pursuant to § 58-7B of this article.

CODE ENFORCEMENT OFFICER -- The Code Enforcement Officer appointed pursuant to § 58-3B of this article.

CODE ENFORCEMENT PERSONNEL -- Shall include the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER -- An order issued by the Code Enforcement Officer pursuant to § 58-9.6A of this article.

ENERGY CODE -- The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR -- An inspector appointed pursuant to § 58-3D of this article.

OPERATING PERMIT -- A permit issued pursuant to § 58-9.1 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

PERMIT HOLDER -- The person to whom a building permit has been issued.

PERSON -- Shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER -- An order issued pursuant to § 58-6 of this article.

TEMPORARY CERTIFICATE -- A certificate issued pursuant to § 58-7D of this article.

UNIFORM CODE -- The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

VILLAGE -- The Village of Cobleskill.

§ 58-3 Code Enforcement Officer and inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this article. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, temporary certificates and operating permits and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy, temporary certificates and operating permits and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of occupancy, temporary certificates and operating permits; firesafety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this article;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to Subsection A of § 58-9.6, Enforcement; penalties for offenses, of this article;
 - (7) To maintain records;
 - (8) To collect fees as set by the Board of Trustees of this Village;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.
- B. The Code Enforcement Officer shall be appointed by the Board of Trustees of this Village. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Board of Trustees of this Village to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.
- D. One or more inspectors may be appointed by the Board of Trustees of this Village to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Board of Trustees of this Village.

§ 58-4 Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure, or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
 - (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided that the gross floor area does not exceed 144 square feet (13.88 square meters);
 - (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above the ground;
 - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion picture, television and theater stage sets and scenery;
 - (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (8) Installation of partitions or movable cases less than five feet nine inches in

- height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment, provided that the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire-protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
 - (1) A description of the proposed work;
 - (2) The Tax Map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any affected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (5) Documentation of compliance with the Zoning Code of the Village of Cobleskill;^{7EN} and
 - (6) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

- (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(6) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and the Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and the Energy Code and with the Zoning Code^{8EN} of the Village of Cobleskill.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information or that the work for which a building permit was issued violates the Uniform Code or the Energy Code or the Zoning Code of the Village of Cobleskill, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
 - (1) All work then completed is in compliance with all applicable provisions of the

Uniform Code and the Energy Code and the Zoning Law of the Village of Cobleskill; and

- (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 58-9.7, Fees, of this article must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

§ 58-5 Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
 - (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or the Energy Code. Work not in compliance with any applicable provision of the Uniform Code or the Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 58-9.7, Fees, of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 58-5.1 Property maintenance inspections. [Added 12-21-2007 by L.L. No. 16-2007]

- A. The Code Enforcement Officer is authorized to conduct property maintenance inspections as provided in § 58-9.2 of this article.
- B. General regulations for property maintenance.
 - (1) All premises, public and private, including the yards, open areas, buildings and structures thereon, shall be maintained in such a manner as to protect the public

- health, safety and welfare, to preserve property values, to maintain and improve the value and economic health of residential, commercial and industrial properties and to prevent and/or eliminate nuisances or hazardous conditions.
- (2) Snow and ice removal. All sidewalks, walkways and steps used by the public shall be cleaned of snow and ice within 24 hours of cessation of any snowfall. Snow and ice removed shall not be deposited in or on public streets or sidewalks so as to cause injury or to prevent the safe circulation of pedestrian and/or vehicular traffic.
 - (3) Refuse, rubbish and garbage.
 - (a) Refuse, rubbish, garbage or other debris shall not be permitted to accumulate in or around any building, structure or yard or elsewhere on any premises in a manner that would interfere with the public health, safety or welfare or cause a nuisance.
 - (b) No refuse, rubbish or garbage shall be stored outside any building or structure unless enclosed in suitable containers sufficient to prevent access by dogs, cats, rodents or other animals or vermin.
 - (c) No container for storage of refuse, rubbish or garbage shall be located so that it is visible from a public street or sidewalk, except temporary dumpsters used for the containment of construction or demolition debris and removed immediately upon completion of work.
 - (d) Refuse, rubbish, garbage and recyclables may only be placed out on scheduled days of pickup; this includes the evening prior to the day of pickup. Containers must be placed at curbside no later than 5:30 a.m. the day of pickup, and no sooner than 5:00 p.m. the evening prior to the day of pickup, and shall be sufficient to prevent access by dogs, cats, rodents or other animals or vermin and shall not be placed so that vehicular or pedestrian traffic is obstructed. Containers must be removed from curbside within 24 hours of service.
 - (4) Yard maintenance. Where the Code Enforcement Officer has found a property within the Village in violation of the NYS Uniform Fire Prevention and Building Code relative to yard maintenance, such violation shall be remedied within 24 hours.

§ 58-6 Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
 - (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or the Energy Code or the Village of Cobleskill Zoning Law,^{9EN} without regard to whether such work is or is not work for which a building permit is required and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required and without regard to whether a building permit has or has not been issued for such work; or

- (3) Any work for which a building permit is required which is being performed without the required building permit or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. stop-work orders shall:
 - (1) Be in writing;
 - (2) Be dated and signed by the Code Enforcement Officer;
 - (3) State the reason or reasons for issuance; and
 - (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 58-9.6, Enforcement; penalties for offenses, of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 58-7 Certificates of occupancy.

- A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures or buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy.
- B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and the Energy Code and the Zoning Law^{10EN} of the Village of Cobleskill and any site plan approval and/or variance issued thereunder and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and the Energy Code and the Zoning Law of the Village of Cobleskill and any

site plan approval and/or variance issued thereunder. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections, and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy. A certificate of occupancy shall contain the following information:
- (1) The building permit number, if any;
 - (2) The date of issuance of the building permit, if any;
 - (3) The name, address and Tax Map number of the property;
 - (4) If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (9) Any special conditions imposed in connection with the issuance of the building permit; and
 - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines 1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely; 2) that any fire- and smoke-detecting or fire-protection equipment which has been installed is operational; and 3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code and the Zoning Law^{11EN} of the Village of Cobleskill and any site plan approval or variance issued thereunder.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 58-9.7, Fees, of this article must be paid at the time of submission of an application for a certificate of occupancy or for a temporary certificate.

§ 58-8 Notification regarding fire or explosion.

The Chief of any fire department providing fire-fighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 58-9 Unsafe buildings and structures.

Unsafe structures and equipment in this Village shall be identified and addressed in accordance with the procedures established by Local Law No. 9 of 1984, as now in effect or as hereafter amended from time to time.^{12EN}

§ 58-9.1 Operating permits.

- A. Operating permits required.
 - (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;
 - (b) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of Trustees of this Village.
 - (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer

that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 58-9.7, Fees, of this article must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 58-9.2 Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
 - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code

Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon 1) the request of the owner of the property to be inspected or an authorized agent of such owner; 2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or the Energy Code or the Zoning Law^{13EN} of the Village of Cobleskill exist; or 3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or the Energy Code or the Zoning Law of the Village of Cobleskill exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

- C. OFPC Inspections. Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 58-9.7, Fees, of this article must be paid prior to or at the time of each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 58-9.3 Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this article, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code or the Zoning Law of the Village of Cobleskill. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 58-9.6, Enforcement; penalties for offenses, of this article;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 58-9.4 Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:

- (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All Zoning Permits, building permits, Certificates of Zoning Compliance, certificates of occupancy, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by § 58-4 through 58-9.3, inclusive, of this article; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 58-9.5 Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the Board of Trustees of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 58-9.4, Recordkeeping, of this article and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

§ 58-9.6 Enforcement; penalties for offenses.

- A. Compliance orders.
- (1) The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this article. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall:
 - (a) Be in writing;
 - (b) Be dated and signed by the Code Enforcement Officer;
 - (c) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this article;
 - (d) Specify the provision or provisions of the Uniform Code, the Energy Code,

- or this article which is/are violated by the specified condition or activity;
 - (e) Specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
 - (f) Direct that compliance be achieved within the specified period of time; and
 - (g) State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
- (2) The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.
- (3) In the event that a violation of § 58-5.1, Property maintenance inspections, is not remedied within the time period specified in such section of the code, the Village of Cobleskill may cause the appropriate work, repair or correction to be made or done, and the expense thereby incurred shall be a lien upon the property where the violation existed, and the amount so assessed and levied shall be collected in the same manner as Village taxes. [Added 12-21-2007 by L.L. No. 16-2007]
- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this article, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Village.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Mayor

of this Village.

- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 58-6, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 58-6, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 58-9.7 Fees.

A fee schedule shall be established by resolution of the Board of Trustees of this Village.^{14EN} Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications; the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, temporary certificates, operating permits; firesafety and property maintenance inspections; and other actions of the Code Enforcement Officer described in or contemplated by this article.

§ 58-9.8 Intermunicipal agreements.

The Board of Trustees of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this article, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

ARTICLE II, Fire Lanes [Adopted 1-4-2005 by L.L. No. 1-2005]

§ 58-10 Fire lanes.

- A. Designation. The designation and maintenance of fire lanes shall be established as specified by the Code Enforcement Official.
- B. Authority. The Code Enforcement Official shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations or safety.

- (1) More restrictive provisions for specific fire lanes may be proposed in writing by the Fire Chief, when, in his opinion, such designation is necessary to protect and preserve property and/or life in the event of a fire. The Code Enforcement Officer shall have the final authority on requiring the more restrictive provisions, and shall notify the Fire Chief in writing of the final determination.
- C. Dimensions. Fire lanes shall be in compliance with § F503.2.1 of the New York State Uniform Fire Prevention and Building Code, which requires an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet six inches.
- D. Marking. All fire lanes shall be marked with signs or other approved notices to identify such lanes or prohibit the obstruction thereof. Property owners shall be responsible for maintaining signs in a clean and legible condition at all times and shall replace or repair when necessary to provide adequate visibility.
 - (1) Signs shall be a minimum of 12 inches wide by 18 inches high, mounted securely to a building or signpost between the height of four feet and eight feet to the center of the sign. Signage shall be posted within five feet of the end of a fire lane and at a minimum of fifty-foot increments.
 - (2) Paved fire lanes shall be clearly marked on the pavement with white diagonal lines and the words "FIRE LANE -- NO PARKING" stenciled in red letters not less than three feet in height.
- E. Obstruction prohibited. Fire lanes shall not be obstructed in any manner. The minimum widths and clearances established in § F503 of the New York State Uniform Fire Prevention and Building Code shall be maintained at all times. Fire lanes shall be maintained free of all obstructions at all times.
 - (1) No motor vehicle shall park, stand, or otherwise be allowed to remain in an established fire lane.
 - (2) It shall be a violation of this section to park motor vehicles on or otherwise obstruct any fire lane or emergency access road.
- F. Snow removal. Fire lanes shall be cleared of snow within three hours of cessation of snow and at no point shall more than eight inches of snow be permitted to accumulate in a fire lane.
- G. Private property. Fire lanes on private property shall be subject to the fire lane regulations, as stated above and provided for in the New York State Uniform Fire Prevention and Building Code.
- H. Enforcement. See § 148-15 of the Code of the Village of Cobleskill.

ARTICLE III, Rental Property [Adopted 7-15-2008 by L.L. No. 6-2008]

§ 58-11 Purpose.

The Village of Cobleskill hereby establishes a program for the enactment, enforcement and administration for the purpose of periodic registration of all rental units within the boundaries of the Village of Cobleskill. Landlords and rental property owners are therefore required to furnish emergency contact information and maintain an inventory of available rental housing.

§ 58-12 Definitions.

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

ABSENTEE LANDLORD -- Any landlord who resides outside the designated boundaries of the Village of Cobleskill as those boundaries may be defined at the time of regular, periodic property registration.

HOUSING OR DWELLING UNIT -- Any single unit which is capable of housing one separate household, whether a detached single-family structure or building or part of a multihousehold structure or building.

IMMEDIATE FAMILY -- The "immediate family" of the owner of a housing unit consists of the owner's spouse, children, parents, grandparents or grandchildren.

LANDLORD -- Any property owner or designated agent who offers a housing unit for occupancy to persons other than members of his immediate family in exchange for a fee or compensation, whether monetary or otherwise.

RENTAL PROPERTY -- Any housing unit, commercial space or units which are occupied by persons other than the owner or his immediate family or for which a fee or compensation, monetary or otherwise, is received by the owner in exchange for such occupation.

RESIDENT AGENT -- A representative of a property owner or landlord who resides within the designated boundaries of the Village of Cobleskill as defined at the time of periodic property registration.

§ 58-13 General requirements.

- A. All landlords must initially register with the Village of Cobleskill on or before December 31 in the year this article becomes law. Upon adoption of this article, initial registration will begin as soon as practicable after this article is effective. It is the responsibility of the property owner to register any rental property or properties, and failure to do so constitutes a violation of these regulations and is subject to the penalties set forth herein.
- B. All absentee landlords must have an emergency contact person for each rental property.
- C. Should the property change ownership at any time, the new owner of the registered dwelling shall re-register the dwelling within 60 days of assuming ownership.

§ 58-14 Registration procedure.

- A. Properties shall be registered on a form provided by the Village of Cobleskill Village Code Enforcement Officer and signed by each owner or managing agent of the property being registered. The following documentation shall be provided by the owner or managing agent at the time of registration:
 - (1) Proof of ownership of the property (copy of the deed);
 - (2) Proof of residency of each owner;
 - (3) A certification in a form acceptable to the Village Code Enforcement Officer by each property owner or managing agent attesting to the total number of persons legally allowed to occupy each rental property owned or managed by such person within the Village as of the date of registration; and/or modified within

this Code.

- B. At the time of registration, all absentee landlords are required to designate a resident agent for service of process of a violation of this article. If that resident agent's residence should be removed from the Village of Cobleskill during the yearly registration period, another agent must be designated for the duration of that period. Service of an appearance ticket as defined in the New York State Criminal Procedure Law upon said agent shall constitute good and sufficient service as if the landlord had been served themselves within the Village of Cobleskill or Schoharie County. No landlord who designates an agent pursuant to the provisions of this article may assert the defense of lack of notice or lack of in-person jurisdiction based solely upon the service of process upon his designated resident agent. The failure to provide the name and address of an agent for service of process shall be a violation of this article punishable by a fine not to exceed \$350.
- C. Exemptions: none.
- D. The Village of Cobleskill Code Enforcement Officer shall provide copies of all rental property registrations filed with the Village to the fire district servicing such properties by July 1 of every year.
- E. It shall be unlawful for any landlord to offer any unit for rent or to allow any rental unit to be occupied without having first registered as a landlord as required herein within the time prescribed for such registration.

§ 58-15 Penalties for offenses.

- A. Violations of the provisions of these standards or any rules or regulations established pursuant thereto shall be subject to applicable penalties under this article in addition to those imposed by other applicable codes or ordinances including, without limitation Village of Cobleskill Code, Chapter 62, the Village of Cobleskill Zoning Law, § 160-15.4, and the New York State Uniform Fire Prevention and Building Code.
- B. Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any of the terms of this article shall be guilty of a violation and be subject to one or more of the following remedies:
 - (1) A fine not to exceed \$350 or imprisonment for a period not to exceed 15 days, or both; or
 - (2) A penalty of \$350 to be recovered by the Village in a civil action.
 - (3) The Board of Trustees of the Village of Cobleskill may also maintain an action or other proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this law.
 - (4) Each week or part thereof a violation continues shall be deemed a separate offense.

§ 58-16 When effective.

In accordance with § 7-706(7) of the Village Law, this article or any amendments thereto shall take effect 10 days after the required publication, posting and filing with the New York State Department of State, but shall take effect from the date of its service as

against a person served personally with a copy thereof, certified by the Village Clerk and showing the date of its passage and entry in the minutes.

Chapter 62, BUILDINGS, UNSAFE

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 12-17-1984 as L.L. No. 9-1984. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention -- See Ch. 58.

§ 62-1. Purpose.

There are now, or may in the future be, in the Village of Cobleskill, New York, unsafe buildings which constitute a menace to the safety, health and general welfare of the inhabitants of the village or constitute a fire hazard or which are now or may be public nuisances, and this chapter is enacted in order to protect the safety, health and general welfare of the residents of the Village of Cobleskill.

§ 62-2. Duties of Codes Enforcement Officer.

It shall be the duty of the Codes Enforcement Officer of the Village of Cobleskill to carry out the obligations and duties set forth in this chapter.

§ 62-3. Requirements of owner.

No person, firm, corporation or association that is the owner of a building in the Village of Cobleskill shall cause, suffer, allow or permit said building to become dangerous or unsafe to the public. It shall be the duty and responsibility of the owner of any building in the Village of Cobleskill to take all steps necessary to prevent the building from becoming dangerous and unsafe to the public from any cause whatsoever. If a building does become dangerous, the owner shall repair or remove said building.

§ 62-4. Inspection.

If any building becomes dangerous or unsafe to the public and the owner fails to remove or repair said building, the Codes Enforcement Officer shall make a complete inspection of the building and report the condition, in writing, to the Board of Trustees. Upon receipt of such report, the Board of Trustees shall serve a notice on the owner ordering the repair or removal of said building.

§ 62-5. Notice. ^{15EN}

Said notice shall be served upon the owner of the building or his agent, either personally or by certified mail, addressed to the last known address of the owner or the owner's agent as shown by records of the Village Clerk or the Schoharie County Treasurer. Said

notice shall contain a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order by said Board of Trustees requiring the building to be made safe and secure or removed. If service of said notice is made by certified mail, then a copy of the notice shall also be posted on the premises. The notice shall also contain and set forth a time in which the person so served shall commence and complete the securing or removal of the building or structure, which time shall be at least ten (10) days from date of personal service of the notice or at least fifteen (15) days from the date of mailing and posting of said notice. The notice shall also state that in the event of neglect or refusal of the person so served with the notice to comply with it, a survey of the premises shall be made by an engineer or architect to be named by the Board of Trustees and an inspector, builder, engineer or architect appointed by the person notified. In the event of the refusal or neglect of the person so notified to appoint such inspector, builder, engineer or architect, the person named by the Board of Trustees shall make the survey and report. The notice shall further state that in the event that the building or structure is reported dangerous or unsafe under such survey, an application shall be made at a Special Term of the Supreme Court, Schoharie County, for an order declaring the building or structure to be a public nuisance and directing that it shall be repaired to secured or taken down and removed.

§ 62-6. Duty of surveyors.

It shall be the duty of such surveyors to report, in writing, to the Board of Trustees of said village within fifteen (15) days of their appointment to inspect and survey said premises. No later than five (5) days after filing their report the village shall cause a signed copy of the report to be posted on the premises.

§ 62-7. Assessment of costs and expenses.

All costs and expenses incurred by the Village of Cobleskill, New York, in connection with any of the proceedings above mentioned, including inspection, survey, report and court proceedings for removal of such building or structure, including the cost of actually repairing and removing such building or structure, shall be assessed against the land on which said buildings or structures are located and shall be collectible as any other tax or assessment thereon, including an action at law or tax sale and foreclosure.

§ 62-8. Emergency provisions.

Nothing in the chapter shall be construed to in any way limit, prohibit or prevent the exercise of any emergency power now possessed or hereafter to be possessed under law by the Mayor or other official of said village for the prompt removal of nuisances and hazards in case of emergency.

Chapter 64, CLAIMS

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Claims Against Fire Insurance Proceeds [Adopted 4-17-2000 by L.L. No. 1-2000]

§ 64-1. Intent.

The intent of this chapter is to authorize the village to file liens against the proceeds of fire insurance policies under § 22 of the General Municipal Law of the State of New York. The Board of Trustees hereby finds that this legislation is necessary for the health, safety and welfare of the residents of the Village of Cobleskill. The village has too many buildings that have been destroyed by fire, which have not been repaired by their owners in a timely fashion. This chapter will help to ensure that such buildings are secured and repaired by their owners to the extent that fire insurance proceeds are available to carry out such work.

§ 64-2. Definitions.

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

FUND -- The fire insurance proceeds fund created under this section.

LIEN -- Any lien, including liens for taxes, special ad valorem levies, special assessments and municipal charges, arising by operation of law against real property in favor of the village and remaining undischarged for a period of one year or more.

REAL PROPERTY -- Property upon which there is erected any residential, commercial or industrial building, except one- or two-family, owner-occupied residences.

SPECIAL LIEN -- A lien upon fire insurance proceeds under this chapter.

SUPERINTENDENT -- The Superintendent of Planning, Environment and Code Enforcement of the village.

§ 64-3. Notice of intention to file claim.

The Mayor is hereby authorized to file a notice of intention to claim against the proceeds of fire insurance policies under § 22 of the General Municipal Law of the State of New York. The notice shall be filed with the State Superintendent of Insurance for entry in the index of liens maintained by him or her as provided in § 331 of the Insurance Law of the State of New York.

§ 64-4. Certificate of lien.

- A. Before the payment of any proceeds of a policy of insurance for damages caused by fire to real property, which policy insures the interest of the owner and is issued on real property located within the village, and following notification to the Commissioner by an insurer of the filing of a claim for payment of such proceeds, the Mayor shall claim, by serving a certificate of lien, against such proceeds to the extent of any liens (including interest and penalties to the date of the claim) thereon, which claim, when made and perfected in the manner provided for in § 22 of the General Municipal Law of the State of New York and § 331 of the Insurance Law of the State of New York, shall constitute a special lien against such proceeds, prior to all other liens and claims except for the claim of a mortgagee of record named in such policy.

Notice of service of the certificate of the special lien shall be given to the insurer by certified mail.

- B. The provisions of this section shall not be deemed or construed to alter or impair the right of the village to acquire or enforce any lien against real property but shall be in addition to any other power provided by law to acquire or enforce such right.
- C. Any certificate issued by the Superintendent under this section shall be for the purpose of preserving and evidencing the right of release of the special lien created by this section and shall not be deemed to be a contract subject to village regulation. Any repair or restoration performed in anticipation of a release or insurance proceeds shall not be deemed to be a public work nor to have been done under village contract.

§ 64-5. Release of funds to the insured.

- A. All or part of the proceeds of a policy of insurance that will or have been paid to the village under this chapter may be paid or released to the insured if the insured satisfies the Superintendent that the affected premises have been or will be repaired or restored, that such repairs or restoration is in the public interest, and the insured is issued and complies with a certificate provided by the Superintendent under this section. To secure such payment or release of proceeds the insured must notify the Superintendent of his or her intention to repair or restore the affected premises and must file with the Superintendent a complete application under § 64-6 below within 45 days of the mailing of the notice of service of the certificate of the special lien as provided in § 64-4 above, unless the Superintendent grants an extension for a stated time.
- B. The return to the insured of any amount of such proceeds shall be subject to the following conditions:
 - (1) Such release or return shall be conditioned on the repair or restoration of the affected premises, in agreement with the Village of Cobleskill Code and the Uniform Fire Safety and Building Code, to the condition it was prior to the time the lien of the village arose, or to an improved condition.
 - (2) The insured shall file with the Superintendent an application in affidavit form with supporting documentation. The affidavit shall contain the following information:
 - (a) A complete description of the nature and extent of damage to the insured premises and the condition of the premises prior to the time the lien of the village arose.
 - (b) A complete description of the nature of the repairs or restoration to be undertaken and the cost thereof.
 - (c) An estimated time schedule for repairs or restoration.
 - (d) Such other information as may be required by the Superintendent to enable him or her to determine whether the repairs or restoration is in the public interest and will be or have been timely and promptly made.
- C. Upon approval by the Superintendent of an application made hereunder, the Superintendent may issue a certificate evidencing the right to release to the insured amounts representing insurance proceeds, upon such conditions as may be set forth therein. The repairs or restorations shall be completed in compliance with the terms and conditions of the certificate prior to the release or return of any part of the

insurance proceeds. Notwithstanding the foregoing, the Superintendent may upon the written request of the insured approve prior release of such proceeds or a portion thereof, in a lump sum or in installments, where the insured certifies and demonstrates that such release is required to permit such repairs or restorations to go forward. Any such insurance proceeds released or returned prior to the completion of the repairs or restoration may be paid directly to the contractor or contractors responsible for making such repairs or restoration. Such payment shall, to the extent thereof, release the village from further liability to the insured.

§ 64-6. Termination of right to release of funds.

The insured's right to assert a claim against the insurance proceeds shall terminate if he or she:

- A. Fails to notify the village of his or her or its intention to repair or restore the affected premises as described in § 64-5;
- B. Fails to file a completed application under § 64-5; or
- C. Fails to obtain a certificate from the Superintendent or to comply therewith within the time set forth, except to the extent that the proceeds exceed the amount of the lien.

§ 64-7. Disposition of proceeds until termination and continuation of lien.

- A. Until such termination, any insurance proceeds received by the village shall be deposited in a special fund and shall be retained therein. Upon termination of the insured's rights to claim against the proceeds, the proceeds and any interest accrued thereon shall be applied to the liens affecting the premises and may be transferred to the general fund of the village.
- B. The lien or liens against the affected premises upon which the special liens against proceeds are based shall be continued in full force and effect except to the extent that such lien or liens are or have been paid.

Chapter 83, FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 3-2-2004 by L.L. No. 2-2004.^{16EN} Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction and fire prevention -- See Ch. 58.**
- Subdivision of land -- See Ch. 135.**
- Zoning -- See Ch. 160.**

ARTICLE I, Statutory Authorization and Purpose

§ 83-1. Findings.

The Board of Trustees of the Village of Cobleskill finds that the potential and/or actual

damages from flooding and erosion may be a problem to the residents of the Village of Cobleskill 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.

§ 83-2. 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
- F. Qualify and maintain for participation in the National Flood Insurance Program.

§ 83-3. 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, 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
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II, Definitions

§ 83-4. Word usage; terms defined.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meanings 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-or-greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 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, MD, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase area of special flood hazard."
- BASE FLOOD** -- The flood having a one-percent chance of being equaled or exceeded in any given year.
- BASEMENT** -- That portion of a building having its floor subgrade (below ground level) on all sides.
- BUILDING** -- See "structure."
- CELLAR** -- Has the same meaning as "basement."
- CRAWL SPACE** -- An enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.
- 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 nonbasement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) 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. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.
- FEDERAL EMERGENCY MANAGEMENT AGENCY** -- The federal agency that

administer the National Flood Insurance Program.

FLOOD or FLOODING

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters;
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "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.

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."

FLOODPLAIN or FLOOD-PRONE AREA -- Any land area susceptible to being inundated by water from any source. (See definition of "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 -- Has the same meaning as "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:

- (1) Listed individually in the National Register of Historic Places (a listing

maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior;
 - or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

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 Building Inspector, Code Enforcement Officer, or employee of an engineering department.

LOWEST FLOOR -- 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 nonelevation design requirements of this chapter.

MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without 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 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, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME -- Has the same meaning as "manufactured home."

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.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD -- Has the same meaning as "base flood."

PRINCIPALLY ABOVE GROUND -- At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE -- A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;

- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 83-10B, Use of other flood data, of this chapter.

START OF CONSTRUCTION

- (1) The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.
- (2) Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE -- A walled and roofed building, including a gas or liquid storage tank, that 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 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25% 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 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:

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

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

ARTICLE III, General Provisions

§ 83-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Cobleskill, Schoharie County.

§ 83-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the Village of Cobleskill, Community Number 360743, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) Flood Insurance Rate Map Panel Numbers 36095C0142E, 36095C0153E, 36095C0154E, 36095C0161E, 36095C0162E, whose effective date is April 2, 2004, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Schoharie County, New York, All Jurisdictions" dated April 2, 2004.
- B. 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: Cobleskill Village Hall, Planning, Environment & Codes Office, 378 Mineral Springs Road, Cobleskill, New York.

§ 83-7. Interpretation; and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through March 20, 1997, 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, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

§ 83-8. 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 \$250 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 Village of Cobleskill 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 Article VI, will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 83-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Cobleskill 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.

ARTICLE IV, Administration

§ 83-10. Designation of local floodplain administrator.

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

§ 83-11. Floodplain development permit required; fees.

- 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 insuring 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 § 83-6, Basis for establishing areas of special flood hazard, 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 of \$25. In addition, the applicant shall be responsible for reimbursing the Village of Cobleskill for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

§ 83-12. Application for permit.

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 Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the 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 floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 83-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 83-17, 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 § 83-6, Basis for establishing areas of special flood hazard, 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, it 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.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 83-13. Duties and responsibilities 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:
 - (1) Review all applications for completeness, particularly with the requirements of § 83-12, Application for permit, and for compliance with the provisions and standards of this article.
 - (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of

special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction standards, and, in particular, § 83-14A, 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 Article V, Construction standards, 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 § 83-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are 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.

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

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it

- remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) 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. 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 § 83-8, Penalties for offenses, 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 § 83-8, Penalties for offenses, of this chapter.
- G. Certificate of compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in § 83-6, Basis for establishing areas of special flood hazard, 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, floodproofing, 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) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and (2), and whether or not the structures contain a basement;
 - (3) Floodproofing certificates required pursuant to Subsection D(1) and whether or not the structures contain a basement;
 - (4) Variances issued pursuant to Article VI, Variance Procedures; and
 - (5) Notices required under Subsection C, Alteration of watercourses.

ARTICLE V, Construction Standards

§ 83-14. 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 § 83-6, Basis for establishing areas of special flood hazard.

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 Village of Cobleskill 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 Village of Cobleskill for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Cobleskill 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 § 83-6, 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 increase in flood levels during occurrence of the base flood; or
 - (b) The Village of Cobleskill 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 Village of Cobleskill for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Cobleskill for all costs related to the final map revisions.

§ 83-15. 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) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable 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:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (b) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
- (4) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

C. Utilities.

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

§ 83-16. Residential structures.

- A. Elevation. The following standards, in addition to the standards in § 83-14A, Subdivision Proposals, and § 83-14B, Encroachments, and § 83-15, 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 are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet more than the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 83-6, Basis for establishing areas of special flood hazard, (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 83-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 83-14A, Subdivision proposals, and § 83-14B, Encroachments, and § 83-15, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below two feet above the base flood 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 two feet more than the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies 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 floodproofed.
- D. Within Zones AII and AO, adequate drainage paths are required to guide floods

waters around and away from proposed structures on slopes.

- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 83-18. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 83-14, General standards, and § 83-15, 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 180 consecutive days;
- (b) Be fully licensed and ready for highway use; or
- (c) Meet the requirements for manufactured homes in Subsections B, C and D.

- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

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

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

- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 83-6, Basis for establishing areas of special flood hazard, (at least two feet if no depth number is specified).

ARTICLE VI, Variance Procedure

§ 83-19. Appeals Board.

- A. The Zoning Board of Appeals as established by the Village of Cobleskill shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.

- C. Those aggrieved by the decision of the Zoning Board of Appeals 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 Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances; as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 83-20. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the requirements of § 83-19D(1) through (7) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the 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, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to 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 87, GAMES OF CHANCE

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 9-2-1986 as L.L. No. 12-1986. Amendments noted where applicable.]

§ 87-1. Authority.

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 Law of the Village of Cobleskill."

§ 87-2. Definitions.

The words and terms used in this chapter shall have the same meanings as such words and terms are used in Article 9-A of the General Municipal Law of the State of New York.

§ 87-3. Games of chance authorized; restrictions.

A. Games of chance may be conducted in the village 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.

- B. The conduct of games of chance on Sundays is authorized, except as otherwise restricted in Article 9-A of the General Municipal Law.

§ 87-4. When effective; referendum.

This chapter shall take effect immediately upon filing with the Secretary of State after approval thereof by the qualified voters of the village voting thereon at the next village election.^{17EN}

Chapter 90, HISTORIC DISTRICTS AND LANDMARKS

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 9-20-2004 by LL. No. 6-2004. Amendments noted where applicable.]

GENERAL REFERENCES

- General penalty -- See Ch. 1, Art. II.**
Training requirements for Historic District Review Commission members -- See Ch. 38, Art. I.
Building construction and fire prevention -- See Ch. 58.
Unsafe buildings -- See Ch. 62.
Subdivision of land -- See Ch. 135.
Zoning -- See Ch. 160.

§ 90-1. Purpose; applicability of zoning regulations.

- A. It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as the Village of Cobleskill has many significant historic, architectural and cultural resources, which constitute its heritage, this chapter has the following purposes:
- (1) Protect and enhance the landmarks and historic districts, which represent distinctive elements of the Village of Cobleskill's historic, architectural, and cultural heritage;
 - (2) Foster civic pride in the accomplishments of the past;
 - (3) Protect and enhance the Village of Cobleskill's attractiveness to visitors and tourists and the support and stimulus to the economy thereby provided, and
 - (4) Ensure the harmonious, orderly, and efficient growth and development of the Village and stabilize and improve property values;
 - (5) Protect the general public welfare;
 - (6) Preserve and improve the quality of life for residents of the Village of Cobleskill by protecting familiar and treasured visual elements in the area.
- B. In addition to the regulations set forth in this Historic District ordinance, the underlying zoning regulations of the zoning district within which the historic district is situated, shall continue to remain applicable, provided that if any conflict occurs,

the more restrictive provisions shall apply.

§ 90-2. Definitions.

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

ALTERATION -- Any change, modification or addition to part of or all of an exterior of any building or structure, excluding ordinary maintenance and repairs.

BUILDING -- A wholly or partially enclosed construction within exterior walls, or within exterior and party walls, and a roof, that may afford shelter to persons, animals, or property. See "structure."

BUILDING SCALE -- The relationship between the mass of a building and its surroundings, including the width of street, open space and mass of surrounding buildings.

CERTIFICATE OF APPROPRIATENESS -- A certificate issued by the Village of Cobleskill Historic District Review Commission upon approval of the exterior architectural features of any new building construction or alterations to an existing building located within the Village's historic district.

DEMOLITION -- Dismantling or tearing down of any or a part of any building or structure and all operations, including grading, incidental thereto.

EXTERIOR ARCHITECTURAL FEATURES -- The architectural style, architectural details and features, general design and general arrangement of the exterior of a building, including the kind and texture of building material and the type and style of doors and windows, light fixtures, signs and other appurtenant fixtures.

FACADE -- Building face or wall or artificial outward appearance.

FENCE -- An unroofed enclosing structure erected for the purpose of preventing passage or view.

HEIGHT OF STRUCTURE -- The vertical distance measured from the average finished grade at all foundation corners of the building or structure to the highest point of the building or structure, excluding the chimney.

LANDMARK -- Any site, building, sign, or structure that has visual, historic, or cultural significance.

NEW CONSTRUCTION -- Any construction within an historic district which is independent of an existing structure.

ORDINARY MAINTENANCE AND REPAIRS -- Any work that does not require a building permit, whose purpose is to correct any deterioration or decay of, or damage to a structure or any part thereof and does not alter the exterior architectural features of a building designated as a landmark or other building within an historic district. Ordinary maintenance and repairs include painting, patching or sealing of roofs, replacing broken glass in or replacing of windows, replacing individual clapboards or floor boards, individual slates or shingles with material of like design. Ordinary maintenance and repairs does not include the cutting away of any wall, partition or part thereof, the removal or cutting of any structural beam or bearing support or replacing entire sections of walls or floors.

OVERLAY DISTRICT -- A district imposed over existing zoning districts and containing provisions that are applicable in addition to those otherwise contained in a zoning law.

REHABILITATION -- Any and all work connected with the returning of all or part of a

building or structure to a state of utility through repair or reconstruction.

RECONSTRUCTION -- The act or process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, building or portion of a building, structure or portion of a structure, for the purpose of replicating its appearance at a specific period of time and in its historic location.

RESTORATION -- Any and all work connected with the returning to or restoring of all or part of a building or structure to its original condition through the use of original or nearly original materials.

SIGN -- Any object, device, display, or structure, or part thereof, situated indoors or outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. Excluded from this definition are signs that are solely devoted to prohibiting trespassing, hunting or fishing. Signs erected in the district must meet the requirements of Chapter 160, Zoning.

SPECIAL CHARACTER -- Features as graphically defined in the inventory of buildings and structures in the historic overlay district, illustrated design guidelines as they may exist, and other materials as approved by the Historic District Review Commission,

STREET -- One of the following:

- A. An existing Village, county or state highway or street.
- B. A street shown on an approved subdivision final plan.
- C. A street shown on a map filed with the County Clerk (in accordance with Village Law § 7-708) prior to Planning Board authorization to review subdivisions.
- D. A street shown on the Official Map of the Village.^{18EN}

STRUCTURE

- A. Any combination of materials forming buildings, landmarks and/or exterior elements which affect the appearance and/or cohesiveness of the historic district, except where entirely underground so as to permit the use of the ground above the same as if no building, structure, or landmark were present; the term "structure" shall include the term "building" as well as the following:
 - (1) Signs.
 - (2) Fences.
 - (3) Walls, other than retaining walls projecting above the ground not more than three feet at the higher ground level and not more than 6 1/2 feet at the lower ground level.
 - (4) Radio and television receiving and transmitting towers and antennas, except for such antennas installed on the roof of a building and extending not more than 20 feet above the highest level of the roof of such building.
 - (5) Porches, steps, outdoor bins and other similar structures.
 - (6) Sheds.
 - (7) Light fixtures.
 - (8) Roofs.
 - (9) Siding.
 - (10) Windows.
- B. See "building."

§ 90-3. Historic District Review Commission.

For the general purpose of this chapter and specifically to preserve historic places in the Village and the regulation of architectural design and uses of structures in the area, it is hereby created a commission to be known as the "Village of Cobleskill Historic Review Commission" (the "Commission").

- A. The Commission shall consist of five members, all having an interest in historic preservation and architectural development in the Village of Cobleskill, to be appointed, to the extent practicable, by the Village Board as follows:
- (1) An architect experienced in working with historic buildings or if such person is not available, one person with demonstrated expertise in the building/construction trades or industry;
 - (2) An historian, and if such person is not available, an individual who has demonstrated an interest in history;
 - (3) A resident of an historic district;
 - (4) An individual who has demonstrated significant interest in the commitment to the field of historic preservation, evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field.
- B. Commission members shall serve for terms of five years. Successors shall be appointed for terms that ensure commission membership expires on a rotational basis. [Amended 1-16-2007 by L.L. No. 1-2007]
- C. The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.
- D. The powers of the Commission shall include:
- (1) Recommending to the Village of Cobleskill Board of Trustees the employment of staff and professional consultants as necessary to carry out the duties of the Commission.
 - (2) Promulgating rules and regulations as necessary to carry out the duties of the Commission.
 - (3) Adopting criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.
 - (4) Conducting surveys of significant historic, architectural, and cultural landmarks and historic districts within the Village of Cobleskill.
 - (5) Designating identified structures or resources as landmarks and historic districts and recommendation of them to the Board of Trustees for approval.
 - (6) Accepting, in the Commission's discretion, the donation of facade easements and development rights and determining the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this chapter.
 - (7) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
 - (8) Determining the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Village of Cobleskill.
 - (9) Recommending the acquisition of a landmark structure by the Village of Cobleskill Board of Trustees where its preservation is essential to the purposes of this chapter and where private preservation is not feasible.
 - (10) Approving or disapproving applications for a certificate of appropriateness

- pursuant to this chapter.
- (11) Seeking out funds to forward the purpose of this chapter and determining how to expend those funds.
 - (12) Reviewing all proposed National Register nominations for the purpose of providing local comment to the state or federal review boards.
 - (13) Authorizing plaques to commemorate historic resources.
 - (14) Amending or rescinding designations.
- E. The Commission shall meet at least monthly, but meetings may be held any time on the written request of any two of the Commission members or on the call of the Chairman or the Mayor.
 - F. A quorum for the transaction of business shall consist of three of the Commission's members and not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.
 - G. If a vacancy occurs or for some other reason a new appointment is necessary, appointment shall be made by the Village of Cobleskill Board of Trustees for the unexpired term.
 - H. Each member of the Commission must comply with the training requirements set forth in Ch. 38.
 - I. Any member of the Commission shall be disqualified to act upon a matter before said Commission with respect to a property in which that member has an interest.

§ 90-4. Designation of landmarks or historic districts.

- A. The Commission may designate an individual building, either inside or outside the historic district, as a landmark if it:
 - (1) Embodies the distinguishing characteristics of an architectural style; or
 - (2) Is the work of a designer whose work has significantly influenced an age; or
 - (3) Represents an established and familiar visual feature of the neighborhood because of a unique location or singular physical characteristic; or
 - (4) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation, or fosters civil pride; or
 - (5) Is identified with historic personages;
 - (6) Is contiguous with a neighborhood district, building or structure that meets one or all of the criteria and changes to it could impact the neighborhood district, building, structure or site that meets the criteria;
 - (7) Is related to a park, street, body of water, hill, open space or landscaped grounds of significance.
- B. The Commission may designate a group of properties as an historic district if it:
 - (1) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - (2) By reason of possessing such qualities, it constitutes a distinct section of the Village.
- C. The foregoing designations shall be subject to the approval of the Board of Trustees.
- D. The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Village of Cobleskill Clerk's office for public inspection.

- E. Notice of a proposed designation shall be sent by registered mail to the owner of the building or landmark proposed for designation, describing the building or landmark and announcing a public hearing by the Commission to consider the designation. Notice shall be published at least once in a newspaper of general circulation at least five days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, the Code Enforcement Officer or duly authorized person shall issue no building permits within the proposed designation until the Commission has made its decision.
- F. The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The records may also contain staff reports, public comments, or other evidence offered outside of the hearing.
- G. The Commission shall forward notice of each building designated as a landmark and the boundaries of each designated historic district to the office of the Schoharie County Clerk.
- H. The Commission shall forward its formal approval of each building designation to the Board of Trustees for formal adoption and notification to the Schoharie County Clerk.

§ 90-5. Designation of buildings or structures as contributing.

- A. Inventory of structures.
 - (1) Prior to designation of a landmark or historic district, the Commission shall compile an inventory of all buildings and structures in an historic district. Such inventory shall designate each building or landmark as contributing or noncontributing in accordance with the process described in Subsection A(2) and the standards set forth in Subsection B and shall indicate in a general way the reasons for such designation. Additionally, the inventory shall identify the architecturally significant features of each contributing building or landmark. Buildings previously designated as significant shall be reclassified as contributing.
 - (2) One copy of such inventory shall be filed with the Code Enforcement Officer and shall be available for public inspection. The Commission shall hold a public hearing prior to designation of any building or landmark. Notice of a proposed designation shall be published at least once in a newspaper of general circulation at least five days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, the Code Enforcement Officer shall issue no building permits within the proposed designation until the Commission has made its decision. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of the record regarding the historic, architectural, or cultural importance of the proposed building, landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing. The Commission shall issue its determination of contributing or noncontributing within 30 days after the hearing.
- B. Standards.

- (1) In reviewing the designation of a building or landmark, the Commission shall consider the following in making its determination:
 - (a) Embodies the distinguishing characteristics of an architectural style; or
 - (b) Is the work of a designer whose work has significantly influenced an age;
 - (c) Represents an established and familiar visual feature of the neighborhood because of a unique location or singular physical characteristic; or
 - (d) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
 - (e) Is identified with historic personages.
- (2) When a building or landmark is designated as contributing, the Commission shall indicate the reasons for such designation, including reference to the following considerations:
 - (a) Architectural design, arrangement features, style, details, texture, materials or craftsmanship of significance;
 - (b) Aesthetic value of the building or landmark taken as a whole and its general relationship to the historic and architectural value of surrounding properties and to the historic overlay district as a whole;
 - (c) Historic persons, events, development or period with which the building or landmark may have been involved or be important;
 - (d) Such other factors identified by the Commission as pertinent to the question of contribution, either in a specific case or by general rule.

§ 90-6. Certificate of appropriateness required.

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or building within an historic district, nor shall any person make any material change in the appearance of such landmark or building, its light fixtures, signs, fences, steps, roofs, siding, windows, sheds, above ground utility structure, or any/all other exterior elements which affect the appearance of a landmark or a building or structure within an historic district, without first obtaining a certificate of appropriateness from the Commission.

§ 90-7. Criteria for issuance of certificate of appropriateness.

- A. In reviewing an application for a certificate of appropriateness, the Commission shall consider changes to the structure's exterior features that are visible to the public. The Commission's decision shall be based on the following principles:
 - (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
 - (2) Alterations, repairs and additions to buildings, structures or landmarks deemed contributing shall be made consistent or compatible with the architectural period characteristics of the buildings, structures or landmarks;
 - (3) New construction shall be compatible with the architectural styles of surrounding properties (e.g. Victorian, Greek Revival, Italianate, etc.) and the historic district;
 - (4) New additions and adjacent and related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of

- the historic building and its environment would be unimpaired;
- (5) Infill construction, additions and reconstruction shall not exceed the height of the adjoining buildings and their facades.
- B. In applying the principle of compatibility, the Commission shall consider the following factors:
- (1) The general design, character and appropriateness to the building or landmark of the proposed alteration or new construction;
 - (2) The scale of proposed alteration or new construction in relation to the building or landmark itself, surrounding properties and the historic district;
 - (3) Texture and materials and their relation to similar features of other properties in the historic district;
 - (4) Visual compatibility with surrounding properties, including proportion of the building or landmark's front facade, proportion and arrangement of windows and other openings within the front facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
 - (5) The importance of historic, architectural or other features to the significance of the building or landmark.
- C. Demolition of contributing structures constitutes an irreplaceable loss to the quality, character, ambiance and atmosphere within the historic district. Accordingly, demolition of properties designated as contributing is prohibited except for New York State Code violations or as provided for in §§ 90-9 and 90-11 of this chapter. The Historic District Review Commission may consider unusual and compelling circumstances in order to approve a certificate of appropriateness for the demolition of contributing structures. In passing upon an application for a certificate of appropriateness to demolish existing contributing properties, the Commission shall consider materials required in §§ 90-8A(3) and 90-9 and 90-11. The Historic District Review Commission, using criteria set forth in this section, shall determine whether unusual or compelling circumstances exist and shall be guided in its recommendation in such instances by the following additional considerations:
- (1) The historic or architectural significance of the structure;
 - (2) The importance of the structure to the integrity and character of the historic district;
 - (3) Whether the structure is one of the last remaining examples of its kind in the neighborhood or the Village.
- D. In passing upon an application for a certificate of appropriateness to demolish existing noncontributing properties, the Commission shall consider materials required in § 90-8A(4) and the following:
- (1) New construction or reconstruction after demolition of non-contributing properties within the historic district shall be compatible with:
 - (a) The architectural style and spirit of the historic district in terms of size, materials, scale, rhythm, texture and other appropriate considerations and other criteria and standards detailed in Subsections A and B.
 - (b) The architectural style and continuity of the historic district. New structures shall not exceed the height of the adjacent buildings or their facades. In all cases, the height of the facade shall be consistent with either the original facade height or the height of the adjoining structures, whichever is higher.

§ 90-8. Application procedure for certificate of appropriateness.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, and before any building permits will be given, the owner and/or applicant shall file a written application for such a certificate with the Commission. A complete application form as prescribed by the Historic District Review Commission shall include the name, address and telephone number of applicant, and of the owner if the applicant is acting for the owner, the project location; and the following:
- (1) For projects other than new construction or demolition:
 - (a) Color photographs, at least 3 1/2 inches by five inches in size, of the building facade clearly detailing all portions of the building or landmark subject to change as a result of approval of the application.
 - (b) Building elevations drawn to scale showing proposed changes on the facade elevations.
 - (c) A description of existing conditions and proposed changes, including a sketch plan, site plan or subdivision drawing, to scale, showing property lines, building footprints and the relationship of surrounding buildings or structures.
 - (d) Samples and/or specifications for materials to be used in construction. Specifications may appear on the building facade drawing or on a separate sheet.
 - (e) Where the proposal includes signs subject to approval by the authority having jurisdiction, a scale drawing showing the sign or lettering, including the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
 - (f) Copies of all SEQRA documents and proceedings.
 - (g) Any other information that the Commission may deem necessary in order to visualize the proposed work.
 - (2) For applications for new construction:
 - (a) Color photographs, at least 3 1/2 inches by five inches in size, of the building or landmark, showing where the work will occur.
 - (b) One set of scaled drawings of the proposed new construction that includes the site plan illustrating the location of all new construction in relationship to other site elements, property lines and structures on abutting properties, and a roof plan and exterior elevations showing the design concept for all elevations and the roof.
 - (c) One set of perspective drawings illustrating the details of the exterior plans for the proposed construction. The Commission may also, if deemed necessary, request material and samples to be used in the proposed project.
 - (d) Copies of all SEQRA documents and proceedings.
 - (e) Any other information that the Commission may deem necessary in order to visualize the proposed work.
 - (3) For applications to demolish existing contributing structures:
 - (a) Color photographs at least 3 1/2 inches by five inches in size, of the building facade, clearly detailing all portions of the building or landmark subject to change as a result of approval of the application.

- (b) A written description of the structural condition of the building and its adaptability for rehabilitation by a professional structural engineer licensed in New York. All dangerous conditions should be identified. Include a copy of any outstanding building code violations cited on the property.
 - (c) An itemized breakdown of the feasibility of all possible alternatives to demolition that were considered, and reasons why such alternatives were rejected. Alternatives may include rehabilitation, adaptive reuse, relocation, or sale of the property to another owner willing to preserve it. Include financial data comparing the costs of all alternatives.
 - (d) Scale drawings showing the location of the structure proposed to be demolished in relationship to other structures on the parcel and to the property lines.
 - (e) Sketch plans and elevations showing all sides of any proposed new structure that will be visible from a public street or sidewalk, including but not limited to copies of site plan or subdivision plan.
- (4) For applications for demolition of existing noncontributing structures:
- (a) Location and color photographs at least 3 1/2 inches by five inches in size, of the building facade, clearly detailing all portions of the building or landmark subject to change as a result of approval of the application.
 - (b) Sketch plans and elevations showing all sides of any proposed new structure that will be visible from a public street or sidewalk.
 - (c) Scale drawings showing the location of the structure proposed to be demolished in relationship to other structures on the parcel and to the property lines.
 - (d) Any such additional information, drawings or photographs as the Commission may require.
- B. Preliminary concept conference.
- (1) A preliminary concept conference may be held between the Commission and the applicant and/or owner at the Commission's discretion, at the next regularly scheduled meeting of the Commission, at least nine calendar days after receiving a completed application and conditional upon the completed application having been received by the Commission at least five calendar days prior to the next regularly scheduled meeting of the Commission. At the preliminary concept conference, the Commission shall:
 - (a) Discuss and review the basic concept for proposed activity coming under the provisions of this chapter.
 - (b) Generally determine the scope and impact of the proposed activity on the historic district and the intent of this chapter.
 - (c) Specify information required of the applicant to complete the formal application for a certificate of appropriateness.
 - (d) Confirm the designation of the subject buildings or structures as contributing or noncontributing according to the inventory.
 - (2) The Commission, in its discretion, shall work with the applicant to refine and develop the proposal so it is in harmony with the intent and requirements of this chapter, and any regulations promulgated thereto, and complies, to the greatest extent possible, with the Secretary of Interior's Guidelines for Rehabilitation.

- (3) The Commission may recess the preliminary concept conference to allow the applicant time to gather additional information or to revise a proposal. In such cases, reconvening of said conference shall be considered a continuation of the same preliminary concept conference and shall toll the time periods for actions of the Review Commission, until the completion of the preliminary concept conference.
- (4) The Commission may deem an application a complete formal application at the conclusion of a preliminary concept conference.
- C. No building permit shall be issued for such proposed work until the Commission has first issued a certificate of appropriateness. The certificate of appropriateness required by this chapter shall be in addition to and not in lieu of any building permit or any other approval that may be required by any other ordinance, rule or regulation of the Village of Cobleskill.
- D. Public hearings. After or in lieu of a preliminary concept conference, the Historic District Review Commission may hold a hearing on an application at which time an opportunity will be provided for comments on the application. For the purpose of public information, the Commission shall publish a notice in the official newspaper, at least five days prior to hearing, detailing that an application has been received and stating the nature of the application, location, applicant, and other such information as may be pertinent. In addition, the Commission shall post a sign detailing pertinent information and locate it on the parcel and in a manner which is visible from the street.
- E. The HDRC shall have the authority to impose reasonable conditions to its approval to fulfill the purposes of this chapter.
- F. The Historic District Review Commission shall approve, approve with modifications or deny the certificate of appropriateness within the time frames as follows. The Commission shall, approve, deny, or approve the application for a certificate with modifications within 36 calendar days from the close of the public hearing, if any, and otherwise within 36 calendar days from the conclusion of the preliminary conference or, if no preliminary conference is held, within 30 days of receipt of the completed application.
- G. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Village Planning, Environment and Codes Office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.
- H. Certificates of appropriateness shall be valid for six months. If the approved work has not yet been completed within six months after Commission approval, the applicant may request a six-month extension, provided that such request is made within 30 days of the expiration of the initial six-month period. After one six-month extension, the applicant must make a new application to the Commission before undertaking work on the project.

§ 90-9. Hardship criteria for demolition.

- A. An applicant who has been denied a certificate of appropriateness for a proposed demolition may apply for relief on the ground of hardship.
 - (1) In order to prove the existence of hardship, the applicant shall establish that:

- (a) The building or landmark is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (b) The building or landmark cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (c) Efforts to find a purchaser interested in acquiring the building or landmark and preserving it have failed.
- (2) Only in the case of buildings or structures owned by nonprofit organizations, the owner as applicant must clearly establish to the satisfaction of the Commission that said organization cannot reasonably achieve its corporate purpose unless demolition is permitted. That demolition is the most convenient means to address the problem of achieving its corporate purpose is not sufficient to meet the nonprofit test.
- B. The hardship criteria for demolition shall not apply in any case where the Code Enforcement Officer or other duly authorized building inspector orders or directs the construction, removal, alteration, reconstruction, or demolition of any improvement to a building, structure, or landmark in the historic district for the purpose of remedying conditions determined to be unsafe or dangerous or a public safety hazard.

§ 90-10. Hardship criteria for alteration.

An applicant who has been denied a certificate of appropriateness for a proposed alteration may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the building or landmark is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

§ 90-11. Hardship application procedure.

- A. After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists. The following information shall be provided to the Historic Review Commission as part of the hardship application:
- (1) The fair market value of the building or landmark as determined by a qualified professional expert.
 - (2) The amount paid for the building or landmark and the price asked for the building or landmark and any offers received in the previous three years.
 - (3) The gross annual income from the building or landmark for the past three years, if the building or landmark is income-producing. If the building or landmark is commercial or income producing: provide the gross annual income from the building or landmark for the previous three years; the itemized operating and maintenance expenses for the previous three years; the depreciation deduction and annual cash flow before and after debt service for the previous three years; and the remaining balance on any mortgage or other financing secured by the building or landmark and the annual debt service for the past three years.

- (4) Three separate estimates for the cost of the proposed demolitions/alterations compared to the cost of stabilizing and rehabilitating the structure.
 - (5) A list of all economic incentives for preserving the structure available to the applicant through federal, state, county, local, or private programs, including tax incentives, grants and loans.
 - (6) In the case of nonprofit organizations, such information as may be necessary in the judgment of the Commission to determine the question of whether such nonprofit organization can reasonably achieve its corporate purpose without demolition.
- B. The Commission shall hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of such public hearing shall be published in the Village's official newspaper at least five days prior to said hearing.
 - C. The applicant shall consult in good faith with the Commission in a diligent effort to seek an alternative that will result in preservation of the building or landmark.
 - D. The Commission shall have 31 days to render a decision after the hearing. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Village Planning, Environment and Codes Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship. If the application for hardship is denied, the Codes Enforcement Officer shall not issue a permit for demolition or any other work not specifically reviewed and approved by the Commission.
 - E. Nothing in this chapter shall be construed to prevent the Board of Trustees of the Village of Cobleskill from taking action authorized under Chapter 62, Buildings, Unsafe, to require the removal or repair of unsafe buildings in the Village of Cobleskill.

§ 90-12. Exemptions.

The Commission may exempt public structures, works, utilities and buildings from compliance with this chapter where the public safety is endangered or an emergency situation arises. Retroactive approval for emergency work shall be sought within 30 days of completion of the work. All work shall strive to maintain compatibility with the historic district.

§ 90-13. Enforcement.

- A. All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirement included therein. It shall be the duty of the Code Enforcement Officer or duly authorized person to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission, the Code Enforcement Officer or duly authorized person shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

- B. A certificate of compliance is to be issued upon final inspection of the structure by the Code Enforcement Officer at the completion of work if it complies with the certificate of appropriateness and the project outline. If, after inspection, the Code Enforcement Officer deems that the project is not compliant, the applicant shall have 30 days to rectify. Noncompliance after 30 days shall be considered a violation of this chapter.
- C. Violations of this chapter shall be subject to all enforcement procedures and penalties described in § 90-15 of this chapter.

§ 90-14. Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair, which does not involve a change in design, material, or outward appearance, of any exterior architectural feature of a landmark, building or structure within the historic district.
- B. All ordinary maintenance and repair shall be promptly performed.
- C. No owner or person with an interest in a building designated as a landmark or included within an historic district shall permit the building or landmark to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the building or landmark itself.
- D. Examples of such deterioration include, but are not limited to:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of exterior chimneys.
 - (4) Deterioration or crumbling of exterior stucco or mortar.
 - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - (6) Deterioration of any feature so as to create a hazardous condition, which would lead to the claim that demolition is necessary for the public safety.
 - (7) Deterioration of exterior paint.
 - (8) Deterioration of ornamental architectural elements.

§ 90-15. Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a fine as set forth in Chapter 1, General Provisions, Article II, General Penalty, of the Code of the Village of Cobleskill. Each and every day such violation continues after the allotted period of time for its removal shall be deemed a separate and distinct violation. Violations of this chapter shall also be subject to the penalties and procedures enumerated below.
- B. Complaints. Any person may file a complaint with the Code Enforcement Officer regarding a violation of this chapter.
 - (1) All such complaints shall be in writing.
 - (2) All such complaints shall be investigated by the Code Enforcement Officer within 5 business days and a written report prepared. This investigation shall

- include a site visit by the Codes Enforcement Officer.
- (3) One copy of the complaint and written report shall be maintained in the files of the Code Enforcement Officer and shall be available for public inspection.
- C. Notice of violation. Where a violation of this chapter is determined to exist, the Code Enforcement Officer shall, within a reasonable time, serve, by certified mail, return receipt requested, or in person, a notice of violation and order to remedy.
- (1) Such notice of violation shall be served on the following parties:
- (a) The owner, agent or contractor of the building or landmark where such violation has been committed or shall exist;
 - (b) The lessee or tenant of the part of or of the entire building or landmark where such violation has been committed or shall exist;
 - (c) The agent, architect, or contractor for any building or landmark in which any such violation shall exist; or
 - (d) Any other such person who takes part or assists in such violation, or who maintains any building or landmark in which any such violation shall exist.
- (2) Such notice of violation shall include the following:
- (a) The specific violation pursuant to the Code of the Village of Cobleskill Historic District Law, the New York State Uniform Fire Prevention and Building Code, or both;
 - (b) The facts and circumstances surrounding the violation including any inspections made.
 - (c) The time period during which such violation must be corrected.
- (3) Such notice of violation shall require the removal of the violation within 10 days after service of the notice, If those persons notified shall fail to remove such violation within the allotted time period, the Code Enforcement Officer shall charge them with violation of this chapter before the appropriate court of law.
- D. Stop-work order. If, in the judgment of the Code Enforcement Officer, work in progress is in violation or will result in violation of this chapter, or terms or conditions of any permit, variance, site plan approval or historic district certificate of appropriateness issued pursuant to this chapter and continuation of such work in progress will or may result in increased violation, irreparable harm or structures or conditions impossible or unlikely to be removed or corrected, the Code Enforcement Officer shall serve a stop-work order on the owner, agent, architect, contractor and/or any other person involved or assisting in such work in progress and shall post a copy of said stop-work order in a conspicuous place on the subject work site.
- (1) Upon service or posting of such stop-work order, all further work on the subject work site shall cease, except such as is necessary to secure the site and materials, until the violation causing such order has been corrected or removed and the Code Enforcement Officer has served notice, in writing, that the stop-work order has been lifted.
- (2) No person shall remove a stop-work order posted on a work site unless and until the Code Enforcement Officer has served notice, in writing, that such stop-work order has been lifted.
- (3) Continuation or resumption of work on a work site subject to a stop-work order lawfully served and/or posted by the Code Enforcement Officer shall constitute a separate violation of this chapter and shall be subject to penalties.

- E. Appearance ticket. The Code Enforcement Officer shall, where appropriate, issue an appearance ticket as provided by the Penal Law of the State of New York.
- F. Fines. Persons found guilty of violation of this chapter shall be subject to a fine as set forth in the Code of the Village of Cobleskill, Chapter 1, General Provisions, Article II, General Penalty. Each and every day such violation continues after the allotted period of time for its removal shall be deemed a separate and distinct violation.
- G. Other remedies. In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, demolition, moving, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or lot or to prevent an illegal act, conduct, business or use in or about such premises. The Village Board of Trustees may commence an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation hereunder.
- H. Failure to maintain any structure within the district may be deemed to be demolition by neglect. In such cases, the building or landmark owner shall be notified of such determination and be required to begin repairs within 30 days. Any action to enforce this subsection shall be brought by the Code Enforcement Officer as per Subsections C, D, E, F and G, above.
- I. Any person or entity who demolishes, alters, constructs, or permits a designated building or landmark to fall into a serious state of disrepair, in violation of this chapter, shall be required to restore the building or landmark so that it is a contributing structure that meets the purposes of § 90-1 of this chapter.
- J. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 90-16. Reimbursable costs.

- A. Costs or fees incurred by the Commission for necessary consultant services or other extraordinary expense in connection with its review of an application shall be paid by the applicant, provided that the necessity of such services and a ceiling upon such fees or expenses has been determined by the Commission and the applicant has been informed of the fee ceiling in writing.
- B. Such reimbursable costs shall be in addition to any application fee schedule established by the Commission and shall be paid prior to releasing the certificate of appropriateness enabling the Code Enforcement Officer to provide any necessary building permits.
- C. No building permit shall be issued for any proposed construction for which fees or reimbursable costs are lawfully due to the Village and which are unpaid.

Chapter 99, NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 6-1-1981 as L.L. No. 2-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Animals -- See Ch. 52.

§ 99-1. Purpose.

It is hereby declared to be the policy of the Village of Cobleskill to prevent excessive, unnecessary or unusually loud noise. It is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of preserving, protecting and promoting the public health, safety and welfare and the peace and quiet of the Village of Cobleskill and its inhabitants.

§ 99-2. Standards.

The standards to be considered determining whether a violation of § 99-3, 99-4 or 99-5 exists shall include but not be limited to the following:

- A. The volume of the noise.
- B. The intensity of the noise.
- C. Whether the noise is usual or unusual.
- D. The volume and intensity of the background noise, if any.
- E. The proximity of the noise to residential sleeping areas.
- F. The nature and zoning designation of the area within which the noise emanates.
- G. The time of the day or night that the noise occurs.
- H. The duration of the noise.
- I. Whether the sound source is temporary.

§ 99-3. Sound reproduction.

It shall be unlawful for any person to operate, play or permit the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to create unnecessary noise and disturb the peace, quiet and comfort of any reasonable person of normal sensitiveness residing in the area.

§ 99-4. Animals and fowl.

It shall be unlawful for any person to keep or maintain or permit the keeping of upon any premises owned, occupied or controlled by such person any animal or fowl which by any sound, cry or behavior shall cause annoyance or discomfort to a reasonable person of normal sensitiveness.

§ 99-5. Unlawful acts.

It shall be unlawful for any person to willfully make, continue or cause or permit to be made any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness.

§ 99-6. Penalties for offenses. ^{19EN}

Any person violating any provision of this chapter shall be liable as set forth in Chapter 1, General Provisions, Article II, General Penalty and/or any other sentence that may be imposed by the Penal Law of the State of New York for a violation.

Chapter 104, PARKS AND RECREATION AREAS

[HISTORY: Adopted by the Board of Trustees of the Village of Cobleskill 8-20-1979 as L.L. No. 1-1979. Amendments noted where applicable.]

§ 104-1. Legislative intent.

- A. It is the intent of the Village of Cobleskill as an exercise of its police power to promote the general health, safety and welfare of the village by enacting this chapter since it is the finding of the Board of Trustees that the uncontrolled and unregulated use of the parks and recreational facilities of the village results in the creation of nuisances and other problems affecting the residents of the village adversely.
- B. This chapter is intended to provide for the regulation of parks, playgrounds, pools and other recreational facilities within the village.

§ 104-2. Title.

This chapter shall be known as the "Park Regulations."

§ 104-3. Definitions.

For the purpose of this chapter, the following shall have the meanings ascribed to them. All other words shall have the meaning normally ascribed to them in regular usage.

MOTOR VEHICLE -- Any motor vehicle as that term is defined in the Vehicle and Traffic Law of the State of New York, whether licensed or not, and shall include any snowmobile, moped, dirt bike or trail bike but shall not include a bicycle.^{20EN}

PARK -- Any park, playground, pool or other recreational facility within the village under the jurisdiction of the Village Board of Trustees.

§ 104-4. Hours of operation.

All recreational facilities shall be open between the hours of 7:00 a.m. to 9:00 p.m. except that the closing hour for Centre Park shall be 10:00 p.m., unless the village has posted different hours at any location or closed any facility for the off-season. No person shall enter or remain in any park or recreational facility at any time other than those specified in this section, except for an activity for which a permit, in writing, has been granted by the village.

§ 104-5. Motor vehicles.

No motor vehicle shall be operated in any park except to and from designated parking

areas. No motor vehicles shall enter or remain in any park except during the hours and times provided for in § 104-4.

§ 104-6. Prohibited acts.

A. No person shall, within any park:

- (1) Dump or deposit any ashes, garbage, waste, debris or litter or burn any substance other than at receptacles provided for such purposes.
- (2) Cut, injure or destroy any shrub, tree or plant or injure, deface, destroy or remove any property, whether real or personal, owned by the Village of Cobleskill or maintained by the village or any entity associated with the village.^{21EN}
- (3) Possess or discharge any firearm or weapon capable of emitting a projectile.

B. The possession or drinking of any alcoholic beverages is subject to the provisions of Chapter 48, Alcoholic Beverages, Article I, regulating open containers on public lands.

§ 104-7. Penalties for offenses. ^{22EN}

A violation of any of the foregoing sections of this chapter shall constitute a violation punishable under the Penal Law of the State of New York, and any person found guilty thereof may be liable as set forth in Chapter 1, General Provisions, Article II, General Penalty, for each such violation.

§ 104-8. Exemption.

This chapter does not apply to law enforcement officials while engaged in the performance of their duties.

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

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ **Editor's Note: See also Article III, Defecation by Dogs.**

⁴ **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

⁵ **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**

⁶ **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I**

⁷ Editor's Note: See Ch. 160, Zoning.

⁸ Editor's Note: See Ch. 160, Zoning.

⁹ Editor's Note: See Ch. 160, Zoning.

¹⁰ Editor's Note: See Ch. 160, Zoning.

¹¹ Editor's Note: See Ch. 160, Zoning.

¹² Editor's Note: See Ch. 62, Buildings, Unsafe.

¹³ Editor's Note: See Ch. 160, Zoning.

¹⁴ Editor's Note: The fee schedule is available from the Codes Office.

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

¹⁶ Editor's Note: This local law also repealed former Ch. 83, Flood Damage Prevention, adopted 10-19-1992 by L.L. No. 2-1992, as amended.

¹⁷ Editor's Note: This chapter was approved at the village election held 3-18-1987

¹⁸ Editor's Note: The Official Map is on file in the Village offices.

¹⁹ **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I**

²⁰ Editor's Note: Former Section 4(c), the definition of "Commission," which immediately followed this definition, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²² **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I**