

APPENDIX A

MOTOR VEHICLES

§ A1.1 Purpose and intent.

The Town Board of the Town of Lyons finds that the outdoor storage of abandoned, inoperable or unlicensed motor vehicles upon public and private property within the Town of Lyons is dangerous, unsightly and a detriment to the preservation of public health, the protection of property and the safety and welfare of the residents of the Town of Lyons. The Town Board further finds that the outdoor storage of abandoned, inoperable or unlicensed vehicles constitutes an attractive nuisance to residents and children and a peril to their safety; such storage poses a threat to the safety and welfare of the Town of Lyons since fuel tanks may contain gasoline or gasoline fumes and may be subject to explosion in the event of fire. The outdoor storage of such vehicles depreciates the value of neighboring properties and discourages the orderly and progressive development of the Town of Lyons. The control of the outdoor storage of abandoned, inoperable or unlicensed motor vehicles upon public and private property within the Town of Lyons is, therefore, regulated for the preservation of the public health, safety and welfare of the residents of the Town of Lyons. It is the intent of this chapter to be construed in harmony with 19 NYCRR Part 1226 (Property Maintenance Code of New York State), and § 1224 of the Vehicle and Traffic Law of New York State.

§ A1.2 Scope.

The provisions of this chapter shall apply to all existing premises and conditions.

§ A2.1 Definitions.

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

ABANDONED MOTOR VEHICLE - A motor vehicle shall be deemed an abandoned vehicle if left unattended:

A. With no number plates affixed thereto, for more than six hours on any public highway or other public way;

B. For more than 24 hours on any public highway or other public way, except a portion of a public highway or public place on which parking is legally permitted;

C. For more than 48 hours, after the parking of such vehicle shall have become illegal, if left on a portion of a public highway or public way on which parking is legally permitted;

D. For more than 96 hours on the premises of another if left without permission of the owner.

ANTIQUÉ OR CLASSIC MOTOR VEHICLE - A motor vehicle manufactured more than 25 years prior to the current calendar year and which, because of discontinued production and limited availability, is owned and operated as an exhibition piece or collector's item, and not used for daily transportation.

CAR COVER - A cover specifically designed to cover a vehicle or a tarp (of a muted or neutral color). Acceptable covers shall completely screen the vehicle (to the bumper line) from view by having no frayed edges and no holes larger than the size of a quarter; holes in car covers and tarps may be patched from the inside.

FARM VEHICLE - A motorized vehicle used for agricultural operations either on or off an agricultural work site. This definition may include tractors, trucks, automobiles, and all-terrain vehicles.

INOPERABLE OR UNLICENSED MOTOR VEHICLE - A motor vehicle which cannot be driven upon the public highway for reasons, including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

MOTOR VEHICLE - A vehicle designed to be operated or driven upon a public highway, which is propelled by any power other than muscular power, except:

A. Electrically driven mobility assistance devices operated or driven by a person with a disability;

B. Vehicles which run only upon rails or tracks;

C. Snowmobiles;

D. All-terrain vehicles; and

E. Farm-type tractors and all-terrain type vehicles used exclusively for agricultural purposes.

OPEN STORAGE - Storage other than in a completely enclosed structure constructed of wood, masonry or metal, such as a garage or barn. Storage within a carport shall be deemed open storage for purposes of this chapter.

OWNER (OF MOTOR VEHICLE) - A person having the property and or title to a motor vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

OWNER (OF PREMISES) - Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PREMISES - A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC HIGHWAY - Any highway, road, street, avenue, alley, public place, public driveway or any other public way.

PUBLIC WAY - Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

RACE CAR - A motor vehicle that has been custom built or modified from its original factory configuration for racing purposes, with no intent of being operated on public highways or as regular transportation.

§ A3.1 Open storage restricted.

A. The open storage of abandoned, inoperable or unlicensed motor vehicles, or motor vehicles that are unfit to operate on the public highways of the State of New York shall be prohibited. The fact that a vehicle does not display a current motor vehicle registration, license plate or inspection sticker shall be presumptive evidence that such vehicle is not in any condition for legal use upon the highways.

B. Exceptions:

(1) Farm vehicles stored in accordance with this Appendix.

(2) Race cars stored in accordance with this Appendix.

(3) Vehicles covered in accordance with this Appendix.

(4) Licensed and/or registered service station (repair garages), auto body repair shops, vehicle dismantlers and junkyards shall also be exempt from the provisions of this Appendix provided they are approved by the State of New York for the type of business they are conducting and have received zoning approval for the area where they are operating.

(5) New or used automotive dealers that are approved by the State of New York for the purpose of displaying vehicles for sale to the general public and have received zoning approval will be exempt from this Appendix.

(6) Antique or classic motor vehicles stored in accordance with this Appendix.

§ A3.2 Responsibility for compliance.

On private property, the owner of the premises shall be responsible for compliance with the requirements of this chapter. On public property, the motor vehicle owner shall be responsible for compliance with this Appendix.

§ A3.3 Farm vehicles.

Any vehicle being actively used in farming operations shall be exempt from the provisions of this chapter, provided that:

A. The vehicle is being used on private property and is being held for continuous operation on private property and is not being held primarily for non-operating purposes.

B. The vehicle, if not in a condition for legal operation on public highways, is in a condition so that it can be operated and so that such operation on private property will not be unduly dangerous to the operator, passengers or others.

C. The vehicle is in such a condition that there is no sharp metal, broken glass or other condition which would endanger children who might be attracted to play around the vehicle.

§ A3.4 Race cars.

Any person may maintain one race car, provided said vehicle is maintained on a registered trailer. Vehicles permitted by this section shall not be stored in the front yard, and any work done on said vehicles shall not interfere with the setting of the neighborhood.

§ A3.5 Permit for open storage; covering.

The Code Enforcement Officer is authorized to issue annual permits for the open storage of unlicensed vehicles upon a private property in accordance with the following provisions:

A. Application. A written permit to store an abandoned or unlicensed motor vehicle shall be issued upon proper application having been made and submitted with a fee of \$25.00. Each application shall contain the following minimum information:

(1) The property owner's name, address and telephone number.

(2) The applicant's name, address and telephone number.

(3) A description of the vehicle to be stored, including make, model, year of manufacture, color, and vehicle identification number (VIN).

B. Investigation. The Code Enforcement Officer may cause each application to be investigated to ensure that the submitted information is accurate and that the vehicle has not been stolen or used in the commission of a crime.

C. Issuance of permit. A written permit to store an abandoned or unlicensed vehicle shall be issued within 60 days upon proper application having been made, and only after the applicant, if deemed necessary, has met all the requirements as to the type of cover.

D. Permit expiration. If the permit is issued, such permit shall be issued for a period of one year.

E. Covering. All abandoned or unlicensed vehicles authorized to be stored in accordance with this section shall be covered by a securely fastened car cover, as defined herein. An approved car cover must cover the entire vehicle and be securely fastened to the vehicle. An approved car cover shall be made of material which will resist wind, rain and other weather-related circumstances. The use of bricks, stones, blocks or other material as a fastener shall not be permitted.

§ A3.6 Antique or classic motor vehicles.

An antique or classic motor vehicle that is in the process of being restored may be kept outdoors upon the premises of the owner of said vehicle for a period of 12 months to allow the restoration to be completed, provided that the vehicle is stored behind the required front yard on an adequately maintained surface in the side or rear yard and is at least three feet from the property line, and provided further that such vehicle or any component part thereof is covered with a car cover.

§ A3.7 Repair of motor vehicles.

(1) No person shall repair or service any motor vehicle on any public street or in any open area of any property, except to make necessary repairs to or regularly service their own personal vehicle or vehicles, or as part of a professional automotive repair business.

(2) Tools, parts, and other materials associated with the repair and servicing of motor vehicles shall not be stored in open areas of any private property.

(3) Fluids, greases, oils, and other wastes associated with the repair or servicing of motor vehicles shall be discarded in an appropriate manner, and reasonable precautions shall be taken to prevent the spilling of such wastes on driveways, sidewalks and other areas.

§ A4.1 Enforcement.

The Town of Lyons Code Enforcement Officer shall be responsible for the enforcement of this Appendix. The Code Enforcement Officer may request and shall receive, so far as may be necessary in the enforcement of this Appendix, the assistance of the Wayne County Sheriff's Department, Public Works Superintendent, and other departments or officers of the Town of Lyons.

§ A4.2 Violations.

Any person failing to comply with a notice of violation or order served in accordance with § A4.4 shall be deemed guilty of a violation, and the violation shall be deemed a strict liability offense.

§ A4.3 Penalties for offenses.

Upon conviction, a violation of this chapter shall be punishable by a fine of not less than \$50, and not more than \$250. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

§ A4.4 Notices and orders.

Whenever it has been determined that there has been a violation of this chapter, or when there are grounds to believe a violation has occurred, notice shall be given in the manner prescribed in Subsections A and B to the person responsible for the violation.

A. Form. Such notice prescribed shall be in accordance with all of the following:

- (1) Be in writing.
- (2) Include a description of the real estate sufficient for identification.
- (3) Include a description of the vehicle sufficient for identification.
- (4) Include a statement of the violation or violations and why the notice is being served.
- (5) Include a correction order allowing a reasonable time to bring the premises or motor vehicle into compliance with the provisions of this chapter.
- (6) Inform the property owner of the right to appeal.

B. Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally to the person responsible for the violation; or
- (2) Sent by certified or first-class mail addressed to the last known address of the person responsible for the violation; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on or about the motor vehicle and/or premises affected by such notice.

§ A4.5 Appearance tickets.

The Code Enforcement Officer shall have the authority, pursuant to the Criminal Procedure Law, to issue appearance tickets subscribed by him or her, directing a designated person to appear in Lyons Town Court at a designated time in connection with the commission of a violation of this Appendix.

§ A4.6 Abatement of violation.

The imposition of penalties herein prescribed shall not preclude the Code Enforcement Officer from instituting appropriate action to restrain, correct or abate a violation, including but not limited to removal and disposition of abandoned vehicles in accordance with § 1224 of the Vehicle and Traffic Law of New York State, or seizure and impoundment of any vehicle pursuant to a warrant issued by a court of competent jurisdiction. Nothing in this chapter shall prevent the Code Enforcement Officer from enforcement of applicable local and state regulations applicable to the Town of Lyons.

§ A4.7 Impoundment fees.

Where a motor vehicle has been impounded under the terms of this chapter, or § 1224 of the Vehicle and Traffic Law of New York State, the following fees shall be imposed and paid prior to relinquishment of said vehicle: reimbursement of all accrued towing and storage fees, plus an administrative fee as set by resolution of the Town Board. All fees shall be in addition to any other fines and penalties.

Appendix B – Housing

B1 Legislative Purpose. It is hereby declared that there exists within the Town of Lyons rental housing units, which by reason of their operation, use or occupancy affect or are likely to affect the public health, safety and general welfare of the Town. It is further declared that the purpose of these regulations are to protect the health, safety and general welfare of the citizens of the Town by requiring the licensing of owners of certain rental housing units as well as the registration of multiple dwellings and regulation of all rental housing units which are or shall be in existence in the Town. The requirements of this Appendix shall be in addition to any other requirements of the New York State Uniform Fire Prevention & Building Code (Uniform Code), or Local Law or Ordinance.

B2 Definitions. The following definitions shall apply in the interpretation and enforcement of this Appendix:

AGENT - A designated agent of the owner or landlord who lives within the Town of Lyons or a 20 mile radius of the Town of Lyons.

BED BUG - The common bed bug (*Cimex lectularius*)

BEDROOM - Any room or space within a dwelling or other occupancy which has the potential to be utilized as a sleeping area on a consistent basis. To be deemed a bedroom, the room must meet the following standards:

- (a) The room must be a habitable or planned habitable space per the requirements of the Uniform Code. Planned habitable spaces would include those areas which contain the appropriate "roughed-in" mechanicals, such as heating ducts, hot water lines, or plumbing waste lines, etc., but are not currently "finished" to meet Uniform Code requirements for habitable space.
- (b) The room should provide privacy to the occupants.
- (c) Full bathroom facilities (containing either a bathtub or shower) should be conveniently located to the bedroom served. Convenience in this case means on the same floor as the bedroom or on an adjacent floor.
- (d) There should be a clothes closet in or conveniently available to the room.
- (e) There shall be a window that opens to the outside, and a means of escape.
- (f) Entry shall be from a common area, not through a room already deemed a bedroom.

BROOM SWEEP – Means that all floors have been swept of debris (no vacuuming / mopping necessary) and counters, cabinets, closets, etc. wiped down. It is not a deep cleaning.

BUSINESS DAYS - Shall mean days in which the offices of the Town of Lyons are open for public business.

COMMON AREA - Shall mean space which is not part of an individual rental unit and which is shared among occupants of two or more rental units.

COMPLAINT – An objection to existing conditions that is brought to the attention of the authority having jurisdiction.

COMPLIANCE – Meeting the minimum standards set forth by applicable codes or regulations.

FAIR HOUSING ACT (FHA) –The Civil Rights Act of 1968 and Fair Housing Act Regulations, 24 CFR 100.205 adopted pursuant thereto.

LANDLORD - Shall mean the owner of one or more rental units.

LANDLORD LICENSE - Shall mean a license that is issued to a landlord, valid for one (1) year, by the Town Clerk of the Town of Lyons upon evidence of compliance with the provisions of this Appendix and payment of the Landlord License fee.

MEANS OF EGRESS (EXIT ROUTE) – A continuous and unobstructed way of exit travel from any point in a building or structure to a public way consisting of three separate and distinct parts: (1) the exit access, (2) the exit, and (3) the exit discharge.

MEANS OF ESCAPE (EGRESS WINDOW, RESCUE WINDOW) – A way out of a building or structure that does not conform to the strict definition of means of egress but does provide an alternate way out; May be a door, window, hallway or exterior fire escape as dictated by the Fire Prevention Code.

NEIGHBORHOOD - An area comprised of all premises or parcels of land any part of which is within a radius of 600 feet of any part of another parcel or lot within the jurisdiction.

OWNER - Shall mean the legal title holder or holders of the real property, except (i) if there is a purchaser or purchasers under a real estate sales contract, owner shall mean the purchaser or purchasers; and (ii) the designated agent is authorized to act on behalf of the owner for purposes of this Appendix.

PERSON - Shall mean an individual, corporation, firm, partnership, association, organization, or company.

PEST CONTROL AGENT - A person who is a certified applicator or who is otherwise specially licensed or qualified to treat bed bug infestations.

QUALIFIED INSPECTOR – A licensed exterminator or other trained and certified person retained by a landlord to conduct an inspection for an infestation of bed bugs.

RENTAL HOUSING - A residential property owned by an individual other than the resident or by a legal entity, and for which the resident pays rent to the owner; or a manufactured home park or other permanent or semi-permanent site at which lots are leased or otherwise rented to tenants for the parking of a manufactured home, mobile home, recreational park trailer or recreational vehicle that is used for residential purposes.

RENTAL UNIT – Any apartment, house, duplex, condominium, or room in a rooming house that is not owner-occupied which is let for occupancy or intended to be let to a person for compensation.

SHALL – Indicates a mandatory requirement.

SHOULD – Indicates a recommendation or that which is advised but not required.

STABILIZATION - Repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.

B3 Housing Standards. This Section clarifies the minimum acceptable standards for the maintenance of rental units in addition to any and all other requirements of the New York State Uniform Fire Prevention & Building Code.

- A. Sanitary Facilities. Dwelling units shall include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.
- (1) Each dwelling unit shall have an oven, and a stove or range, and a refrigerator of appropriate size for the number of occupants.
 - (1) All of the equipment must be in proper operating condition. The equipment may be supplied by either the owner or the occupants. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished instead of an oven and stove or range to all tenants in the building or premises.
 - (2) Each dwelling unit shall have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink shall drain into an approved public or private sewage disposal system.

- (3) Each dwelling unit must have a flush toilet, a fixed basin with hot and cold running water, and a shower or tub with hot and cold running water in a separate, private room in the dwelling unit, all in proper operating condition. These facilities shall utilize an approved public or private disposal system.

B. Food Preparation and Refuse Disposal.

- (1) Each dwelling unit shall have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.
- 2 There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary.
 - (a) Location on Site. Centralized solid waste and recyclables collection facilities shall be set back 30 feet from all property lines of the parcel proposed for development. In the alternative, if it is not possible to service the centralized facilities in a location which is at least 30 feet from all property lines, then the facilities may be located closer to the property lines, provided that they are designed and constructed to be consistent and compatible with the building or buildings on the parcel in terms of materials and architecture and are located as far from the property line as is practicable.
 - (b) Enclosure Requirements. The areas where refuse and recycling containers are stored shall be fully enclosed to a height of one foot above the top of the container(s) by solid fencing or an opaque wall constructed of brick, stone, or stucco-finished concrete block.

Exception: One- and two-family dwellings.
 - (c) Size of Residential Refuse Containers. The minimum size of rubbish facilities shall be 0.56 cubic yards (or one 90-gallon trash can) per residential unit served, with weekly pickup.

C. Space and Security.

- (1) Each dwelling unit shall contain a living room, kitchen area, and bathroom. The dwelling unit shall also contain the appropriate number and size of bedrooms for the number of occupants. Persons of opposite sex, other than husband and wife or children under the age of six, shall not be required to occupy the same bedroom.
- (2) Dwelling unit windows located on the first floor, at the basement level, on a fire escape, porch, or other outside space that can be reached from the ground and that are designed to be opened shall have a locking device. (Windows with sills less than six feet off the ground shall be considered accessible.) Traditional

window locks, those provided by storm/screen combination windows, window pins, and nails are acceptable. Windows leading to a fire escape, serving as a means of escape, or required to meet ventilation requirements may not be permanently nailed shut.

- (1) Doors leading to the outside and common hallways, fire escapes, and porches or otherwise accessible from the ground must have locks.
- (4) Except for vehicular access, door openings in enclosed attached garages must have locks.
- (5) Window and door surfaces (including the door frame) must be in sufficient condition to support the installation and proper operation of window and door locks.
- (6) Security methods shall not create a hazard to life by obstructing any means of egress or any opening which is classified as a means of escape. Security provisions shall not supersede the safety requirements relative to latching or locking devices on exit doors which would be contrary to the provisions of the Uniform Code.
- (7) Bars, grilles, grates or similar devices may be installed in an egress window or door required by the Uniform Code, provided the devices are equipped with approved release mechanisms which are openable from the inside without the use of a key or special knowledge or effort.

D. Appliances and Mechanical Systems.

- (1) Forced warm air and gravity furnaces.
 - (a) Filters shall be changed at least yearly.
 - (b) All heating ducts shall be connected and grates shall be installed on all duct openings to prevent trip hazards and / or debris from accumulating in the duct.
 - (c) Room registers that have an open / close damper shall operate properly or be locked in the open position.
- (2) Hot water and steam boilers. All hot water and steam boilers shall comply with the following:
 - (a) All water boilers and steam boilers shall be provided with an automatic means to shut off the fuel supply to the burner(s) if the boiler water level drops below the lowest safe water line. In lieu of the low-water cutoff, water tube or coil-type boilers that require forced circulation to prevent overheating and failure shall have an approved flow sensing device

arranged to shut down the boiler when the flow rate is inadequate to protect the boiler against overheating.

- (b) Steam and hot water boilers shall be equipped, respectively, with listed or approved steam safety or pressure relief valves of appropriate discharge capacity and conforming to ASME requirements. A shutoff valve shall not be placed between the relief valve and the boiler or on discharge pipes between such valves and the atmosphere. Relief valves shall be piped to discharge near the floor, and the entire discharged piping shall be at least the same size as the relief valve discharge piping. Discharge piping shall not contain threaded end connection at its termination point.

(3) Hot water heaters. All water heaters shall comply with the following:

- (a) A shut off valve shall be provided on the cold water line.
- (b) A pressure relief valve shall be installed and extended to within six (6) inches of the floor. The extension pipe shall be a ¾-inch pipe.
- (c) Where the plumbing is a metallic water system, a copper jumper (#6 ground wire) shall be connected from the cold water line to the hot water line.
- (d) The water heater shall be adequate in size to serve the number of occupants.
- (e) The water heater shall be free of leaks.

(4) Electric baseboard heating.

- (a) All electric baseboard heaters shall have a cover and be in good working condition.
- (b) Electrical receptacles shall not be installed or maintained above electric baseboard heaters.
- (c) Sufficient clearance shall be maintained between electric baseboard heaters and draperies so as to avoid fire. Where the baseboard heater instructions are not available for guidance, a minimum of eighteen (18) inches of clearance shall be provided.

(5) Cooking equipment.

- (a) All burners shall work, and all knobs must be present for burners and oven.

- (b) Electric ranges shall have an approvable 220-volt receptacle properly secured to the wall.

(6) Plumbing.

- (a) The dwelling shall be free of leaks in supply lines.
- (b) Sewer and waste lines shall be sound and free of leaks or backups. Waste lines at sinks and tubs shall drain freely.
- (c) Faucets, hose bibs and toilets shall be free of leaks and drips.
- (d) Minor drips at faucets, hose bibs and toilets may be allowed when the landlord pays for the water and if the leak does not affect the surrounding areas such as countertops or base cabinets.
- (e) Water shall not be permitted to run continuously in toilets.

E. Illumination and Electricity.

- (1) Each room shall have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants.
- (2) Exterior artificial lighting shall be maintained in operating condition.
- (2) Sufficient electrical sources shall be provided to permit use of essential electrical appliances while assuring safety from fire.
- (3) Electrical receptacles at water service areas such as bathrooms, kitchen countertops, laundry areas, and within six (6) feet of any other sink or hose bibs, shall be grounded. Where a receptacle at a water service area must be corrected to include a ground, or electrical work must be done to add a receptacle, ground fault circuit interrupters (GFI) shall be installed.
- (4) Receptacles of the 3-prong type shall be grounded or shall be marked "No Equipment Ground".
- (5) Receptacles that are part of a bathroom cabinet fixture shall be grounded or disconnected.
- (6) When new electrical services are being installed or upgraded, the circuit box shall be labeled on the inside to list what circuits each breaker serves. All blank circuit spaces in the box must be covered.
- (7) Wiring systems shall be deemed to be a fire hazard when conditions such as, but not limited to, the following are found:

- (a) A switch or receptacle faceplate feels unusually warm or there is a burning odor in their immediate vicinity.
- (b) There is a flickering of lights which is not traceable to appliances or obvious external causes.
- (c) Any abnormal heating or sparking of any wiring system.

F. Structure and Materials. Ceilings, walls, and floors shall not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling or noticeable movement under walking stress, missing parts or other serious damage. The roof structure shall be firm and the roof shall be weather tight. The exterior wall structure and exterior wall surface shall not have any serious defects such as serious leaning, buckling, sagging, cracks or holes, loose siding, or other serious damage. The condition and equipment of interior and exterior stairways, halls, porches, walkways, etc., shall be such as not to present a danger of tripping or falling. Elevators shall be maintained in safe and operating condition.

- (1) Walls and ceilings must be free from holes which exceed a half inch (1/2") diameter. Walls at tub or shower areas must be properly waterproofed.
- (2) All uncovered wood floors, of a soft wood construction must be covered if there is evidence of splintering wood or unsanitary conditions. Carpets or other floor coverings which are unsanitary, or present a trip hazard shall be removed, repaired, thoroughly cleaned or replaced as necessary. Unsanitary carpet includes carpet that has collected excessive food spills, pet waste, dirt, etc. Any holes in floor coverings greater than 4 inches in width shall be deemed a trip hazard.
- (3) Garages and outbuildings shall be structurally sound, shall have no broken windows, and be free of accumulated rubbish.
- (4) The exterior of dwellings shall be maintained comparable in condition to the dwellings in the surrounding neighborhood.

G. Interior Air Quality.

- (1) The dwelling shall be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- (d) There shall be adequate air circulation in the dwelling unit.

H. Water Supply. Dwellings must be served by an approved public or private water supply that is sanitary and free from contamination.

I. Access. The dwelling shall be useable and capable of being maintained without unauthorized use of other private properties, and the building shall provide an alternate means of egress in case of fire.

J. Infestation.

(1) All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

(2) Standing water in buckets, aquatic vessels, tires, etc., shall be eliminated to control the breeding of mosquitos.

(3) Control of Bedbugs.

(a) A landlord shall not show, rent, or lease to a prospective tenant any vacant rental unit that the landlord knows has a current bed bug infestation.

(b) A tenant shall promptly notify a landlord orally or in writing when the tenant knows or reasonably suspects that the tenant's rental unit is infested with bed bugs. Not later than five business days after receiving such notice, the landlord shall obtain an inspection by a qualified inspector of the rental unit and any contiguous unit of which the landlord is an owner, lessor or sub-lessor, and may enter any such dwelling unit or contiguous unit for the purpose of conducting such inspection. If the qualified inspector determines that any such rental unit or contiguous unit is infested with bed bugs, the landlord shall, not later than five business days after the date of the inspection, take reasonable measures, as determined by such qualified inspector, to effectively treat the bed bug infestation, including treating or retaining the services of a pest control agent to treat the rental unit and any contiguous unit of which the landlord is an owner, lessor or sub-lessor, except the landlord may first attempt to treat such infestation. If the landlord treats such bed bug infestation without retaining the services of a pest control agent, the landlord shall first vacuum the areas to be treated and shall, not later than five business days after the date of such treatment, obtain an inspection of any treated unit by a qualified inspector. If the qualified inspector determines that any such unit is not infested with bed bugs, the qualified inspector shall provide the landlord with a written certification of such determination, a copy of which shall be provided to the Code Enforcement Officer. If the qualified inspector determines that any such unit is infested with bed bugs, the landlord shall, not later than five business days after the date of such inspection, retain the services of a pest control agent. The landlord shall be responsible for all costs associated with inspection for and treatment of a bed bug infestation in multiple dwellings, and upon vacancy of any rental unit where a bedbug infestation is known to exist. Tenants shall cooperate with the inspection and extermination process, which shall include reducing unreasonable amounts of clutter that create hiding places for pests and deter treatment.

(c) Whenever any furniture, clothing, equipment or personal property belonging to a tenant is found to be infested with bed bugs, such furniture, clothing, equipment or personal property shall not be removed from the dwelling unit until a pest control agent determines that a bed bug treatment has been completed, or until the landlord approves of such removal.

(d) This section shall not impose a duty on a landlord to inspect or treat a dwelling unit or the common areas of the premises for bed bugs if the landlord has no notice of a suspected or actual bed bug infestation. If a bed bug infestation is evident on visual inspection, the landlord shall be considered to have notice pursuant to this section.

K. Fire and Life Safety.

- (1) There shall be a working smoke alarm located in each bedroom and in a central location on each floor level of the rental unit, including the basement.
- (2) If the rental unit is occupied by hearing-impaired persons, each required smoke alarm shall be designed for hearing-impaired persons.
- (3) The rental unit shall have an adequate fire exit. Windows are acceptable for the first and/or second floor. The third floor or above shall have a fire escape or an acceptable second stairway and exit.

Exception 1: where a fire sprinkler system is installed in conformity with NFPA 13, NFPA 13R, or NFPA 13D, as applicable.

Exception 2: above the second floor and below the seventh floor, where a means of escape is provided and equipped with a portable escape ladder compliant with ASTM F2175 (Standard Specification for Portable and Permanent Emergency Escape Ladders for Residential Use).

- (4) The rental unit shall have unimpeded access to at least one (1) portable fire extinguisher within 75 feet of travel distance, located along the path of exit from the unit and / or building. Such extinguisher shall be at least a 2.5-lb. ABC dry chemical type, and shall be properly mounted in place.
- (5) There shall be a working carbon monoxide alarm provided and located in the rental unit as required by the New York State Uniform Fire Prevention & Building Code.
- (6) Stovetop fire suppressors. Owners and/or managers of apartment buildings containing three or more rental units with no automatic fire suppression or sprinkler system shall:

(a) Install and maintain an approved, automatic, laboratory-tested, fire extinguishing device designed to suppress fires in all vent hoods located above cooking appliances; or

(b) Install and maintain other automatic, laboratory-tested stovetop fire prevention or mitigation technology for all stovetops in the dwelling.

(c) The Code Enforcement Office shall set a date or dates for achieving compliance with this subsection, and may establish a phase-in schedule for compliance.

L. Paint and Paint Hazards.

(1) All interior and exterior painted surfaces including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained free of peeling, flaking and chipped paint. Deteriorated interior painted surfaces exceeding 2 square feet; deteriorated exterior painted surfaces exceeding 20 square feet, and; deteriorated individual components exceeding 10% of the component, shall require stabilization.

Exception: Interior surfaces in rental units and common areas constructed after 1978, or which have been inspected by a certified (licensed) lead-based paint inspector or risk assessor (see 40 CFR Part 745) and found to contain no lead-based paint.

(2) Where applicable, stabilization shall follow lead-safe work practices as stipulated by HUD and / or EPA.

(3) Before ratification of a contract for housing sale or lease, sellers and landlords must:

(a) Give to the tenant or buyer an EPA-approved information pamphlet on identifying and controlling lead-based paint hazards ("Protect Your Family From Lead In Your Home" pamphlet).

(b) Disclose any known information concerning lead-based paint or lead-based paint hazards. The seller or landlord shall also disclose information such as the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.

(c) Provide any records and reports on lead-based paint and/or lead-based paint hazards which are available to the seller or landlord (for multi-unit buildings, this requirement includes records and reports concerning common areas and other units, when such information was obtained as a result of a building-wide evaluation).

(d) Include an attachment to the contract or lease (or language inserted in the lease itself) which includes a Lead Warning Statement and confirms that the landlord

has complied with all notification requirements. This attachment shall be provided in the same language used in the rest of the contract. Sellers, landlords, and agents, as well as buyers and tenants, must sign and date the attachment.

(e) Sellers and landlords shall retain a copy of the disclosures for no less than three years from the date the leasing period begins.

M. Manufactured Housing. A Manufactured Home shall be securely anchored by tie-down devices which distribute and transform the loads imposed by the unit to appropriate ground anchors to resist wind overturning and sliding.

N. Housekeeping.

(1) Cooking surfaces and equipment shall be kept free of grease.

(2) Occupied buildings and structures shall be kept in broom swept condition at all times.

O. Site and Neighborhood Conditions. The site and neighborhood shall be maintained reasonably free from disturbing noises and reverberations or other dangers to the health, safety and general welfare of the occupants.

(1) Adverse natural or manmade environmental conditions may include dangerous walks or steps, instability, flooding, poor drainage, septic tank back-ups or sewer hazards, mudslides, abnormal air pollution, smoke or dust, excessive noise, vibration, or vehicular traffic, excessive accumulations of trash, vermin or rodent infestation, or fire hazards.

(2) It shall be prohibited to occupy or use for residential purposes the residential part of a mixed occupancy building, if the nonresidential part of such building is classified for use as a high hazard occupancy, or if the nonresidential use is obnoxious or offensive to the residential occupancy or use.

B4 Designation of Agent; Posting of Notice.

A. Any owner of three (3) or more rental units in the Town of Lyons who is not a full-time resident of the Town of Lyons or resides within a 20 mile radius of the Town of Lyons, shall file with the Code Enforcement Officer:

(1) A statement of designation, signed and notarized, setting forth the name and address, by street and number within the Town of Lyons or a 20 mile radius of the Town of Lyons, of an agent upon whom process may be served in any action or proceeding which may be commenced or instituted against said owner. The designated agent shall be the agent of the owner for services of process and receiving of notices and demands, as well as for performing the obligations of the owner under statutory law

or code and under rental agreements with occupants. If an agent is designated, then the Town is not required to provide separate notice to the owner.

(2) The legal name, mailing address, daytime physical address (not a post office box), and day time and evening telephone number(s) of the designated agent, and such information shall be kept current and updated within five (5) business days after it changes.

B. Every owner of a building located within the Town of Lyons shall post, and keep posted, in a conspicuous place in the common area of said building, a notice, at least six by eight (6x8) inches in size, setting forth the name, address and telephone number of the owner, or designated agent.

Exception: At one- and two-family dwellings, and owner-occupied multiple dwellings, such notice need not be posted.

B5 Landlord License Required; Application; Grounds for Denial, Suspension or Revocation.

A. The owner of three (3) or more rental units shall obtain an annual Landlord License from the Town of Lyons, the initial license of which shall be obtained within ninety (90) days of the date of passage of this local law. New landlords shall obtain a Landlord License within thirty (30) days of obtaining title to the rental unit(s).

B. Each owner of a rental unit shall file a Landlord License application and submit a Landlord License application fee to the Town Clerk. All Landlord License applications shall be submitted to the clerk on approved forms. Upon receipt of a Landlord License application, the Town Clerk shall forward such form(s) or information to the Mayor and the Code Enforcement Officer for his or her review, in accordance with this Appendix. The Landlord License Application shall require the owner to give the following information:

(a) Name(s), address(es), and telephone number(s) of the owner(s).

For purposes of this section, a post office box does not suffice as an address.

(b) Registered agent's name, address, and telephone number if applicable.

For purposes of this section, a post office box does not suffice as an address.

(c) A statement that the owner agrees to conduct, maintain and supervise all rental units and the surrounding premises owned by the owner so as to

not create a nuisance, or permit conduct or activity at the rental unit or on its premises that endangers the public health and welfare.

- (d) A statement that the owner certifies that the Landlord License application is accurate and does not contain any material omissions and/or materially false or misleading information.
- (e) Except as provided in subsection (j), the Code Enforcement Officer shall issue the Landlord License upon receipt of the completed Landlord License application, the Landlord License fee, rental unit registration and other required information.
- (f) If at any time the information contained in the Landlord License application changes materially before the filing of a new Landlord License application, the Landlord shall update the Landlord License application. No fee shall be required to update the Landlord License application. Failure to update the Landlord License application shall be a violation of the Zoning Law.
- (g) A Landlord License shall be valid for one (1) year from the date of issuance. A Landlord License is non-transferable. A Landlord License, in and of itself, shall not be interpreted as granting the owner the privilege to let for occupancy any rental unit, but must be accompanied by a valid Operating Permit as may be required by local law.
- (h) At the expiration of the Landlord License, the owner may renew the Landlord License by submitting another Landlord License application along with the Landlord License fee. A renewal of the Landlord License may not be refused without cause upon payment of the Landlord License fee.
- (j) The Code Enforcement Officer may deny any Landlord License application if he / she determines that any of the following events have occurred or conditions exist:
 - (1) The owner has failed to provide all the information required for the Landlord License application.
 - (2) The owner has failed to pay the required fee pursuant to local law.
 - (3) The owner has obtained the Landlord License or an Operating Permit through fraud, collusion or illegality.
 - (4) The application or any previous application for a Landlord License filed by an owner contains any material omissions and / or

materially false or misleading information, including a failure to update an application where required.

- (6) Any rental unit and / or the premises of the owner are conducted or maintained in such a manner as to create two (2) or more public nuisance violations pursuant to local law.
- (7) The owner has been determined to aiding, abetting, encouraging, permitting, harboring, or engaging in criminal conduct or criminal activities in any of his / her rental units or on any of the owner's rental unit premises.
- (8) Violation of any other provision of this Appendix.
- (9) A building owned by the applicant and within the Town of Lyons has been deemed an "abandoned dwelling" as defined by New York State Real Property Actions and Proceedings Law.
- (10) The owner has failed to provide Federally required lead based paint disclosures to tenants of rental units constructed before 1978.
- (11) The owner has been found by a court or by the Town of Lyons Fair Housing Officer to have violated State or Federal fair housing laws.

If the Code Enforcement Officer believes there is reasonable cause to deny a Landlord License application, the Code Enforcement Officer shall issue written notice of the denial to the owner with the specific grounds for such denial. The owner may appeal the determination of the Code Enforcement Officer to the Zoning Board of Appeals as set forth in the Zoning Law.

- (k) The Code Enforcement Officer may revoke or suspend a Landlord License if he / she determines that:
 - (1) Any of the events or conditions listed in subsection (j) have occurred.
 - (2) The landlord has failed to pay any outstanding penalties or fees that have been outstanding for ninety (90) days.
 - (3) The landlord or his / her designated agent are not available

or do not respond to contacts by a Code Enforcement Officer, or if the name and contact information for the owner or agent are no longer valid, or if the designated agent no longer represents the owner.

If the Code Enforcement Officer believes there is reasonable cause to revoke or suspend a Landlord License, the Code Enforcement Officer shall issue a written notice of the revocation with the specific grounds for the revocation or suspension. The owner may appeal the revocation or suspension to the Zoning Board of Appeals as set forth in the Zoning Law.

- (l) A Landlord License may be suspended for a maximum period of ninety (90) days, and shall be reinstated at the end of the suspension period.
- (m) An owner whose Landlord License has been revoked shall be ineligible to obtain a new Landlord License for a period of one (1) year. In addition to any other provision of this Appendix, an owner whose Landlord License has been revoked shall enroll in, or provide proof that the owner or registered agent has successfully completed a landlord training program acceptable to the Town.
- (n) An owner whose Landlord License has been denied, revoked or suspended shall not, while said license is invalid, permit another person to rent, lease or occupy any rental unit that is vacant or becomes vacant.

B6 Registration of Rental Housing Units. Every owner of a multiple dwelling shall, in addition to any and all other information required by local law, provide a floor plan of each rental unit and common area. The plan need not be to scale, but shall indicate the dimensions of kitchens, living rooms, dining rooms and bedrooms.

B7 Insurance. All owners required to obtain a Landlord License shall be required to obtain a minimum of fifty thousand dollars (\$50,000) in general liability insurance and hazard and casualty insurance in an amount sufficient to either restore or remove the building in the event of fire or other casualty. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to applicable laws, codes and regulations.

B8 Transfer of ownership or control.

- A. It shall be unlawful for the owner of any rental unit who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such rental unit to another until the provisions of the compliance

order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Enforcement Officer and shall furnish to the Code Enforcement Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

- B. All delinquent fees shall be paid by the owner prior to any transfer of control or an ownership interest in any rental unit.
- C. It shall be unlawful for the owner of any rental unit to sell, transfer, mortgage, lease or otherwise dispose of such rental unit to another until such owner shall first furnish the grantee, transferee, mortgagee or lessee a signed and notarized fire safety affidavit (in a form approved by the Code Enforcement Officer) stating that the dwelling unit has operable smoke alarms, carbon monoxide alarms, and a fire extinguisher as required by the New York State Uniform Code and local law, and that the chimney of any fireplace or solid fuel-burning appliance has been inspected in accordance with NFPA 211. The fire safety affidavit shall include the results of said chimney inspection, and a copy shall be submitted to the Code Enforcement Officer.
- D. Upon the change of any relationship between the owner of property and any tenants or occupants of the property and any change in relationship between the parties to a land contract or other similar contract where the land contract vendor and/or vendee changes, the Town of Lyons shall have the right, at its own expense, to inspect the property regarding compliance of any and all matters concerning this Appendix and the New York State Uniform Fire Prevention & Building Code and for other purposes.
- E. Upon execution of an agreement between the Town of Lyons and the Wayne County Water Sewer Authority, the Code Enforcement Officer shall, prior to transfer of any dwelling, inspect the premises to ensure that any and all sump pumps and roof gutters are properly connected to an approved storm sewer, or combination storm /sanitary sewer, or are otherwise discharged in an approved manner. The fee for said inspection shall be \$25.00 or as otherwise stipulated by law.

B9 Occupant to give reasonable access to owner to make repairs.

- A. Every occupant of a rental unit shall give the owner thereof or his or her agent or employee access to any part of such rental unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Appendix, the Zoning Law, the New York State Uniform Fire Prevention & Building Code, or with any lawful order issued pursuant to any state or local law.

- B. Entry to inspect any rental unit selected by a pest control agent and to conduct follow-up inspections of surrounding units until bed bugs are eliminated is a necessary service for the purpose of this Appendix. Tenants shall cooperate with the inspection process to facilitate the detection and treatment of bed bugs, including reducing unreasonable amounts of clutter that create hiding places for pests and deter treatment.

BIO Right to hearing; petition. Any person affected by any notice which has been issued in connection with the enforcement of this Appendix may request and shall receive a hearing on the matter before the Code Enforcement Officer, provided that such person shall file in the Code Enforcement Office a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within five days after the day the notice was served.

- A. Hearing, notification and conduct of hearing.

- (1) Upon receipt of such petition, the Code Enforcement Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof.
- (2) At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.
- (3) The hearing shall be commenced not later than 10 days after the day on which the petition was filed, provided that upon application of the petitioner, the Code Enforcement Officer may postpone the date of the hearing for a reasonable time beyond such ten-day period, if in his or her judgment the petitioner has submitted a good and sufficient reason for such postponement.

- B. Determination after hearing.

- (1) After such hearing, the Code Enforcement Officer shall sustain, modify, or withdraw the notice, depending on his or her finding as to whether the provisions of this Appendix and the rules and regulations adopted thereto have been complied with.
- (2) If the Code Enforcement Officer sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to the Appendix shall automatically become an order if a written petition for a hearing is not filed in the Code Enforcement Office within five days after such notice is served.
- (3) After a hearing in the case of any notice suspending any permit required by this Appendix or by any rule or regulation pursuant thereto, when such notice has been sustained by the Code Enforcement Officer, the permit shall be deemed to have been revoked. Any such permit which has been suspended by a notice shall be deemed to be automatically revoked if a petition for hearing is not filed in the Code Enforcement Office within five days after such notice is served.

- C. Proceedings to be summarized and entered as public record. The proceedings at such hearing, including the findings and decision of the Code Enforcement Officer, shall be

summarized, reduced to writing and entered as a matter of public record in the Office of the Town Clerk. Such record shall also include a copy of every notice or order issued in connection with the matter. Any person aggrieved by the decision of the Code Enforcement Officer may seek relief therefrom as provided in state and / or local law.

D. Emergency: action thereon.

(1) Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health and/or safety, he or she may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she deems necessary to meet the emergency. Notwithstanding the other provisions of this Appendix, such order shall be effective immediately.

(2) Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Code Enforcement Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon his or her finding as to whether the provisions of this Appendix and of the rules and regulations adopted pursuant thereto have been complied with, the Code Enforcement Officer shall continue such order in effect, or modify it, or revoke it.

B11 Violations and Penalties.

- A. Any person who shall violate any provision of this Appendix shall be subject to the applicable penalties under the Zoning Law and shall be liable to a civil penalty of \$50.00 for each day or part thereof during which such violation shall be continued.
- B. No person engaged in any activity to which this Appendix applies shall retaliate or discriminate against any person because such person has filed a complaint, testified or assisted in any proceeding under this Appendix.
- C. Any person who as a landlord has been found guilty of any of the prohibited acts found in Section B14 shall offer the next comparable available rental unit to the person upon whose complaint such conviction was made. Any such landlord who shall fail to offer such rental unit as required herein shall be subject to the applicable penalties under the Zoning Law and a civil penalty of two hundred fifty dollars (\$250.00).
- D. Any person who shall falsely charge another with any of the prohibited acts as defined in Section B14, knowing such charge to be false, shall be subject to the applicable penalties under the Zoning Law and a civil penalty of two hundred fifty dollars (\$250.00).
- E. Any violation notice and order to remedy issued in regard to enforcement of any provision of this Appendix shall be served personally or by first class mail. If mailed notice or order is returned as undeliverable, a true copy of said notice or order shall be posted in a prominent location on the premises.

B12 General Fund. The fees generated from the licenses along with penalties assessed under this Appendix shall be deposited into the General Fund of the Town and used for purposes of code enforcement.

B13 Inspections and Operating Permits. Rental units shall be subject to Operating Permits and / or periodic inspections as required by the Zoning Law and / or Local Law 1-2006.

B14 Fair Housing. No person, or agent acting on behalf of another, shall:

- A. Refuse to sell, lease, rent or otherwise deny or withhold any housing accommodation constructed or to be constructed in the Town of Lyons to any person or refuse to negotiate for the sale, lease or rental of any housing accommodation to any person by reason of the race, color, religion, sex, handicap, familial status or national origin of the person or represent that any housing accommodation is not available.
- B. Discriminate against any person because of his or her race, color, religion, sex, handicap, familial status or national origin in the terms, conditions or privileges of the sale, rental or lease of any housing accommodation constructed or to be constructed.
- C. Print or circulate or cause to be printed or circulated any statement, advertisement or publications, or use any form or application for the purchase, rental or lease of any housing accommodations, or make any record of inquiry in connection with the prospective purchase, rental or lease of any housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, sex, handicap, familial status or national origin, or any intent to make any such limitation, specification or discrimination.
- D. Violate any other applicable provision of the Fair Housing Act.

B15 Enforcement. This Appendix shall be administered and enforced by the Town of Lyons Code Enforcement Officer.

B16 Certificate of Occupancy. No residential or mixed residential-commercial building or other structure, nor any story, tenant space, dwelling unit, rooming unit or other portion of any such facility which has been vacant for a period exceeding one (1) year shall be used or occupied until a Certificate of Occupancy has been issued. This section shall not apply to one-family dwellings, except those which have been vacant for a period exceeding three (3) years.

B17 Condemnation for Occupancy.

- A. Condemnation for failure to obtain an Operating Permit or Certificate of Occupancy prior to occupancy.

- (1) The Code Enforcement Officer may condemn for occupancy any building or portion thereof when an Operating Permit or Certificate of Occupancy has not been obtained thirty (30) calendar days after notification by the Code Enforcement Officer.
- (2) The building or portion thereof shall remain vacant until such time that the Code Enforcement Officer has issued an Operating Permit or Certificate of Occupancy as required.
- (3) The condemnation will be lifted after an Operating Permit or Certificate of Occupancy has been issued for the building or any portion thereof that was previously condemned.

B. Condemnation for Conditions.

- (1) When the Code Enforcement Officer shall find any building or portion thereof to be in an extreme unsanitary or unsafe condition or any condition that constitutes an immediate and serious fire hazard and thus endangers the lives of any persons whether owners or occupants the Code Enforcement Officer shall condemn for occupancy under the provisions of State and / or Local codes.
- (2) Such notice shall clearly state the conditions causing the unsafe conditions thereof and shall order the immediate vacation of the building or portions thereof.
- (3) The building shall be placarded and the building or portion thereof shall remain vacated until a Certificate of Occupancy has been issued for the condemned portion(s) by the Code Enforcement Officer.

C. It shall be the duty of any law enforcement officer having jurisdiction to cause removal of any person from such building or portion thereof, so condemned, and to prevent any person from entering same.

D. Every dwelling unit or premises condemned for occupancy due to the condition of such dwelling unit or premises must be issued a valid Certificate of Occupancy prior to re-occupancy.

E. Notwithstanding any provision of this Appendix to the contrary, no Certificate of Occupancy shall be re-issued for a dwelling unit or premises which has been condemned for occupancy by the Code Enforcement Officer unless such dwelling or premises are in substantial compliance with the exterior provisions of the International Property Maintenance Code and in full compliance with the interior provisions of the International Property Maintenance Code.

APPENDIX D - CONSTRUCTION OPERATIONS

§D1 Definitions

ABANDONED BUILDING MATERIAL OR CONSTRUCTION EQUIPMENT – Any building material or construction equipment, whether created in the course of construction operations or otherwise, and regardless of whether a building permit has been issued for the same, which remains upon the premises which are not secured in a permanent type building or enclosure, for a period of one month after building material or construction equipment has been placed upon the premises and no work has been commenced upon same; or if said work has been commenced, one month after work has ceased on said premises.

ADJACENT CONSTRUCTION – Any construction, demolition or excavation activity occurring on, above, or under adjacent property.

ADJACENT (ABUTTING) PROPERTY - Two or more parcels sharing a common boundary at one or more points.

BRACKET CHIMNEY – A masonry chimney without a proper footing and supported by wood-framed brackets on or in a building.

BUILDING MATERIAL – Any lumber, siding, roofing material, masonry material, electrical wiring, plumbing, plumbing fixtures and parts of fixtures or any other item or items used in the trades for the construction of buildings of any substance or material.

COMBUSTIBLE VEGETATION - Material that in its natural state will readily ignite, burn and transmit fire from native or landscape plants to any structure or other vegetation. Combustible vegetation includes dry grass, brush, weeds, natural cut trees, loose surface litter or other flammable vegetation that creates a fire hazard. See also “Highly Flammable Plants”.

CONSTRUCTION AND DEMOLITION DEBRIS – Discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to clean cardboard, paper, plastic, wood, and metal scraps, steel, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard, and lumber from the construction or demolition of a structure as part of a construction or demolition project or from the renovation of a structure and / or landscaping, and including rocks, soil, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project.

CONSTRUCTION EQUIPMENT – Any scaffolding, planks, tools, forms, saw horses, construction shanties, or any other item or items used in the trades as tools or equipment for the construction of a building of any substance or material.

CONSTRUCTION OPERATIONS – Any of the following activities:

- (a) The construction, alteration, repair, extension, demolition or dismantling of buildings or structures.
- (b) The construction, alteration, repair, extension or demolition of any works forming, or to form, part of the land, including but not limited to walls, road works, power lines, telecommunication apparatus, aircraft runways, docks and harbors, railways, pipelines, reservoirs, water mains, wells, sewers, etc.
- (c) The installation in or about any building or structure of systems of heating, lighting, air conditioning, soundproofing, ventilation, power supply, drainage, sanitation, water supply, burglar or fire protection.
- (d) Operations which form an integral part of, or are preparatory to, or are for rendering complete such operations as are described in paragraphs (a) to (c), including site clearance, earth moving, excavation, tunneling and boring, laying of foundations, erection of scaffolding, site restoration, landscaping and the provision of roadways and other access works.
- (e) Operations which form an integral part of, or are preparatory to, or are for rendering complete, the drilling for or extraction of minerals, oil, natural gas or the exploration for, or exploitation of, natural resources.

EXCAVATION - Any man-made cut, cavity, trench, or depression in the earth's surface formed by earth removal, using machinery or powered equipment.

FIRE STOPPING – Materials used to prevent or limit the spread of fire in hollow walls or floors, above false ceilings, in penetrations for plumbing or electrical installations, or in cocklofts or crawl spaces.

HIGHLY FLAMMABLE PLANTS – Combustible vegetation that generally have several of these characteristics: Contain fine, dry, or dead material within the plant, such as twigs, needles, and leaves; Leaves, twigs, and stems contain volatile waxes, terpenes, or oils; Leaves are aromatic (strong odor when crushed); Sap is gummy, resinous, and has a strong odor; May have loose or papery bark. A common example is juniper.

IMMEDIATE LANDSCAPED AREA - The area of improved property extending at least 30 feet from the foundation of the structure, including the footprint of decks and all extensions, and the area in which vegetation has been modified for reduced flammability or aesthetic purposes, such as lawns and gardens.

SCAFFOLD - A temporary platform, either supported from below or suspended from above, on which workers sit or stand when performing tasks at heights above the ground.

SCAFFOLD, SUPPORTED – A scaffold supported by legs, outrigger beams, brackets, poles, uprights, posts, frames, or similar rigid support.

SCAFFOLD, SUSPENSION – A scaffold suspended by ropes or other non-rigid means from an overhead structure.

§D2 General requirements. Except for emergency work, the conducting of construction operations between the hours of 11:00 p.m. and 7:00 a.m. shall be prohibited.

§D3 Fire and life safety.

- (1) Adequate escape facilities shall be maintained at all times in buildings under construction for the use of construction workers. Escape facilities shall consist of doors, walkways, stairs, ramps, fire escapes, or ladders, arranged in accordance with the general principals of the Uniform Code insofar as they can reasonably be applied to buildings under construction.
- (2) No building or structure under construction shall be occupied in whole or in part until all exit facilities required for the part occupied are completed and approved for use.
- (3) Existing buildings may be occupied during repairs or alterations only if all existing exits and all existing fire protection equipment are continuously maintained or, in lieu thereof, other measures are taken which provide equivalent safety.

- (4) Flammable or explosive substances or equipment for repairs or alterations may be introduced in a building only if the condition of use and safeguards provided are such as not to create any additional danger or handicap to egress beyond the normally permissible conditions in the building.

§D4 Adjacent construction.

- (1) Adjacent construction shall not cause serious adverse environmental conditions or a hazard to the public or property.
- (2) Adequate precautions shall be taken to minimize the possibility of injury to the public and damage to adjacent properties.
- (3) Where adjacent construction results in a code violation upon adjacent property, the violation shall be corrected at the expense of the owner or operator of the adjacent construction.
- (4) Hazards to firefighters. Whenever construction operations uncover potential hazards to firefighters, such hazards shall be mitigated as part of the construction project. Such hazards may include, but are not limited to, bracket chimneys and the lack of fire stopping.

§D5 Construction scaffolds.

- (1) Approval. The installation of a scaffold on, over or adjacent to public property shall be preapproved by the authority having jurisdiction. Supported scaffolds over 60 feet in height shall require a building permit.
- (2) Footing. Supported scaffold footings shall be level and capable of supporting the loaded scaffold. The legs, poles, frames, and uprights shall bear on mud sills or base plates.
- (3) Guying ties and braces. Supported scaffolds with a height-to-base ratio of more than 4:1 shall be restrained from tipping by guying, tying, bracing, or the equivalent.
- (4) Clearance to power lines. Scaffolds shall not be erected, used, dismantled, altered, or moved such that they or any conductive material handled on them might come closer to exposed and energized power lines than 10 feet.

Exception 1: For insulated power lines of less than 300 volts, the minimum clearance shall be three feet.

Exception 2: For uninsulated power lines of more than 50 kv, the minimum clearance shall be 10 feet plus 0.4 inch for each one kv over 50 kv.

Exception 3: Scaffolds and materials may be closer to power lines where such clearance is necessary for performance of work, and only after the utility company, or electrical system operator, has been notified of the need to work closer and the utility company, or electrical system operator, has de-energized the lines, relocated the lines, or installed protective coverings to prevent accidental contact with the lines.

(5) Suspension scaffolds.

- (a) Suspension scaffolds shall be tied or otherwise secured to prevent swaying.
- (b) Tiebacks must be secured to a structurally sound anchorage on the building or structure. Sound anchorages do not include standpipes, vents, other piping systems or electrical conduit.

(6) Other safety precautions.

- (a) Personnel shall be prohibited from working on scaffolds covered with snow, ice or other slippery material except as necessary for removal of such material.
- (b) Suspension ropes shall be shielded from heat-producing processes. When corrosive substances are used on a scaffold, the ropes shall be shielded, treated to protect against the corrosive substances, or shall be of material that will not be damaged by the substance being used.
- (c) Work on or from scaffolds is prohibited during storms or high winds unless a competent person has determined that it is safe for workers to be on the scaffold and those employees are protected by a personal fall arrest system or wind screens. Wind screens shall not be used unless the scaffold is secured against the anticipated wind forces imposed.
- (d) Rubbish shall not be allowed to accumulate on scaffolds.

§D6 Grading, excavation, and filling of land.

- (1) Permit required. It shall be unlawful for any person, firm or corporation to excavate, strip, move, remove, grade, fill or deposit any topsoil, earth, sand, clay, gravel, humus, rock or other mineral deposit from, upon, or within any land within the jurisdiction, unless a permit shall have been duly issued by the Code Enforcement Officer. Permits may be otherwise required by state or local law or these rules and regulations for the specific activity being conducted (i.e., installation of a septic system).

Exception 1: Not more than an aggregate of 15 cubic yards of excavation or clean fill shall be allowed without a permit at one- and two-family dwellings.

Exception 2: Agricultural activities such as land tilling and drain tile installation shall not require a permit.

Exception 3: Public utility work.

(2) Protection of underground facilities. Building contractors and other persons engaged in demolition or excavation work shall contact Dig Safely New York for underground utility stakeouts, in accordance with NYS Code Rule 753. Public utilities shall be protected from damage due to grading or excavation operations.

(3) Safety precautions.

(a) A competent person shall inspect, on a daily basis, excavations and the adjacent areas for possible cave-ins, failures of protective systems and equipment, hazardous atmospheres, or other hazardous conditions. If these conditions are encountered, exposed persons must be removed from the hazardous area until the necessary safety precautions have been taken. Inspections are also required after natural (e.g., heavy rains) or man-made events such as blasting that may increase the potential for hazards.

(b) Support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of adjacent structures such as buildings, walls, sidewalks or pavements.

(1) Excavation below the level of the base or footing of any foundation or retaining wall shall be prohibited unless: i) a support system such as underpinning is provided; ii) the excavation is in stable rock; or iii) a registered professional engineer determines that the structure is sufficiently removed from the excavation and that excavation will not pose a hazard to persons or property.

(2) Excavations under sidewalks and pavements are prohibited unless an appropriately designed support system is provided or another effective method is used.

(4) Protection of open excavations. Open excavations in or near roads, pedestrian walkways and similar locations shall be protected by an approved barricade or continuously guarded.

(5) Time limit on open excavations. No excavation for building or any other purposes in the jurisdiction, whether or not completed, shall be left open for more than 90

days without proceeding with the erection of a building thereon. In the event that any such excavation remains open for more than 90 days, the Code Enforcement Officer shall order that the erection of a building on the excavation begin forthwith or, in the alternative, that the excavation be filled to grade. If the owner of the land fails to comply with the order within 15 days after service thereof upon him, the Code Enforcement Officer shall cause the excavation to be filled to grade, and the cost plus an administrative fee of \$50 shall be charged against the real estate. The billing and collection of said costs shall be as provided in local law.

- (6) Excavation and fill of watercourses. A permit shall be required for excavation, grading or fill within any watercourse receiving drainage from a public roadway, or in any watercourse lying within a public easement or right-of-way. Precautionary measures to protect and maintain the flow of watercourses shall be taken.
- (7) Temporary erosion control. Precautionary measures necessary to protect adjacent watercourses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that downstream properties are not affected by upstream erosion.
- (8) Tracking of dirt onto public streets. Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.
- (9) Revegetation. The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided where required by the Code Enforcement Officer.
- (10) Hazards from existing grading. Whenever any existing excavation, embankment or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use or stability of a public way or drainage channel, such excavation, embankment or fill shall be eliminated.

§D7 Landscaping requirements.

- (1) General. Landscaping is required for all new buildings and additions over 500 square feet in floor area. Said landscaping shall be completed within one year from the date of occupancy of the building.
- (2) Street-side yards. All required yards and open spaces abutting public streets shall be completely landscaped, except for those areas occupied by utilities,

access driveways, parking areas, paved walkways, playgrounds, walls, structures or other required facilities.

- (3) Maintenance. All required live landscaping shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

- (4) Prevention of mulch fires.
 - (a) Approved receptacles for smoking materials shall be installed at all entrances to public buildings and in designated smoking areas. Mulch shall not be used in or near these areas.
 - (b) A minimum eighteen-inch clearance shall be provided between landscaped mulch beds and combustible building materials.
 - (c) Noncombustible landscaping materials such as rock, decorative stone or pea gravel shall be used around the gas meter and next to the combustible portions of the structure.

- (5) Fire-resistant plants. Within the immediate landscaped area, only fire-resistant plants should be used. Highly flammable plants shall be prohibited within five feet of structures.

§D8 Abandoned building materials and construction equipment. Any building material and construction equipment which has been abandoned as herein defined is hereby declared to be a menace to the public health and safety and a nuisance. All abandoned building material and construction equipment must be removed from the property or enclosed in a permanent building suitable for storage of said equipment or material, which building shall comply with the Zoning Law.

§D9 Use of temporary cover authorized.

- (1) The use of temporary cover is allowed on a temporary basis to protect structures and contents therein from storm and catastrophic events. A permit is not required; however, temporary cover must be securely attached to the structure, must be free of holes and tears, and must be removed no later than the time necessary to effectuate permanent repairs. The owner of the property shall exercise reasonable and prompt measures to make permanent repairs to the structure. The Code Enforcement Officer may allow a property owner a period not to exceed 180 days within which to remove temporary cover from, and make permanent repairs to, the structure.

Exception: in cases of extension issued by the Code Enforcement Officer due to climate conditions.

- (2) The term "cover" shall mean any form of plastic, cloth, fabric, material commonly known as "tarp," wood, or other material that is used to conceal loose or missing shingles, cracks, holes or openings that expose or could expose an interior part of a structure, including the contents therein, to rain, snow, hail or wind, or theft or loss.

§D10 Housewrap and building paper.

Once installed, housewrap and building paper shall not be left exposed to the elements for longer than four months.

Exception 1: Such materials may be left exposed to the elements for a longer period of time where specifically permitted by the manufacturer.

Exception 2: in cases of extension issued by the Code Enforcement Officer due to climate conditions.

§D11 Duty of building contractor to verify permits in effect.

It shall be the absolute duty and irrevocable responsibility of the building contractor to verify that all permits required by the Town of Lyons are lawfully in effect before proceeding with any work to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish the whole or part of any building or structure or any of the appurtenances thereto, sidewalk, street or pavement. No building contractor, workman or other person shall perform any construction or demolition or other work unless a building permit covering such work has been displayed as required by this chapter.

Exception 1 (emergency repairs): Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within three working business days to the Code Enforcement Officer.

Exception 2 (ordinary repairs): Work is not prohibited where such work does not require a permit.

§D12 Approval for and availability of essential services.

- (1) All projects that require the additional use of new facilities or essential services, such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting and similar services, shall obtain such approval as required by the agency providing such service prior to issuance of a building permit.

- (2) Nonavailability of essential services shall be permitted to be grounds for denying permits for additional development until such services are available. The authority having jurisdiction (AHJ) is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the AHJ agrees otherwise. All service extensions shall be designed and installed in full conformance with the AHJ's standards for such service, and shall be subject to review, permit and inspection as required by other policies or laws of the AHJ.

§D13 Foundation permits.

After submittal of the appropriate construction documents, the Code Enforcement Officer is authorized to issue a permit for the construction of foundations of a building or structure before the construction documents for the whole building or structure have been submitted. The holder of such permit for the foundation shall proceed at the holder's own risk and without assurance that a permit for the entire structure will be granted. Neither the basement and/or cellar may be occupied for any purpose until a certificate of occupancy has been issued for the entire structure.

§D14 Building site waste management

- (1) All slash from vegetation modification and construction debris shall be removed prior to or immediately upon completion of construction.
- (2) Land-clearing debris including rock, trees, stumps and associated vegetation shall not be sent to sites that are agricultural land, flood hazard areas, wetlands, or conservation areas except where approved by the Code Enforcement Officer.
- (3) Combustible debris shall not be accumulated within buildings. Combustible debris, rubbish and waste material shall be removed from buildings at the end of each shift of work. Combustible debris, rubbish and waste material shall not be disposed of by burning on site unless approved.

§D15 Building contractor licensing.

Reserved.

APPENDIX E

HISTORIC PRESERVATION

SECTION 1 - GENERAL

§1.100 Intent and purpose. This Appendix is intended to preserve historic structures from defacement or unilateral demolition, to provide standards for the exterior alteration of such structures, provide increased options for adaptive reuse of such structures, and provide standards for new construction within historic districts.

§1.200 Scope. The provisions of this Appendix shall apply to any *historic structure*, and to structures located within any *historic district*, as those terms are defined herein.

§1.300 Authority. The authority to enact the provisions of this Appendix is found in NYS General Municipal Law §96-a.

SECTION 2 - DEFINITIONS

§2.100 Scope and interchangeability. Unless otherwise expressly stated, the following words and terms shall, for purposes of this Appendix, having the meanings shown in this Section. Words used in the present tense include the future; the singular number includes the plural and the plural, the singular.

§2.200 Definitions.

ARCHAEOLOGICAL INTEREST – Having or potentially having evidence of past human activity worthy of expert investigation at some point; capable of contributing to the scientific or humanistic understanding of past human behavior, cultural adaptation, or related topics through the application of scientifically based or scholarly techniques such as structured observation, contextual measurement, controlled collection, analysis, interpretation, and explanation.

CONDITION BEYOND REPAIR – Whenever a structure is no longer viable for further use or occupancy because it is of such faulty construction or so dilapidated, unsound, unsafe, damaged or decayed that: (i) the cost of such repair or renovation to make it useable for any lawful purpose would exceed 50% of the replacement cost of the structure, and; (ii) the structure has been condemned as unsafe by the Code Enforcement Officer.

CULTURALLY SENSITIVE PLACE – Any cemetery, burial ground, or other site that may have cultural or spiritual value to a community, including but not limited to Native Americans.

EMERGENCY – A situation or condition which could cause serious or life-threatening injury or death, or significant property damage, and demanding immediate action.

EXTERIOR ALTERATIONS – The replacement, addition, alteration or removal of any exterior building component including but not limited to doors, windows, cornices, belt courses, corbels, wall facings and historic features. This definition shall include *de minimus* amounts of demolition.

HISTORIC DISTRICT – Any of the following: (i) the Town Center District, Division 3, as shown on the Town Center Zoning Map, or; (ii) an area of two (2) or more contiguous parcels of land anywhere in the Town of Lyons that have designated by the Town Board in accordance with §_____ of this Appendix, or; (iii) or a district that is on the state or national registers of historic places.

HISTORIC FEATURES - Distinctive features, finishes, materials or construction techniques that are original to a building or that are at least 50 years old and contribute to the architecture and historic significance of an historic structure.

HISTORIC STRUCTURE — A building or structure that has been designated by the Village Board of Trustees in accordance with Section 3 of this appendix, or any building or structure on the State or National registers of historic places.

MOTHBALLING – Closing up a building temporarily to protect it from the weather as well as secure it from vandalism. **When all means of finding a productive use for a historic building have been exhausted or when funds are not currently available to put a deteriorating structure into a useable condition**, mothballing may be a necessary and effective means of protecting the building while planning the property's future, or raising money for a preservation, rehabilitation or restoration project. If a vacant property has been declared unsafe by building officials, stabilization and mothballing may be the only way to protect it from demolition.

SECTION 3 – DESIGNATION OF HISTORIC STRUCTURES AND DISTRICTS

§3.100 Eligibility. A structure or property may only be eligible for historic designation if it:

- (1) Possesses special character or historic or aesthetic interest or value as a part of the cultural, political, economic or social history of the Village, locality, region, state or nation; or
- (2) Is identified with historic personages (birthplace, home, gravesite, etc.); or
- (3) Embodies the distinguishing characteristics of an architectural style or period or method of construction; or
- (4) Is the work of a designer whose work has significantly influenced an age; or
- (5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood; or
- (6) Is associated with events that have made a significant contribution to the road patterns of American history; or

- (7) The property and its site yield, or are likely to yield, important information in history or prehistory.

§3.200 Structures and properties not eligible. The following structures and/or properties shall be excluded from historic designation:

- (1) Reconstructed buildings, except in cases where the work is based on authentic documentary evidence and is an integral part of the surrounding area.
- (2) Buildings less than 50 years old, except where identified as a unique or significant architectural type or style.

§3.300 Proposal for designation. Structures or properties may be proposed for historic designation by any of the following:

- (1) The Town Board.
- (2) The Town Planning Board.
- (3) The owner of the structure or property.

§3.400 Application for designation. Applications for proposed designation shall be in writing, and include the following information:

- (1) The historic and common name(s) of the structure and/or property.
- (2) Owner, address, and legal description of the property.
- (3) Date of construction.
- (4) Architectural style and period.
- (5) Condition of the building (excellent, good, fair, deteriorated, or ruins).
- (6) A narrative description of the structure's or property's historical and architectural significance.
- (7) Photographs of all significant elevations and a photograph showing the structure in its surrounding context.
- (8) Completed short Environmental Assessment Form (EAF) for compliance with the State Environmental Quality Review Act.
- (9) Name of applicant and date of application.

§3.500 Referral to Planning Board. Except for applications made by the Town Planning Board, all proposed designations shall be reviewed by the Town Planning Board prior to public hearing. The Planning Board shall make a recommendation to the Town Board within 30 days of receipt of the proposal.

§3.600 Public hearing. Within 30 days of receipt of an application for proposed designation, The Town Board shall refer such proposal to the Town Planning Board for recommendation as provided in §3.500. Within 30 days of receipt of a recommendation from the Town Planning Board, the Town Board shall notify the owner of the property a minimum of 10 days prior to such public hearing. Said notification shall be made either by personal service or by certified and first-class mail, addressed to the owner's last known address as recorded in the office of the Town Assessor.

§3.700 Findings and designation. After public notice and hearing, and after a finding by the Town Board that a structure, property or group of properties meets the eligibility criteria established in §3.100, the Town Board may designate the structure or district historic. If designation applied to more than a single structure, the Town Board shall clearly describe and delineate the property so designated. Said designation shall remain in effect until such time that:

- (1) This appendix is repealed; or
- (2) Said designation is removed as provided in §3.800; or
- (3) The structure has been deemed by the Code Enforcement Officer, and affirmed by the Planning Board, to be in a condition beyond repair, as that term is defined herein.

§3.800 Removal of designation. After public notice and hearing, utilizing the same procedure found in §§ 3.500 and 3.600, the Town Board of Trustees may remove historic designation for a structure or district if the property has been so changed, through conscious alterations, catastrophic damage or neglect that historic designation is no longer appropriate.

§3.900 Uniform code. Historic designation under the terms of this appendix shall be deemed to make a building an historic building, for purposes of enforcement of the Uniform Code.

SECTION 4 – REGULATIONS

§4.100 Exterior alterations. Exterior alterations to historic structures shall require a building permit and prior approval of the Town Planning Board. Unapproved alterations shall be deemed a violation of the Zoning Law. Alterations to an historic structure shall be compatible with its historic character, and if located within an historic district, with the surrounding structures of such district.

Exception: Exterior alterations allowed by technical review under §4.800 of this Appendix.

§4.200 Demolition. Demolition permits for all or part of an historic structure shall be issued by the Town Board. An applicant for a permit to demolish an historic structure or portion thereof shall submit to the Board the following:

- (1) A report from an independent design professional concerning the structure's physical stability and potential for continued use or adaptive reuse.

Exception: The Town Board may waive the report requirement for demolition of outbuildings and small portions of structures.

- (2) A plan for the use of the remaining portion of the structure and/or a plan for improvement of the site following demolition.

- (3) Documentation of investigations and efforts made to preserve or relocate the structure, obtain funding for preservation, or find other uses for the structure, which would avoid the necessity of demolition.

The Town Board shall take into consideration the above information or lack thereof in reviewing applications for demolition Permits for demolition shall be issued only upon finding that there is no realistic, feasible alternative to demolition or that the demolition is of such a minor nature as to not make a significant impact on the historic character of the structure or district. All demolition permits issued under this local shall expire six months from the date of issuance, and may only be renewed by the Town Board.

Exception 1: In case of emergency, demolitions of historic structures or portions thereof shall not require the approval of the Town Board. Said demolitions shall otherwise conform to Town regulations governing unsafe or dangerous buildings.

Exception 2: Demolitions of de minimus amount, undertaken as part of exterior alterations approved by the Town Planning Board.

§4.300 Cultural resource surveys. When possible disturbance of a known or suspected culturally sensitive place, paleontological resource or historic or prehistoric site of archaeological interest is indicated by the State Environmental Quality Review Process, a cultural resource survey, including one or more test pits, shall be conducted by a qualified archaeologist.

§4.400 Inadvertent discoveries.

- (1) Where material remains, artifacts, or features of archaeological interest are inadvertently discovered, as by drilling, mining, excavation, construction or demolition activities, the local and/or county historian(s) shall be contacted to evaluate the site and advise on how to proceed.
- (2) In the case of an accidental discovery of a culturally significant place or human remains, all work shall cease immediately (i.e. Stop Work Order), and the local and / or county historian(s) shall be contacted to evaluate the site and advise on how to proceed.
- (3) In the case of the accidental discovery of human remains, the police authorities shall be contacted immediately.
- (4) In the case of discovery of a significant paleontological resource, all work shall cease (i.e. Stop Work Order), and the local and / or county historian(s) shall be contacted to evaluate the site and advise on how to proceed.
- (5) The inadvertent discovery of material remains of archaeological interest, or discovery of a significant paleontological resource may require a cultural resource survey (including one or more test pits) be conducted prior to resumption of the construction, excavation, drilling, mining, or demolition activities.
- (6) All artifacts, features, and paleontological resources that are inadvertently discovered shall remain in situ until investigated by appropriate authorities. If it is not possible to

leave such materials in situ, they shall be protected and preserved to the maximum extent possible until an investigation can be made.

- (7) Until the site is investigated, further disturbance shall be prohibited.
- (8) The Code Enforcement Officer may appoint one or more Site Stewards to assist in the monitoring of the site.

§4.500 Mothballing of historic buildings.

- (1) Procedures. The procedures for mothballing an historic building should conform to Preservation Brief No. 31 (Mothballing Historic Buildings), published by the National Park Service), as well as the Uniform Code.
- (2) Interim Use. It shall be the policy of the Town that interim use of a structure shall be preferable to mothballing, including but not limited to use for non-flammable storage. Structures having approved interim use shall not be deemed vacant.
- (3) Timeframe. The maximum timeframe for mothballing an historic building should be 10 years, by which time the structure should be rehabilitated or removed in accordance with an established plan. A compatible use for a property that requires minimal alteration of the building, structure, or site and its environment shall be encouraged.

§4.600 Storefronts and facades.

- (1) Storefronts and Facades, Generally.
 - (a) Architecturally, storefronts and facades shall be constructed, repaired, and altered in conformance with the Uniform Code and any applicable requirements of the zoning law or planning / zoning approvals. Remaining original storefronts should not be altered, but rather repaired and preserved. Restoration of storefronts that have been altered is encouraged provided the restoration retains as much of the original detail and design as possible.

A traditional commercial façade consists of three parts: (i) the storefront with entrance, decorative entry flooring, low bulkheads / kick plates, large display windows, and a cornice element separating the storefront from the upper stories; (ii) the upper façade (usually masonry, sometimes wood), with regularly spaced windows, and; (iii) the decorative cornice that caps the building.
 - (b) Display windows should be maintained to be as large as possible. Historically, window glass was often more than 50% of the surface area of the entire first floor storefront façade, with the display windows themselves constituting over 50% of the window glass. The remaining window glass was made up of door windows and transoms.

- (c) In situations where financial considerations prevent a full scale restoration of a storefront that has already been remodeled, the design should be sympathetic to the character of adjacent buildings.
- (d) Configuration and Proportions – Storefronts dating from 1900 and earlier usually exhibited recessed entries. Today the remaining recessed entries add character to the downtown. By recessing an area in each building, a certain rhythm of solids (the buildings) to voids (their entries) is created, which adds interest to the street. These recessed entries should be preserved. Restoration of recessed entries is encouraged.

Façade Type A – The façade at storefront level is characterized by a center doorway, flanked by two obliquely placed display windows which form the funnel-like recessed area. Large display windows appear at either side of this entry area, and are positioned parallel to the street.

Façade Type B – This storefront type includes the same recessed entry configuration as Type A, but has an added doorway that leads to the second story.

Façade Type C – Sometimes seen on buildings which faced an intersection of two streets was the corner entry. In this case, the entry door was positioned at an oblique angle to the 90 degree angle of the intersection.

- (e) Lights. Gooseneck-type outdoor lighting fixtures should be used where possible. Beneath awnings, fluorescent lighting should be used.

(2) Storefronts and Facades of Historic Buildings.

- (a) Facades finished in decorative metal are extremely difficult to replace and should be preserved if at all possible. Recent additions obscuring these facades should be removed taking care not to destroy what pressed metal may remain underneath. Traditional materials used were clear glass, brick, wood, and decorated pressed iron and tin. It is encouraged that the use of these materials rather than materials developed after the date of construction be used in restoration or rehabilitation of a building. Use of aluminum or vinyl siding, plywood siding, smoked glass, mirrored glass, and wood shakes on storefronts or facades should not be permitted. The fabric and shape of awnings shall be historically consistent with the building type and style. Barrel type awnings should be avoided, and awnings shall be canvas, or resemble canvas, not plastic.
 - (i) Flat Canopies - The use of flat, solid-material overhangs held by metal chain or bar supports, although of a later period, also has historical precedence. These overhangs were originally constructed of wood, which is the preferred material. Aluminum or some other material may be used if it is painted an appropriate color.

- (ii) Window protection – Window protection by louvered shutters, modern metal awnings, and metal louvers is out of character with historic districts and should not be permitted. Cloth awnings are suggested for second story windows. Use of shatterproof, extra strength glass is suggested for storefront windows. Rolling shutters shall be prohibited except where specifically allowed by the Planning Board.
 - (iii) Colors – Suggested color ranges for Historic Districts may be listed by the Town Planning Board. Brighter colors may be used in awnings to accent the earth tones of the building. Acceptable colors include blue, green, mauve, beige, white, light brown, gray, red and black. Color schemes on block buildings shall be consistent across the entire front façade.
 - (iv) Color of fire escape. Any fire escape located on any historic building or building in an historic district, which fire escape faces any public street or public alley, shall be painted so as to correspond to the color of the walls of the building to which it is attached.
 - (v) Awning colors. Awning colors shall conform to the approved color ranges, including blue, green, mauve, and beige. Any awnings on the secondary or upper façade shall match in color and shape to any awning installed on the primary façade.
- (4) Modern Storefronts. A proposed storefront can be contemporary so long as it respects the lines and scale of surrounding buildings and storefronts.
- (5) Window Boxes. Window boxes are permitted at upper stories; at street level, ground level planters should be used instead.
- (6) Guiding Standards. In addition to any of the requirements above, storefronts and facades should conform to applicable National Park Service “Preservation Briefs”, including but not limited to:
- No. 4 (Roofing for Historic Buildings)
 - No. 9 (Repair of Historic Wooden Windows)
 - No. 11 (Rehabilitating Historic Storefronts)
 - No. 16 (Use of Substitute Materials on Historic Building Exteriors)
 - No. 44 (Use of Awnings).

§4.700 New construction. New construction shall be compatible with the historic character of the existing structure and, if located in an historic district, the surrounding structures of such district. In applying this standard, the following factors shall be considered:

- (1) The general design, character and appropriateness of proposed alterations or new construction to the historic district and/or surrounding structures in an historic district.
- (2) The scale of proposed alterations or new construction in relation to the historic structure itself and/or surrounding structures in an historic district.
- (3) Texture, materials and color and their relation to similar features of the historic structure and/or surrounding structures in an historic district.
- (4) Visual compatibility with the historic structure and/or surrounding structures in an historic district, including the proportion of the structure's facade, roof shape and rhythm of spacing structures on streets, including setback.
- (5) The importance of historic, architectural or other features to the significance of the structure and/or its district.
- (6) New additions or alterations shall be designed and constructed in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be, to the greatest degree possible, unimpaired.

§4.800 Work Approvable through Technical Review by Code Enforcement Officer. Exterior alterations of facades which do not affect the footprint of a building may be permitted by the Code Enforcement Officer after technical review, using the following additional standards:

- (1) Wall Openings : Windows and Doors
 - (a) Treatment of Existing Features – All existing original sills, lintels, frames, sashes and glass of windows and transoms, and all original doors and door frames should be preserved. When they must be replaced, the replacements ideally should duplicate the original items in design and materials.
 - (b) Material
 - (i) Window Glass. Glass should be clear unless documentary evidence indicates the original use of colored glass. Bronze or mirrored glass shall be prohibited as well as tinted film on glass. The only film allowed is clear ultra violet protective film or “low E” glass with clear film.
 - (ii) Sash and Frame Materials. Natural materials are preferred, and it is encouraged that wood, the most common building material, be used. Clad wood windows may be used, as well as applied glass dividers to resemble smaller panes where appropriate. Exterior mounted storm windows shall be prohibited except for historically accurate wood storm windows; interior type storm windows should be used when remodeling.
 - (iii) Decorative Features. All existing wood, brick, stone or metal lintels and any other window trim should be preserved and restored if possible.

- (iv) Doors. Historically, doors featured large amounts of glass. This glass should be clear, and clear glass should be used in restoration unless documentary evidence indicates original use of colored, translucent, or textured glass. Bronze or mirrored glass shall be prohibited as well as tinted film on glass. The only film allowed is clear ultra violet protective film or “low E” glass with clear film.
 - (v) Door and Frame Materials. Historically, doors were constructed of wood and glass. The preservation and new use of wooden doors and door frames is highly encouraged on older buildings. Aluminum storefronts are allowed when there is evidence that they are historically correct on a particular building. Aluminum must be an approved color. Bronze is not allowed on existing historic buildings.
 - (vi) Shutters. Shutters of wood or other materials are permitted if aesthetically pleasing. All shutters shall have the appearance of wood-like material.
- (2) Decorative Features – All existing decorative wood trim should be restored if at all possible.
- (i) Sizes and Proportions – The original proportions, sizes and numbers of plate glass and wall openings should be retained.
 - (ii) Window proportions, sizes and orientation - Roughly a 2:1 proportion existed among most second story windows, with typical sizes ranging from 2’X5’ to 3’X6’. This typical 2:1 proportion, and the approximate size range, should be retained, as should the vertical orientation of the windows.
 - (iii) Numbers of windows per story – Facades of the majority of buildings dating from the 1800’s and early 1900’s are +/- 25’ in width. There are normally 2 to 4 windows (of the size mentioned above) in each story of buildings this width. Double width buildings typically display 6 to 8 windows. This precedent should be retained. Some buildings have bay windows at the 2nd floor level, and these shall be retained where possible.
 - (iv) Design Motifs – Most existing original windows display the typical rectangular double hung windows. A design feature once strong was that of the arch used in several buildings that displayed touches of Italianate Revival design. Restoration of arched windows and lintels is strongly recommended. Use of multi-paned windows on commercial buildings was not a typical practice in the early 20th century and should be discouraged for buildings built after 1900.
 - (v) Transoms – Transom windows were found immediately over the storefront on the majority of buildings. Existing transoms should not be

obscured from view outside the building. It is encouraged that transoms be restored.

- (vi) Doors, placement and number. – Double doors were often found in the center of the storefront, recessed from the front façade. They were askew if there was a single door leading to the second story included in the storefront design.
- (vii) Design Motifs – The wooden doors often had a similar proportion of glass to wood that was seen in the storefront; there was considerably more glass in evidence than wood. Stained glass was used infrequently, although it was used and is appropriate for use today. Clear glass is preferred.

(3) Display Windows.

- (i) Boxed-in Display Windows – Boxed-in display windows shall be permitted, provided they are of a minimum 20-minute fire-rated construction, and equipped with self-closing doors or access panels.
- (ii) Window Displays – Window displays in Historic Districts shall generally conform to the theme of the early 1900's, with the display of historic, period artifacts to help inculcate a sense of theme and place. No distracting light sources, sound speakers or any other object shall be allowed to be placed in nor protrude from any windows except as otherwise specified herein or approved by the Planning Board. Where displays are seasonally-themed, they should be changed as necessary. Window displays should be appropriately lit at night.

(4) Brick

- (i) Treatment of Existing Brick – Brick is the dominant building material of the community, and fanciful cornices, corbelling and detailing sets the downtown area part from modern areas. Brick should be preserved and not defaced, covered over, or treated in such a manner that will accelerate its deterioration.
- (ii) Cleaning Brick – Sandblasting techniques have been found to cause accelerated deterioration and should not be used under any circumstances on exterior brick. The booklet entitled *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* distributed by the Department of Interior gives alternatives on the cleaning of brick.
- (iii) Treatment of Unpainted Brick – Brick has a natural protective finish that allows buildings to withstand environmental effects for many years with a minimum amount of maintenance. The amount and cost of maintenance rises when a brick building is painted, as the paint must be

renewed every five to ten years. For that reason, it is strongly recommended that any unpainted brick remain unpainted.

- (iv) Treatment of Rear and Side Elevations – Often, only the facades of the downtown buildings were painted. Side and rear elevations may remain unpainted on buildings previously treated in this manner, including those buildings with facades painted over 50% of the façade surface.
 - (v) Colors – Locally made brick was usually (but not always) a medium to dark shade of red.
 - (vi) Replacement Brick – Replacement brick should match the original brick in color, size, texture and coursing technique. The laying of the bricks should match that of the original bond.
 - (vii) Mortar - In replacing brick, the mortar between the joints should match the original mortar in color and size of joint.
- (5) Stucco Removal – Removal of stucco from brick facades is very difficult and often damages the brick surface in the process; such removal is discouraged. In such cases where removal of stucco or sandblasting has taken place, the surface should be treated with a clear liquid protective which must be reapplied every three to five years. New use of stucco over existing brick buildings is not permitted.
- (6) Signs. In addition to any other requirements of the Zoning Law, signs shall comply with the following provisions:
- (i) Colors of signs shall be historically appropriate to the building’s type and style, and compliment the façade of the building.
 - (ii) Signs should not normally contain more than three different colors.
 - (iii) Backlit, plastic signs should be avoided; signs should be illuminated by means of indirect lighting only. Sign should be carved solid wood or painted signs suspended from or flush mounted on the building. Lettering styles should be in keeping with historic lettering types, such as Times Roman lettering, shadowed, raised or painted. Plastic letters should be avoided. Neon window signs shall not exceed two square feet in overall dimension.
- (7) Fences. Chain link fences shall be prohibited within front yards. Wooden or vinyl picket, stockade, split-rail, board-on-board, and wrought-iron style fencing should be used.

SECTION 5 – ADMINISTRATION

§5.100 Enforcement. This Appendix shall be administered and enforced by the Code Enforcement Officer.

§5.200 Fees. Application fees for building permits, and fire safety / property maintenance inspections, shall be as provided in law, except that no fee shall be required for review by the Planning Board of any exterior alterations that do not involve a change in the footprint of a building.

§5.300 Appeals. An applicant whose application for a permit has been denied may apply for relief with the Zoning Board of Appeals.

SECTION 6 – BUILDING MAINTENANCE

§6.100 Maintenance and repair. Nothing in this appendix shall be construed to prevent the ordinary maintenance and repair of any exterior architectural features of an historic structure which does not involve a change in design, material, color or outward appearance.

§6.200 Historic preservation. Removal or alteration of any historic material or distinctive architectural features for the purpose of improving fire protection or life safety shall be minimized

§6.300 Vacant spaces. In addition to the requirements of the Uniform Code, any floors deemed unsuitable for occupancy shall have closed shutters to cover the windows, or solid blinds; damaged windows shall either be restored or provided with closed wood shutters. In-filling of window openings with brick, plywood or other material shall only be approved by the Planning Board, and any such materials shall be painted or matched in color to harmonize with the building façade.

Appendix F - PEDDLING AND SOLICITING

§F1 Definitions.

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

ESTABLISHED PLACE OF BUSINESS - Includes a building or store in or where the person transacts business and deals in the goods, wares and merchandise he/she hawks, peddles or solicits for during regular business hours.

HAWKER, PEDDLER, SOLICITOR or VENDOR - Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services, or solicits contributions of goods or moneys, by going from house to house, place of business to place of business, or in any public street or public place or by temporarily occupying a room, building or other premises therefor. This term shall not include the delivery of milk, newspapers and food distributed on regular customer routes.

MERCHANDISING - The selling, bartering or trading of, or offering to sell, barter or trade, any goods, wares, commodities or services.

TEMPORARY OCCUPANCY - A store, room, building, tent, enclosure, premises or structure of any kind intended to be occupied for the period of time necessary to peddle, vend or solicit the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact, and the burden of proving such intent shall be upon the defendant in such prosecution.

§ F2 Exemptions.

F2.1 Nothing in this Appendix shall be held to apply to any sales:

- (1) Conducted pursuant to statute or by order of any court.
- (2) To any person selling personal property at wholesale to dealers in such articles.
- (3) To merchants having an established place of business within the Town or their employees for soliciting orders from customers and delivering the same.
- (4) To persons under the age of 18 years.
- (5) To farmers and gardeners, who themselves or through their employees vend, sell or dispose of products of their own farms and gardens.
- (6) To any honorably discharged member of the armed forces or any other person who has procured a license issued by the County Clerk as provided by § 32 of the General Business Law of the State of New York.

F2.2 Nonprofit organizations and persons working for such organizations shall also be exempt. However, such organizations shall register annually with the Code Enforcement Officer in the event they plan to engage in vending, hawking, peddling or soliciting, and shall indicate the type of activities to be undertaken and the time when they will be performed.

§ F3 Permit required.

It shall be unlawful for any person within the corporate limits of the Town to act as a hawker, peddler or solicitor as herein defined or assist same without first having obtained and paid for, and having in force and effect a permit therefor.

§ F4 Application for permit.

F4.1 Any person desiring to procure a permit as herein provided shall file with the Code Enforcement Officer a written application upon a form furnished by the Code Enforcement Officer and shall file at the same time satisfactory proof of good character. Such application shall give:

- (1) The number and kind of vehicle to be used by the applicant in carrying on the business for which the permit is desired.
- (2) The kind of goods, wares and merchandise he/she desires to sell or the kind of service he/she desires to perform.
- (3) The method of distribution.
- (4) The name, address, contact phone number, and date of birth / age of the applicant.
- (5) The name, address, and contact phone number of the person, firm or corporation he/she represents.
- (6) The length of time the applicant desires the permit.
- (7) Such other information as may be required by the Town Board.

F4.2 If applicable, such application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

F4.3 All solicitors, hawkers, peddlers and venders using motor vehicle for soliciting / peddling / vending shall furnish a current copy of the vehicle's proof of liability insurance.

F4.4 The Code Enforcement Officer may conduct an investigation into the applicant's background to determine the advisability of issuing a peddler's license to the applicant. The Code Enforcement Officer shall have a minimum period of two weeks to conduct said investigations; however, the issuance of a license may be delayed for a longer period if the Code Enforcement Officer cannot, for good reason, complete the investigation in a timely manner within the two-week period.

§ F5. Permit.

F5.1 Upon the filing of the application as provided in the preceding section, the Code Enforcement Officer shall, upon his approval of such application, issue to the applicant a permit as provided herein. Except as hereinafter provided, no permit shall be refused except for a specific reason and for the protection of the public safety, health, morals or general welfare.

F5.2 A license may be refused to the applicant if the applicant shall have been convicted of a misdemeanor or felony, or past violations of Town ordinances or local laws, which, in the judgment of the Code Enforcement Officer, renders the applicant unfit or undesirable to carry on the occupation of peddling or soliciting.

F5.3 If the applicant is requesting regular or recurring occupancy of a site instead of temporary occupancy, as defined in § F1, then the Code Enforcement Officer shall refer such application to the Planning Board and / or the Zoning Board of Appeals as may be required for certain uses pursuant to the Zoning Law.

F5.4 If an applicant is requesting to operate a mobile food service establishment, he or she shall furnish proof of a valid permit from the New York State Health Department or other authority having jurisdiction as applicable.

§ F6 Permit not assignable.

A permit shall not be assignable; any holder of such permit who permits it to be used by any other person, and any person who uses such permit granted to any other person, shall each be guilty of a violation of this Appendix.

§ F7 Duplicate permit.

Whenever a permit shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application may be issued by the Code Enforcement Officer upon the filing with him/her by the permittee of an affidavit setting forth the circumstances of the loss, and what, if any, search has been made for its recovery.

§ F8 Issuance of permit; contents.

All permits shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of the permit, the date of issuance and expiration of the permit, fee paid and the name and address of the applicant.

§ F9 Expiration of permit.

F9.1 Any permit issued pursuant to this Appendix shall automatically expire one year from the date of issuance of such permit.

F9.2 The Town may require any permittee to conspicuously display a sticker or other visible written evidence that a permit has been issued to said permittee.

§ F10 Restrictions.

No permit shall be granted to a person under 18 years of age. No applicant to whom a permit has been refused or who has a permit which has been revoked shall make further application until a period of at least six months shall have elapsed since the last previous rejection or revocation, unless he/she can show that the reason for such rejection no longer exists. Every permittee, while exercising his permit, shall carry the permit with him/her and shall exhibit the same upon demand.

§ F11 Permit fees.

F11.1 The annual permit fee for each person permitted as a hawker, peddler or solicitor shall be one hundred dollars (\$100.00).

F11.1 The fee for a duplicate permit as provided in §F7 above shall be fifty dollars (\$50.00).

§ F12 Revocation of permit.

F12.1 Permits issued under provisions of this Appendix may be revoked by the Code Enforcement Officer after notice and hearing for any of the following causes:

- (1) Fraud, misrepresentation or any false statement contained in the application for permit.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as hawker, peddler, vendor or solicitor.
- (3) Any violation of this chapter.
- (4) Conviction of any crime or misdemeanor involving moral turpitude.
- (5) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

F12.2 Notice of the hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint, and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least seven days prior to the date set for the hearing.

F12.3 The Code Enforcement Officer, upon receiving information giving him reasonable cause to believe that the holder of any license issued hereunder has violated any provision of this Appendix or has been convicted of any violation referred to in this section, or indicted or charged with or for any crime or offense, or has been convicted of any crime or offense, may forthwith temporarily suspend such license until a hearing is held by him, as provided herein, and the Code Enforcement Officer shall have issued his determination thereon. If no appeal is made upon the suspension by the Code Enforcement Officer, the permit shall be deemed to be revoked.

F12.4 If the permittee has one or more employees, the revocation hereunder shall apply to the permittee and all employees if either he / she or any one or more of his / her employees are determined to be in violation of this Appendix.

F12.5 When a permit is suspended or revoked, no refund of any unearned portion of the permit shall be made.

§ F13 Appeals.

Any person aggrieved by the action of the Code Enforcement Officer in the denial of an application for a permit, as provided in § F5 of this Appendix, or in the decision of the Code Enforcement Officer with reference to the revocation of a permit, as provided in § F12 of this Appendix, shall have the right to appeal to the Town Board of the Town of Lyons. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his last known address at least seven days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.

§ F14 Prohibited acts.

A. It shall be unlawful for any person to enter upon private property for the purpose of peddling or soliciting on Sundays or before the hour of 9:00 a.m. of any other day or after the hour of 7:00 p.m. of any other day except upon the invitation of the householder or occupant.

B. It shall be unlawful for any peddler or solicitor in plying his trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

C. No peddler or solicitor shall peddle, vend, or sell confections, ice cream or toys within 200 feet of any public or private school between the hours of 8:00am and 4:00pm on school days, nor shall he/she permit his cart, wagon or vehicle to stand on any public highway within said distance of such school property during said time.

D. No peddler or solicitor shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall by any trick or device or by any false representation obtain or attempt to obtain admission to the house or garage of any person or corporation in the Town.

E. No peddler or solicitor shall blow a horn, ring a bell or use any other noisy device to attract public attention to his wares, or shout or cry out his wares.

F. It shall be unlawful to create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

G. No peddler or solicitor shall represent or state or otherwise indicate that he/she is not intending to sell or otherwise enter into a contract with any person in the household.

H. No peddler or solicitor shall, in order to effectuate or assist in any sale or solicitation, represent that he/she is engaged in any contest or in any way attempt to induce a sale or solicitation by appealing to the sympathies of the person so solicited.

I. Any contract or sale made in violation of Subsections D, G or H shall be null and void and of no effect as to the person solicited, and the merchandise delivered shall be forfeited and any sums paid by the person so solicited shall become immediately due and payable jointly and severally by the peddler or solicitor and his principal.

J. Not frequent any street in an exclusive manner so as to cause a private or public nuisance.

K. Keep the vehicle and/or receptacles used by him in the furtherance of his or her business in a sound, clean and sanitary condition.

L. Keep edible articles offered for sale well-protected from dirt, dust and insects.

M. Not stand or permit the vehicle used by him or herself, his agent or employee or his cart or other appliance for the display of his goods, wares or merchandise to stand in any public place, street or right-of-way in such a manner as to obstruct vehicular or pedestrian traffic or to obstruct the line of vision of such traffic so as to create a substantial risk of harm or risk to the safety of others.

§ F14 Orders.

All orders taken by permitted solicitors, who demand, accept or receive payment or deposit of money in advance of final delivery, shall be in writing made in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit is paid to the solicitor.

§ F15 Records.

It shall be the duty of the Code Enforcement Officer to keep a record of all applications and of all permits granted under the provisions of this Appendix giving the number and date of each permit, the fee paid and the date of suspension and/or revocation of all permits suspended or revoked.

§ F16 Penalties for offenses.

A. The violation of any provision of this Appendix shall be an offense, and any person violating any provision of this Appendix shall be punished by a fine not exceeding \$250. Each day any such violation shall continue shall constitute a separate violation.

B. In addition to the foregoing, the court may also suspend or revoke any permit of any person convicted of any provisions of this Appendix.

APPENDIX G

FIRE SAFETY REGULATIONS

G2 Special fire hazards.

- A. General. Where the Fire Chief or Code Enforcement Officer has determined that a facility using, handling, or storing flammable hazardous materials requires specialized fire-extinguishing agents, it shall be the responsibility of the owner or operator to provide the suitable fire control agents, including but not limited to firefighting foam or chemical extinguishing agents. The fire control agents shall be supplied in sufficient quantity to allow for effective fire suppression, and shall be replaced or replenished as necessary to continuously protect the hazard. Fire control agents may be stored on the premises, at one or more fire stations, or on fire apparatus. Fire protection water supplies shall be adequate to allow for the application of firefighting foam at the required rate.
- B. Propane facilities. A written fire safety analysis, per NFPA 58 (Liquefied Petroleum Gas Code), shall be developed for all new and existing LP gas installations that have an aggregate water capacity of more than 4,000 gallons. The fire safety analysis shall be updated when the storage capacity or transfer system is modified. The fire safety analysis shall be submitted by the owner, operator, or his/her designee to the Code Enforcement Officer and Fire Prevention Bureau.
- C. Storage of hazardous materials. The Code Enforcement Officer may require the separation or isolation of any hazardous materials that have incompatible firefighting requirements.
- D. Precautions against flash fire. Highly combustible material, that is likely to produce a flash fire, shall not be stored near an opening in a fire barrier or fire wall, as the flash fire might communicate through the opening before the protective device could operate.
- E. Dumpsters and self-contained compactor containers. Refuse containers requiring mechanical assistance to be moved shall be provided with a means of access to their interior without disconnecting from a compactor unit or they shall have a minimum port opening of two inches in diameter through which water may be introduced for extinguishing a fire. The port opening shall be labeled "fire hose port" or similar wording. Refuse containers which are not part of a compactor unit shall not be required to have the additional openings or hose connections for fire extinguishment, if they are provided with a cover to make the contents accessible during firefighting operations.
- F. Fire loads. The Code Enforcement Officer is authorized to adopt rules and regulations for the purpose of governing transient fire loads within buildings.

G3 Means of egress for existing buildings. Fire exits in existing buildings shall comply with the building code that applied at the time of construction. Existing buildings that were not required to comply with a building code at the time of construction shall comply with the minimum egress requirements specified below:

- A. At least two exit routes shall be available in a building to permit prompt evacuation of building occupants during an emergency, except where a single exit route is permitted by the Uniform Code.
- B. Every existing structure in which the means of egress are, in the opinion of the Code Enforcement Officer, inadequate for the safety of the occupants, shall be provided with means of egress or means of escape as directed by the Code Enforcement Officer.
- C. In the event that a building, facility or occupancy is determined to have an impractical evacuation capability, additional fire protection equipment, procedures and/or construction shall be provided to mitigate the hazard to life. The term "impractical evacuation capability" shall mean the documented inability of occupants to evacuate or reach a place of safety within 13 minutes.
- D. In addition to any other emergency plans required by the Uniform Code, every employer with more than 10 employees shall have written fire prevention and emergency action plans (as required by 29 CFR Part 1910).
- E. The Code Enforcement Officer shall establish minimum requirements for the contents and posting of evacuation floor plans. Where evacuation floor plans and written fire prevention and emergency action plans are required or provided, copies of such plans shall be provided to the Fire Department and Code Enforcement Officer.
- F. Where required by the Code Enforcement Officer, approved floor markings shall be provided to ensure that exit routes and safe clearances from equipment are maintained.

G4 Open fires.

- A. Open fires shall comply with Section 112 of Local Law 1-2006.
- B. Open fires in Town Center Districts shall further comply with Section 7.700 N. of Article VII of the Zoning Law.
- C. Open fires shall be further governed by applicable provisions of NYS Department of Environmental Conservation laws and regulations, and the New York State Uniform Fire Prevention & Building Code.
- D. The Code Enforcement Officer is authorized to require and issue open burning permits for all open fires other than recreational campfires. There shall be no fee for such permits.

E. Live fire training. Fire training, including firefighting, fire rescue, and fire/arson investigation training, shall be performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a thirty-foot radius (whichever is larger) may be burned in a training exercise. Live fire training should conform to NFPA 1403 (Standard on Live Fire Training Evolutions). Preparations for live fire training in acquired structures shall include but not be limited to:

- (1) Inspection of the building and premises by the Fire Chief and Code Enforcement Officer for the purpose of identifying hazards to firefighters and unsafe conditions.
- (2) Proof of insurance cancellation or a signed statement of nonexistence of insurance shall be provided by the owner of the structure.
- (3) Flammable and hazardous materials shall be removed from the structure.
- (4) Hydrocarbon fuel tanks and similar closed vessels shall be empty, and shall be either removed or vented sufficiently to prevent an explosion or overpressure rupture.
- (5) Bracket chimneys and dangerous portions of any chimney shall be removed.
- (6) Utilities shall be disconnected.
- (7) Noxious weeds that could present a hazard shall be removed.
- (8) Demolition and/or open burning permits shall be issued.

G5 Fire rated construction.

Where any fire barriers, fire compartments or fire walls are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed, remodeled or altered, such component(s) or portion thereof shall be deemed an unsafe condition. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed, remodeled, altered, or the Uniform Code, as deemed appropriate by the Code Enforcement Officer. Where the extent of the conditions of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building, structure or portion thereof, the building shall be deemed a dangerous building.

G6 Fire hazards prohibited.

- (1) No person shall knowingly maintain a fire hazard.

- (2) The term "fire hazard" shall mean any situation, process, material, condition or act which the Code Enforcement Officer, Fire Chief or other qualified inspector, on the basis of applicable data, recognizes as liable to contribute to the start of a fire or that would increase the extent or severity of a fire, or which in the event of fire may obstruct, delay, hinder or interfere with the operations of the Fire Department or the egress of occupants.

G7 Fire department key boxes.

- (1) Where required. The following structures and facilities shall be equipped with a key lock box at or near the main entrance or such other location required by the Code Enforcement Officer or Fire Chief:
- (a) All buildings having an automatic fire alarm, detection or suppression system.
Exception: one- and two-family dwellings identified by the Uniform Code.
 - (b) All commercial and industrial properties protected by fences, gates and related barriers presently secured by padlock, electronically operated or automatic gates, or other control circuits.
 - (c) Multiple dwellings where two or more dwelling or rooming units share a common entrance that is normally kept locked.
- (2) Location. The key lock box shall be located at or near the main entrance to the building or property. It shall be mounted at a height of six feet above final grade, or as designated by the Fire Chief.
- (3) Key lock box contents. The key lock box shall contain labeled keys, easily identified in the field to provide access into the property and/or building, for roof access, and to any locked areas within said facility as may further be directed by the Fire Chief or Code Enforcement Officer.
- (4) Compliance. All existing buildings shall comply with the provisions of this section within six months of its effective date. All newly constructed buildings, not yet occupied, or buildings currently under construction, shall comply with the terms hereof prior to the issuance of the certificate of occupancy.
- (5) Special definitions. As used in this section, the following terms shall have the meanings indicated:

FIRE DEPARTMENT MASTER KEY A limited issue key of special or controlled design to be carried by Fire Department officials in command which will open key boxes on specified properties.

KEY BOX (LOCK BOX) A secure device with a lock operable only by a Fire Department master key, and used to store building entry keys, preincident plans and/or related data.

G8 Nuisance alarms.

- (1) No person shall allow, permit, cause or fail to prevent the activation for any reason of more than three nuisance alarms within any six-month period. The activation of more than three nuisance alarms is excessive, constitutes a public nuisance and shall be prohibited.
- (2) The Fire Chief in the case of alarms responded to by the Fire Department shall determine whether a nuisance alarm has occurred and the frequency of such nuisance alarms.
- (3) In the event of four or more nuisance alarms within any six-month period, the Fire Chief, Code Enforcement Officer, or their designated agents, are authorized to disconnect such alarm system from notifying emergency personnel. In the event of a disconnection, the Building Department, Fire Department, or any official having the authority to disconnect shall not be liable for any damages that may result.
- (4) Alarm systems that have been disconnected or bypassed due to nuisance alarms shall be serviced immediately by a competent service technician.
- (5) An alarm user shall be given a thirty-day grace period from the date the alarm is installed or a substantial change in the system is made during which time nuisance alarms will not be counted. Upon filing of an amended application, any response to a building, place or premises in which the alarm user has changed will be considered a first response.
- (6) Audible alarms.
 - (a) All audible alarms which may be heard in a public place shall be equipped and maintained to become deactivated and silenced automatically after a period of time not to exceed 30 minutes except for fire alarms and other alarms required by law to sound longer.
 - (b) The emergency response agency may disable an audible alarm that has not been silenced after the thirty-minute period and shall not be liable for any injuries or damage that may result.
- (7) Systems out of service. The Building Department shall have the authority to require an inspection and test of any fire alarm system that has been out of service for 30 days or more before being restored back into service.
- (8) Exemption. This section shall not apply to any alarms attached to motor vehicles.

- (9) Special definitions. As used in this section, the following terms shall have the meanings indicated:

ALARM or ALARM SYSTEM Any device which is used in a building, place or premises for the detection of unauthorized entry, burglary, fire, rescue or any other emergency and which when activated emits a sound, signal or message to alert others, whether such sound, signal or message is emitted on or off premises. Carbon monoxide or gas detection devices are considered alarm systems for purposes of this chapter.

NUISANCE ALARM Any alarm caused by mechanical failure, malfunction, improper installation, lack of proper maintenance, negligence, or any alarm activated by a cause that cannot be determined.

G9 Violations and penalties.

- (1) Any person who shall violate any provision of this Appendix shall be subject to the applicable penalties under the Zoning Law and shall be liable to a civil penalty of \$50.00 for each day or part thereof during which such violation shall be continued.
- (2) Any violation notice and order to remedy issued in regard to enforcement of any provision of this Appendix shall be served personally or by first class mail. If mailed notice or order is returned as undeliverable, a true copy of said notice or order shall be posted in a prominent location on the premises.

APPENDIX H

SUPPLEMENTARY REGULATIONS FOR VACANT BUILDINGS AND UNSAFE STRUCTURES

§H1 Vacant building registration.

- (1) Vacant building registration. The owner shall register with the Code Enforcement Office not later than 30 days after any building located in the Town of Lyons becomes a vacant building as defined in this chapter, or not later than 30 days of being notified by the Code Enforcement Officer of the requirement to register. The Building Department may identify vacant buildings through its routine inspection process as well as through notification by residents and referrals from officials that a building may be eligible for inclusion on the registry. Vacant building registration shall be in addition to any construction, demolition, or operating permit that may be required.
- (2) The registration shall be submitted on forms approved by the Code Enforcement Officer and shall include the following information supplied by the owner:
 - (a) A description of the premises.
 - (b) The names and addresses of the owner or owners.
 - (c) If the owner does not reside in Wayne County or an adjoining county, the name and address of any third party who the owner has entered into a contract or agreement with for property management.
 - (d) The names and addresses of all known lienholders and all other parties with an ownership interest in the building.
 - (e) A telephone number where a responsible party can be reached at all times during business and nonbusiness hours.
 - (f) A vacant building plan as described below.
- (3) Vacant building plan. The owner shall submit a vacant building plan which must meet the approval of the Code Enforcement Officer. The plan, at a minimum, must contain information from one of the following three choices for the property:
 - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;

- (b) If the building is to remain vacant, a plan for securing of the building in accordance with the Uniform Code, if applicable, along with the procedure that will be used to maintain the property in accordance with the Uniform Code, and a statement of the reasons why the building will be left vacant; or
 - (c) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. The rehabilitation plan shall not exceed 365 days, unless the Code Enforcement Officer grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with the Uniform Code and any applicable zoning, housing or historic preservation codes and must be secured during the rehabilitation.
- (4) The Code Enforcement Officer shall provide the owner with information outlining the requirement of the Uniform Code regarding vacant buildings.
- (5) The owner shall notify the Code Enforcement Officer of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and meet the approval of the Code Enforcement Officer.
- (6) The owner of any vacant building shall remove all combustible waste and refuse therefrom and lock, barricade, guard continuously or otherwise secure all windows, doors and other openings in the building to prevent entry by unauthorized persons. Except as otherwise approved by the Code Enforcement Officer, all openings in the basement, first floor doors and windows and any point of entry accessible from a porch, fire escape or other potential climbing point shall be barricaded with plywood two-by-four braces, carriage bolt sets and nails in accordance with the U.S. Fire Administration National Arson Prevention Initiative Board Up Procedures. A "no trespassing" sign shall be posted at the completion of the board-up.
- (7) The new owners shall register or re-register the vacant building with the Department of Fire Prevention and Building Safety within 30 days of any transfer of an ownership interest in a vacant building. The new owners shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Code Enforcement Officer.
- (8) Vacant building fees.
 - (a) The owner of a vacant building shall pay an annual fee of \$200 for the period the building remains a vacant building. The fee shall be reasonably related to the administrative costs for registering and processing the vacant building registration form and for the costs of the Town in monitoring the vacant building site.

- (b) The first annual fee shall be paid at the time of initial registration, or registration by a new owner. If a plan is extended beyond 365 days, subsequent annual fees shall be due on the anniversary date.
- (9) The Code Enforcement Officer shall inspect the interior of all registered vacant buildings to determine the general condition of said buildings, identify potential hazards to firefighters, and the presence of flammables, combustible waste or hazardous materials. Any vacant or abandoned building or structure determined to be unsafe relating to structural or interior hazards shall be placarded in an approved manner.
- (10) The Code Enforcement Officer should notify the Fire Chief of any building with unsafe conditions. This information should be provided to the Wayne County Fire Control Center to be included in the Wayne County 911 computer dispatch system database. Any vacant or abandoned buildings or structures determined to be unsafe pursuant to the Uniform Code or this Appendix relating to structural or interior hazards shall be marked as such in accordance with generally accepted standards.
- (11) Once every six months, the Code Enforcement Officer shall send to the Town Board a list of all buildings in the Town declared vacant under the provisions of this Appendix.
- (12) For purposes of this chapter, the term "vacant building" shall mean any "dangerous building" as defined in local law, or any building which is unoccupied for a period of time over 60 days.

§H2 Unsafe swimming pools, hot tubs, spas, and circulation systems.

- (1) Any swimming pool, hot tub, spa or circulation system regulated by the Uniform Code that is unsafe or that constitutes a fire or health hazard, unsanitary condition, or is otherwise dangerous to human life is hereby declared unsafe. Any use of a swimming pool, hot tub, spa or circulation system regulated by the Uniform Code constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared an unsafe use. Any such unsafe swimming pool, hot tub, spa or circulation system is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal. The term "circulation system" shall mean the mechanical components that are part of a recirculation system on a pool or spa. Circulation equipment may be, but is not limited to, categories of pumps, hair and lint strainers, filters, valves, gauges, meters, heaters, surface skimmers, inlet/outlet fittings, and chemical feeding devices. The components have separate functions, but when connected to each other by piping, perform as a coordinated system for purposes of maintaining pool or spa water in a clear and sanitary condition.

- (2) Authority to disconnect service utilities. The Code Enforcement Officer shall have the authority to authorize disconnection of utility service to any swimming pool, hot tub, spa or circulating system regulated by the Uniform Code in case of an emergency, where necessary to eliminate an immediate danger to life or property.

§H3 Clandestine laboratory / grow operations.

- (1) Whenever any portion of a building or structure has been used as part of a clandestine laboratory/grow operation as in the making, manufacturing or "cooking" of methamphetamine or any other controlled substance as defined within the NYS Penal Law, as determined by a law enforcement agency and/or peace officer having jurisdiction, the building(s) or structure(s) shall be deemed a nuisance and an imminent danger to public health and safety per this chapter and/or the Uniform Code. Any dangerous building shall be placarded, vacated, and remain vacant and unsafe until the following conditions are met:
 - (a) Any owner or landlord that has a building or structure meeting the above criteria shall provide certification, at the owner or landlord's expense, from an American Board of Industrial Hygiene (ABIH) certified industrial hygienist that the known hazardous substance associated with a clandestine laboratory/grow operation process (including but not limited to chemicals, chemical residues, mold, fungus, and/or other toxins) has been reduced or eliminated to the point that it is again safe to occupy the structure prior to the issuance of a new certificate of occupancy.
 - (b) The amount of methamphetamine residue (for purposes of this subsection, methamphetamine residue includes chemicals used in the making of the drug known as "meth") present in the building or structure shall be no more than 0.1 microgram per 100 square centimeters or less prior to the issuance of a new certificate of occupancy.
 - (c) Inspection and testing shall be done in each room of a single dwelling unit and shall include basement, attic areas, attached garage and heat and cooling duct systems.
 - (d) Inspection and testing of structures other than dwelling units and exterior property areas shall be determined case by case based on the locations of hazardous substance storage, use, or disposal.
 - (e) Test sampling shall be performed in accordance with the most current edition of EPA standard operating procedures.

- (2) Cleanup and disposal of properties, items, materials, or chemicals shall be done in compliance with all applicable state and federal standards and procedures, including personnel safety procedures.
- (3) Any time a garage that is attached to and/or shares a common access point to the living quarters is used for a clandestine laboratory/grow operation, the making, manufacturing, or cooking of methamphetamine or any other controlled substance as defined within NYS Penal Law, the garage and living quarters will be deemed abandoned and unsafe until such time as the requirements of Section (1) above are met.
- (4) Any time a rooming unit is used for a clandestine laboratory/grow operation the making, manufacturing, or cooking of methamphetamine or any other controlled substance as defined within NYS Penal Law, that room will be considered abandoned and unsafe and will not be allowed to be occupied until such time as the requirements of Section (1) above are met.
- (5) Any time a clandestine laboratory/grow operation is found in a multiunit building or structure including a motel/hotel, inspection and testing shall take place in the adjacent unit(s) surrounding the dangerous building that share a common wall or floor/ceiling. Additionally, testing will take place in any/all unit(s) sharing a common heating or cooling system with the dangerous building. Testing shall be completed within 60 days of the posting of the original dangerous building.
- (6) Inspection and testing of adjacent units will be confined to rooms sharing the common wall or floor/ceiling unless test results show the presence of a hazardous substance. Inspection and testing will continue to expand to adjacent rooms, buildings, or structures until such time that adjacent building(s) and structure(s) are in compliance with Section (1) above.
- (7) If the inspection and test results indicate that any adjacent unit meets the definition of a "dangerous building," it too shall be placarded against occupancy until it can be brought into compliance.