

**Chapter 74**  
**BUILDING CONSTRUCTION**

**Part 1**  
**Building Code**

**ARTICLE I**  
**Administration**

- § 74-1. Scope.
- § 74-2. Inspector of buildings.
- § 74-3. Application for permit.
- § 74-4. Permits.
- § 74-5. Certificate of occupancy.
- § 74-6. Unsafe buildings.
- § 74-7. Penalties for offenses.
- § 74-8. Appeals.

**ARTICLE II**  
**General Building Restrictions**

- § 74-9. Zoning restrictions.
- § 74-10. Fire limits.
- § 74-11. Flood damage prevention.

**ARTICLE III**  
**Safeguards During Construction**

- § 74-12. Labor law requirements.
- § 74-13. Temporary supports.
- § 74-14. Protection to public.
- § 74-15. Watchman.
- § 74-16. Storage of material.
- § 74-17. Disposal of waste.
- § 74-18. Warning lights.
- § 74-19. Cellar drainage.

**ARTICLE IV**  
**Plumbing and Drainage**

- § 74-20. Registration of plumbers.

- § 74-21. Proof of competency.
- § 74-22. License; fee.
- § 74-23. Plumbing inspector.
- § 74-24. Definitions.
- § 74-25. Notice of commencement of work to be given.
- § 74-26. Specifications, drawings and plans.
- § 74-27. Repairs and alterations.
- § 74-28. Sewers.
- § 74-29. Leaders.
- § 74-30. Old house sewers.
- § 74-31. Testing of plumbing.

**ARTICLE V**  
**Electrical Work, Installations and Energy**

- § 74-32. Statement of purpose.
- § 74-33. National code adopted.
- § 74-34. Electrical inspector.
- § 74-35. Duties of inspector.
- § 74-36. Violations of code.
- § 74-37. Code not applicable in certain cases.
- § 74-38. No waiver or assumption of liability.

**Part 2**  
**Building Design**

**ARTICLE VI**  
**Exterior Design and Appearance**

- § 74-39. Findings; purpose.
- § 74-40. Similarity to neighboring buildings.

- |   |  |
|---|--|
| § 74-41. Excessive dissimilarity.                     | § 74-46. Administrative review of actions of Building Inspector. |
| § 74-42. Submission of drawings.                      | § 74-47. Appeals to Building Board.                              |
| § 74-43. Denial of application.                       | § 74-48. Stay of proceedings.                                    |
| § 74-44. Building Board.                              | § 74-49. Hearing; decision.                                      |
| § 74-45. Meetings; adoption of rules and regulations. | § 74-50. Construal of provisions.                                |

**[HISTORY: Adopted by the Board of Trustees of the Village of Pelham Manor as indicated in part histories. Amendments noted where applicable.]**

---

**Part 1<sup>1</sup>**  
**Building Code**

**ARTICLE I**  
**Administration**

**§ 74-1. Scope.**

- A. Short title. This Part 1, together with the State Building Construction Code, shall be known and may be cited as the "Building Code."
- B. All new work to conform. No building or structure shall hereafter be constructed, altered, repaired or removed, nor shall the equipment of a building, structure or premises be constructed, installed, altered, repaired or removed, except in conformity with the provisions of this Part 1.
- C. Use and maintenance. It shall be unlawful to maintain, occupy or use a building or structure, or part thereof, that has been erected or altered in violation of the provisions of this Part 1.

**§ 74-2. Inspector of buildings.**

- A. Appointment. The inspector of buildings shall be appointed by the Board of Trustees and shall hold office until his successor is appointed.
- B. Duties.
  - (1) He shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, except as may be otherwise provided for.
  - (2) He shall, as often as necessary, inspect, during construction, all buildings or structures for which a permit has been issued to see that the provisions of law are complied with, that suitable and safe materials are being used and that construction is prosecuted

---

<sup>1</sup> Editor's Note: No specific adoption date for the Village of Pelham Manor Building Code was found. Amendments noted where applicable.

safely. Whenever, in his opinion, by reason of defective or illegal work in violation of a provision of this Part 1, the continuance of a building operation is contrary to public welfare, he may order all further work to be stopped and may require suspension of work until the condition in violation has been remedied.

- C. Powers. For the purpose of securing for the public the benefits of new developments in the building industry and yet ensuring public safety, he shall make or cause to be made investigation, or may accept fully authenticated reports from reliable sources, of new materials or modes of construction, intended for use in the construction of buildings or structures in the municipality which are not provided for in this Part 1.
- D. Right of entry. In the discharge of his duties, he shall have authority to enter any building, structure or premises at any reasonable hour. Any person who knowingly refuses admission to the inspector of buildings or to any of his designees shall be guilty of a violation of this Part 1.
- E. Records. He shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, and of notices or orders issued. He shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence.
- F. Cooperation of other officials. He may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of the Village Engineer in fixing lines and grades; of the Chief of Police in enforcing orders; of the Village Attorney in prosecuting violations; and of other village officials.
- G. Special supervision.
  - (1) Whenever there is an increase above normal in the number of applications for permits for the erection or alteration of buildings, or implications for unusual design or magnitude of construction are filed, the Board of Trustees may in its discretion employ or retain properly qualified licensed engineers or architects to examine applications and plans for specific building operations with respect to structural safety and conformance to statutory requirements and to make inspections during the course of construction to secure compliance with approved plans and permits.
  - (2) Upon the completion of building operation made under special supervision as herein provided, the engineer or architect assigned to it shall file with the Board of Trustees a verified report to the effect that the work has been constructed in accordance with accepted safe practice and in compliance with applicable statutory provisions.

### § 74-3. Application for permit.

- A. When required. It shall not be lawful to construct, alter, remove or demolish, or commence the construction, alteration, removal or demolition of a building, swimming pool, or other structure or equipment that is subject to provisions of this Part 1, without first filing with the inspector of buildings an application in writing and obtaining a permit.
- B. Form.

the existing and proposed development coverage certified by an architect, engineer or surveyor licensed in the State of New York. [Added 6-26-2000 by L.L. No. 2-2000]

- D. Plot diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing

(Cont'd on page 7405)

- (1) An application for a permit shall be submitted in such form as the inspector of buildings may prescribe.
- (2) Such application shall be made by the owner or lessee or agent of either, or the architect, engineer or builder employed in connection with the proposed work. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee or of the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application.
- (3) Such application shall briefly describe the proposed work and shall give such information as may be necessary for an intelligent understanding of the proposed work.

C. Plans.

- (1) Applications for permits shall be accompanied by three sets of plans of the proposed work, drawn to scale, including floor plans, sections, elevations and such details as the inspector of buildings may require.
- (2) Whenever the plans accompanying an application are for a structure which, in the opinion of the inspector, is of complex design, the inspector shall require the applicant to file an affidavit signed by a licensed architect or engineer certifying that the plans and specifications comply with the provisions of this Part 1 as in force on the date of the application. In such case the inspector may, in his discretion, employ a licensed architect or engineer to examine the plans. The amount by which the cost of such examination, not exceeding  $\frac{1}{2}$  of 1% of the estimated construction cost, is in excess of  $\frac{1}{2}$  of the permit fee required by this Part 1 shall be added to such permit fee and paid by the applicant before the permit shall be issued. In the event that the inspector employs a licensed engineer or architect under this subsection, the inspector may rely upon the advice of such architect or engineer as to whether such plans and specifications comply with this Part 1.
- (3) Whenever the plans accompanying an application are for a structure which, in the opinion of the inspector, is of complex design, the inspector may, in his discretion, issue the permit subject to the condition that an architect and/or engineer whose qualifications are acceptable to him (and who may be already employed by the owner or builder), be employed by the owner or builder to supervise all work done under the permit, to see that the work conforms with the approved plans and specifications and forthwith upon its completion to make and file with the inspector an affidavit or affidavits that he or they have complied with all inspection requirements of this Part 1 and that the work has been carried out according to the approved plans and specifications and in accordance with the provisions of this Part 1. In such case the inspector may rely upon such affidavit or affidavits as evidence that such building conforms substantially to the approved plans and specifications and the requirements of this Part 1 applying to buildings of its class and kind.
- (4) Whenever the plans accompanying an application are for construction that would increase the development coverage on the lot, the plans shall contain a calculation of

accurately the size and exact location of all proposed new construction and of all existing buildings and structures that are to remain.

**E. Fees. [Amended 4-26-1976 by L.L. No. 2-1976]**

- (1) No permit shall be issued until the prescribed fee shall have been paid. Nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building, swimming pool or other structure, shall have been paid. No refund of the fee paid shall be made if the final cost is less than the estimated cost.
- (2) For a permit for the construction, alteration, removal or demolition of a building or other structure, the fee shall be in an amount as adopted by resolution of the Board of Trustees, provided that no fee shall be required when the estimated cost does not exceed \$500.
- (3) For a permit for the alteration of a building or for the construction of a new structure not otherwise provided for herein, the estimated cost shall be the reasonable value of all appliances, devices and equipment entering into and necessary to the prosecution and completion of the work.

**F. Amendments.** Nothing in this section shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work. Such amendments, after approval, shall be filed with and deemed a part of the original application.

**G. Repairs.** Repairs to buildings or structures may be made without filing an application or obtaining a permit.

**§ 74-4. Permits.**

**A. Action on application.** It shall be the duty of the inspector of buildings to examine and pass upon applications for permits, within a reasonable time after filing.

**B. State approvals.**

- (1) No permit for the construction or alteration of a building or structure which is to be occupied wholly or in part as a place of assembly, mercantile establishment or factory within the meaning of the state labor law, or which is required to conform to some state law or duly authorized rule under such law administered by a state commission, bureau or board, shall be issued under the provisions of this Part 1, until the properly constituted authority has approved the plans for the same.
- (2) Every approval of plans, every certification or endorsement of a variation or modification of a statutory provision and every duly issued order by a properly constituted state authority shall be presumptive evidence of the validity of such approval, certification, endorsement or order, and, insofar as the jurisdiction of such authority extends, shall be binding on the inspector of buildings and a permit shall be issued in accordance therewith.

- C. Approval in part. Pending the approval of an application for a permit, the inspector of buildings may issue a temporary permit for any portion of the work provided that portion of the work conforms to the requirements of this Part 1.
- D. Conditions of the permit. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved.
- E. Limitation. A permit shall be valid for one year from the date of issue. If construction authorized by the permit has begun but not been completed within that one-year period, the holder of the expired permit shall be required to file with the inspector of buildings an application in writing and obtain a renewal permit. If construction has not begun, a new permit must be applied for and obtained in accordance with the existing requirements for new permits. The fee for such a renewal permit shall be based upon the estimated cost of completion of the project, but shall not be less than the minimum amount that could have been applied to the original permit. [Amended 8-10-1992 by L.L. No. 3-1992]
- F. Posting of permit. Copies of the permit and approved plans shall be kept on the premises open to public inspection during the prosecution of the work and until the completion of the same.
- G. Revocation. The inspector of buildings may revoke a permit or approval issued under the provisions of this Part 1 in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

**§ 74-5. Certificate of occupancy.**

- A. When required. No building hereafter erected shall be occupied in whole or in part until a certificate of occupancy shall have been issued by the inspector of buildings; provided that a temporary certificate of occupancy may be issued to permit occupancy of all or part of such buildings if, in his opinion, such temporary occupancy use would not in any way jeopardize life, health or property.
- B. Contents of certificate. The certificate of occupancy shall state the compliance with approved plans and specifications, the purpose for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons that may be accommodated in the several stores in case such numbers are limited by the provisions of this Part 1, or any other statute, and other special stipulations of the permit, if any. The inspector of buildings shall establish rules and regulations requiring written applications and such other requirements for the issuance of a certificate of occupancy as he may deem necessary. A certificate of occupancy may be temporary or for a term or permanent, but subject to cancellation for cause.
- C. Change of occupancy or use. No change of occupancy or use shall be made in any building or part thereof now existing or hereafter erected or altered or with respect to any land unless a certificate of occupancy is issued by the inspector of buildings certifying that such building or land and the use thereof conforms to the provisions of this Part 1 and other statutes and regulations affecting such changed occupancy or use.

- D. No such certificate shall be issued until a plot diagram showing accurately the size and exact location of all buildings and other structures, including subsurface structures, both new and previously existing that are to remain, shall have been filed. Such diagram shall be prepared and attested by a person holding a license as a land surveyor of the State of New York, in such form as required by the inspector of buildings. It shall be retained permanently in the files of the village, or until replaced by a new plot diagram, similarly prepared, if and when alterations or new improvements are made.
- E. No swimming pool hereafter erected shall be used until a certificate of occupancy has been issued by the inspector of buildings.
- F. Fee shall be required for a certificate of occupancy unless the final cost of construction shall exceed the estimated cost as stated in the original application for a building permit. In the event the final cost does exceed the estimated cost, the fee for a certificate of occupancy shall be in an amount as adopted by resolution of the Board of Trustees. [Amended 4-26-1976 by L.L. No. 2-1976]

#### § 74-6. Unsafe buildings.

- A. Removal or repair of buildings.
  - (1) A building or structure that may be or shall at any time hereafter become dangerous or unsafe shall, unless made safe and secure, be taken down and removed.
  - (2) A building or structure declared structurally unsafe by duly constituted authority may be restored to safe condition; provided that if the damage or cost of reconstruction or restoration is in excess of 50% of the value of the building or structure exclusive of foundations, such building or structure, if reconstructed or restored, shall be made to conform with respect to materials and type of construction, to the requirements for buildings and structures hereafter erected; but no change of use or occupancy shall be compelled by reason of such reconstruction or restoration.
- B. Notice of unsafe building. Upon receipt of information that a building or structure is unsafe, the inspector of buildings shall make or cause to be made an inspection; and if it is found that an unsafe condition exists, he shall serve or cause to be served on the owner a written notice containing a description of the building or structure deemed unsafe, a statement of the particulars in which the building or structure is unsafe, and an order requiring the same to be made safe and secure or removed, as may be deemed necessary by him.
- C. Emergency work. In case of necessity the inspector of buildings shall cause an unsafe building to be vacated, or the street or part thereof to be closed, and to take other measures necessary for the protection of persons or property.

#### § 74-7. Penalties for offenses.

- A. Failure to comply. Any failure to comply with any provision or requirement of this Part 1 or any material departure from the approved plans and specifications shall be deemed a violation.

- B. Violations and penalties. The penalty for each violation of this Part 1 is hereby fixed at a sum not to exceed \$250 to be collected in the manner provided by law. Each and every day that such violation continues shall constitute a separate offense. [Amended 5-14-1979 by L.L. No. 1-1979]
- C. Abatement. The imposition of the penalty herein prescribed shall not preclude the institution of an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises, or to prevent an illegal act, conduct, business or use in or about any premises.

#### § 74-8. Appeals.

Right of appeal. An applicant aggrieved by a ruling of the inspector of buildings may appeal to the Board of Trustees, provided that a notice of appeal together with a transcript of the action appealed from be filed with the Clerk of the Board of Trustees and with the inspector of buildings within 10 days of the date of the action. The Board of Trustees shall act on such appeal at its next regular meeting or at a special meeting, due notice of which shall be given to the applicant.

## ARTICLE II General Building Restrictions

#### § 74-9. Zoning restrictions.

- A. Application. Nothing in this Part 1 shall be deemed to modify in any manner the provisions of Chapter 210, Zoning, which shall be controlling except insofar as this Part 1 imposes greater restrictions by reason of type of construction.
- B. Building lines. Every building or structure shall hereafter be so located on the lot that no part shall extend beyond the setback line established by Chapter 210, Zoning.

#### § 74-10. Fire limits.

- A. Designation. The fire limits shall include those parts of the Village of Pelham Manor which are not included in residence districts as now established by Chapter 210, Zoning, or as the same may be amended hereafter.
- B. Limitation.
- (1) Except as hereinafter provided in this section, no building or structure of frame construction shall be erected hereafter within the fire limits.
  - (2) Within the fire limits, no combustible roofing shall hereafter be placed on any building.
- C. Alteration.

- (1) Within the fire limits no existing building or structure of frame construction shall be hereafter increased in height.
  - (2) No existing building or structure of frame construction shall be hereafter extended on any side; unless the construction of such extension conforms to the requirements of this Part 1 for new construction; and provided that the area of the building as extended shall not exceed the allowable area for frame construction.
  - (3) No other building or structure shall be hereafter extended on any side by frame construction.
  - (4) Nothing in this section shall prohibit other alterations within the fire limits; provided that there is no change of occupancy to a nonconforming use.
- D. Moving buildings. No building of frame construction shall hereafter be moved from without to within the fire limits.

**§ 74-11. Flood damage prevention. [Added 4-6-1987 by L.L. No 2-1987]**

- A. Unless specifically defined below, words or phrases used in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

**APPEAL** — A request for a review of the inspector of buildings interpretation of any provision of this section or a request for a variance. [Amended 6-14-2004 by L.L. No. 3-2004]

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

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

**BASEMENT** — That portion of a building having its floor subgrade (below ground level) on all sides.

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

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

**CELLAR** — The same meaning as definition of "basement."

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

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

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

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

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

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

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

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

**FLOODPROOFING** — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** — The same meaning as “regulatory floodway.”

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

**FUNCTIONALLY DEPENDENT USE** — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

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

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

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

**MOBILE HOME** — The same meaning as "manufactured home."

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

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

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

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

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study.

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

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

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

**SUBSTANTIAL IMPROVEMENT:**

- (1) Any repair, reconstruction or improvement of a structure, the cost which equals or exceeds 50% of the market value of the structure either:
  - (a) Before the improvement or repair is started; or
  - (b) If the structure has been damaged and is being restored, before the damage occurred.

(2) For the purposes of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

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

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

- B. **Areas of special flood hazard.** This section shall apply to all areas of special flood hazards identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Pelham Manor of Westchester County, New York," dated July 3, 1978, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be a part of this section and are filed at the office of the Village Manager. [Amended 8-28-1989 by L.L. No. 1-1989; 1-23-1995 by L.L. No. 1-1995]
- C. **Penalties for noncompliance.** No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this section and any other applicable regulations. Any infraction of the provisions of this section by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Any structure found not compliant with the requirements of this structure for which the developer and/or owner has not applied and received an approved variance under Subsection L will be declared noncompliant and notification sent to the Federal Emergency Management Agency.
- D. **Warning and disclaimer of liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the Village of Pelham Manor, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- E. **Designation of the Building Inspector.** The Building Inspector is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

- F. Establishment of development permit. A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Subsection B. Application for a development permit shall be made on forms furnished by the Building Inspector and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- (1) Application stage. The following information is required where applicable:
    - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
    - (b) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
    - (c) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Subsection H(3)(a);
    - (d) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in Subsection 9(2);
    - (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
  - (2) Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the Building Inspector a certificate of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Building Inspector shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- G. Duties and responsibilities of the Building Inspector. Duties of the Building Inspector shall include, but not be limited to:
- (1) Permit application review.
    - (a) Review all development permit applications to determine that the requirements of this section have been satisfied.
    - (b) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- (c) Review all development permit applications to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purposes of this section, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas. An engineering study may be required of the applicant for this purpose.
    - [1] If there is no adverse effect, then the permit shall be granted consistent with the provisions of this section.
    - [2] If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  - (d) Review all development permits for compliance with the provisions of Subsection H(5), Encroachments.
- (2) Use of other base flood data. When base flood elevation data has not been provided in accordance with Subsection B, Areas of special flood hazard, the Building Inspector shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, including data developed pursuant to Subsection H(4) in order to administer Subsection I, Specific standards.
- (3) Information to be obtained and maintained.
- (a) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
  - (b) For all new or substantially improved floodproofed structures:
    - [1] obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
    - [2] maintain the floodproofing certifications required in Subsections H and I.
  - (c) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of Subsection J(2)(b) and (c) are met.
  - (d) Maintain for public inspection all records pertaining to the provisions of this section, including variances when granted.
- (4) Alteration of watercourses.
- (a) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II.
  - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpretation of FIRM boundaries.

- (a) The Building Inspector shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
  - (b) Base flood elevation data established pursuant to Subsection B and/or Subsection G(2), when available, shall be used to accurately delineate the area of special flood hazards.
  - (c) The Building Inspector shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.
- (6) Stop-work orders.
- (a) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order issued by the Building Inspector. Disregard of a stop-work order shall be subject to the penalties described in Subsection C of this section.
  - (b) All floodplain development found noncompliant with the provisions of this section and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order issued by the Building Inspector. Disregard of a stop-work order shall be subject to the penalties described in Subsection C of this section.
- (7) Inspections. The Building Inspector and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.
- H. General standards. In all areas of flood hazards the following standards are required:
- (1) Anchoring.
    - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
    - (b) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (2) Construction materials and methods.
    - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (3) Utilities.

- (a) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
  - (b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
  - (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision proposals.
- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
  - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - (d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.
- (5) Encroachments. All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in Subsection G(1), permit review. This may require the submission of additional technical data to assist in the determination.
- I. Specific standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Subsection B, Areas of special flood hazard areas, and Subsection G(2), Use of other base flood data, the following standards are required:
- (1) Residential construction. New construction and substantial improvements of any resident structure shall:
    - (a) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
    - (b) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
  - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (2) Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
    - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
    - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  - (b) If the structure is to be floodproofed:
    - [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
  - (c) The inspector of buildings shall maintain on record a copy of all such certificates noted in this section. [Amended 6-14-2004 by L.L. No. 3-2004]

- (3) Construction standards for areas of special flood hazards without base flood elevations.
  - (a) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of this structure.
  - (b) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
    - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - [2] The bottom of all such opening shall be no higher than one foot above the lowest adjacent finished grade.
    - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- J. Coastal high hazard area. Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in Subsection B. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:
  - (1) Location of structures. All buildings or structures shall be located landward of the reach of the mean high tide.
  - (2) Construction methods.
    - (a) Elevation. All new construction or substantial improvements shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level so as to not impede the flow of water.
    - (b) Structural support.
      - [1] The pilings or column foundation and structure attached thereto shall be adequately anchored to resist flotation, collapse and lateral movement due to the effects of wind and high velocity water loads acting simultaneously on all building components. Wind and water loading values shall each have a one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval)
      - [2] A licensed professional engineer shall develop or review the structural design, specifications and plans for the construction, and shall submit to the inspector of buildings a written certification that the design and methods of construction to be used are in accordance with accepted standards of

practice for meeting the provisions of Subsection J(2)(a) and (b)[1].  
[Amended 6-14-2004 by L.L. No. 3-2004]

- [3] There shall be no fill material used for structural support of any new building or substantial improvement of an existing structure.
- (c) Space below the lowest floor, breakaway walls.
- [1] The space below the lowest floor of all new construction or any existing building that is being altered, repaired or improved after the effective date of this section shall be either kept free of obstructions or constructed with nonsupporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.
- [2] A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls exceeding a design safe loading resistance of 20 pounds per square foot are permitted only if a licensed professional engineer or architect certifies in writing to the Building Inspector that the designs proposed meet the following conditions:
- [i] Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- [ii] The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have one-percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- [iii] The enclosed space below the lowest floor shall be used only for parking of vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts only are subject to the design requirements for breakaway walls in Subsection J(2)(c)[2].
- (3) Disturbance of sand dunes. There shall be no alteration of sand dunes which would increase potential flood damage. Any disturbance of sand and/or earthen material shall be conducted in strict compliance with state or local Coastal Erosion Hazard Area regulations.
- (4) Submission and maintenance of construction records.
- (a) The applicant for a development permit for all new construction or substantial improvements shall submit in writing to the Building Inspector the following:
- [1] A statement certifying whether or not the structure contains a basement; and

- [2] The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor of the structure. The elevation shall be certified by a licensed professional engineer or land surveyor.
- (b) The Building Inspector shall maintain a record of all information required under Subsection J(4)(a) of this subsection.

**K. Appeals Board.**

- (1) Appeals and requests for variances from the requirements of this section shall be governed by Article III, Board of Appeals, of Chapter 210, Zoning. In passing upon such appeals and requests, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other subsections of this section, and:
- (a) The danger that materials may be swept onto other lands to the injury of others.
  - (b) The danger of life and property due to flooding or erosion damage.
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (d) The importance of the services provided by the proposed facility to the community.
  - (e) The necessity to the facility of a waterfront location, where applicable.
  - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - (g) The compatibility of the proposed use with existing and anticipated development.
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
  - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- (2) Upon consideration of the factors of subsection K(1) and the purposes of this section, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

- (3) The Building inspector shall maintain the records of all appeal actions, including technical information and report any variances to the Federal Emergency Management Agency upon request. [Amended 10-11-1994 by L.L. No. 2-1994]

L. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of  $\frac{1}{2}$  acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a) through (l) in Subsection K(1) have been fully considered. As the lot size increases beyond the  $\frac{1}{2}$  acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (a) The criteria of Subsections L(1), (3), (4), and (5) of this subsection are met.
  - (b) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
  - (a) A showing of good and sufficient cause.
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

ARTICLE III  
Safeguards During Construction

**§ 74-12. Labor law requirements.**

Every person engaged in the erection, alteration, repair, removal or demolition of a building or structure shall comply with the several provisions of the state labor law and the industrial code with respect to equipment necessary to the proper prosecution of such work and the safeguards prescribed in connection therewith.

**§ 74-13. Temporary supports.**

Every temporary support placed in or under a building or structure shall be of sufficient strength to carry safely the load to be supported thereby.

**§ 74-14. Protection to public.**

Wherever deemed necessary for the protection of the public, the inspector of buildings may direct the erection of temporary fence, sheds, protected passageways or other barriers of substantial construction during the prosecution of a building operation.

**§ 74-15. Watchman.**

When deemed necessary by the inspector of buildings, a competent watchman shall be kept on duty at all times while work of construction, alteration or repair is not actually going on.

**§ 74-16. Storage of material.**

- A. Within building. Materials and equipment, if stored within the building, shall be so placed that they will not overload the construction nor interfere with safe prosecution of the work.
- B. Outside building. Materials and equipment shall not be stored in a street except by special permit issued by the Village Clerk.

**§ 74-17. Disposal of waste.**

Waste material and rubbish shall not be stored nor allowed to accumulate during construction, alteration or demolition, either within a building or in the immediate vicinity, but shall be removed from the premises as rapidly as practicable. Dry material or rubbish shall be wetted down, if necessary, to lay dust or prevent being blown about.

**§ 74-18. Warning lights.**

All pits, excavations, fences, barriers, builder's equipment, building materials or rubbish in or upon a street shall have placed upon or by them, after dark, illuminated lamps with red globes, as may be necessary for the protection of the public.

**§ 74-19. Cellar drainage.**

Before the foundation walls of a building or structure are completed, provision shall be made to prevent water accumulating in the excavation or cellar.

**ARTICLE IV  
Plumbing and Drainage****§ 74-20. Registration of plumbers.**

Any person may engage in the business of plumbing or drainage who has procured a certificate of competency from the Board of Plumbing Examiners of any city within the State of New York; provided, however, that before doing any work within this village such person must exhibit such certificate to the Village Clerk and register his name and address.

**§ 74-21. Proof of competency.**

A person not having such certificate may engage in the business of plumbing and drainage provided he first satisfy the plumbing inspector that he is competent to engage in such work and to properly comply with the provisions of this code. If the plumbing inspector shall be so satisfied he shall so advise the Village Clerk. The applicant shall thereupon register his name and address with such Village Clerk.

**§ 74-22. License; fee. [Amended 4-26-1976 by L.L. No. 2-1976]**

Any person upon registering with the Village Clerk as provided in §§ 74-20 and 74-21 shall, upon payment of the sum as adopted by resolution of the Board of Trustees, receive a license to engage in the business of plumbing and drainage within the Village of Pelham Manor, which license shall be good for one year from its date. Any license may be renewed from year to year upon re-registration of the applicant and payment of a renewal fee of an amount adopted by resolution of the Board of Trustees for each year. No person, firm or corporation shall engage in the business of plumbing or drainage without such license. Any license may be revoked by the Board of Trustees upon proof satisfactory to them of fraud, deceit, willful violation of the provisions of this Part 1 or failure to pay any fee or charge required to be paid hereunder.

**§ 74-23. Plumbing inspector.**

The Board of Trustees shall appoint a suitable person as plumbing inspector. It shall be the duty of such plumbing inspector to see that all the provisions of this Part 1 are properly carried out and observed by any person engaged in the business of plumbing and drainage within the village.

**§ 74-24. Definitions.**

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

**PRIVATE SEWER** — Is applied to sewers that are not constructed by the Village of Pelham Manor and have not been taken over by the village.

**§ 74-25. Notice of commencement of work to be given.**

Notice must be given to the plumbing inspector by the plumber when any work is begun, and from time to time when any work is ready for inspection. No part of the work shall be covered until it has been examined, tested and approved by the inspector.

**§ 74-26. Specifications, drawings and plans.**

Where the building plans and specifications do not contain sufficient detail the inspector may require the plumber to file a plan of the system of plumbing, showing the location of the various fixtures to be installed.

- A. No modification of the approved drawings and description will be permitted unless either amended drawings and duplicate descriptions, or an amendment to the original drawing and description, covering the proposed change or changes, are filed and approved by the plumbing inspector.
- B. The plans must be drawn to scale or there must be prints of such scale drawings, consisting of such floor plans and sections as may be necessary to show clearly all plumbing work to be done, and must show partitions and the method of ventilating water-closet compartments.
- C. It shall not be lawful to do said plumbing and drainage except pursuant to said approved drawings and descriptions or approved amendments thereof where same are required by the inspector.
- D. No registered plumber shall act as agent for a plumber who is not registered. A violation of this rule will be deemed a sufficient reason for the cancellation of a license.

**§ 74-27. Repairs and alterations.**

- A. Minor repairs of plumbing and drainage may be made without the filing and approval of drawings and descriptions; but said repairs and alterations shall not be construed to include cases where new vertical and horizontal lines of soil, waste or vent pipes are proposed to be used.
- B. Notice of said repairs or alterations shall be given to the Plumbing Inspector before the same are commenced, in all cases, except where leaks are stopped or obstructions removed.
- C. Said notice shall consist of a description in writing of the work to be done, of the location of the property where the same is executed, and of the names and addresses of the owner and the plumber.
- D. Said repairs and alterations shall comply in all respects with the weight, quality, arrangement and venting as set forth in this code.

**§ 74-28. Sewers.**

- A. Every building must have its sewer connections directly in front of the building unless permission is otherwise granted by the plumbing inspector.
- B. When a building is located in the rear of another building and on the same lot, it may be connected to the house drain of the front building just behind the house trap and the house trap and fresh air vent may be used for both buildings.
- C. Where there is no sewer in the street or avenue, and it is reasonably possible to construct a private sewer to connect to a sewer in an adjacent street or avenue, a private sewer must be constructed, unless otherwise determined by the Board of Trustees.
- D. Each building must be separately and independently connected with the public or a private sewer.
- E. The entire plumbing and drainage system of every building must be entirely separate and independent of that of any other building.
- F. The drain piping of each swimming pool must be connected to the storm sewer, if available, in front of the premises on which the pool is located or to the sanitary sewer system between the house trap and the street connection. All pools must be drained only through the drainage system and must not be drained directly into the street.

**§ 74-29. Leaders.**

In no case shall the water from any rain leader be allowed to flow upon the sidewalk, adjoining property or into the Village sewers. The water from said leaders shall be conducted by the pipes laid below the surface of sidewalk to the street gutter or to a leeching cesspool or a Village drain.

**§ 74-30. Old house sewers.**

Old house sewers can be used in connection with the new building or new plumbing only when they are found, on examination by the plumbing inspector, to conform in all respects to the requirements governing new sewers.

**§ 74-31. Testing of plumbing.**

The entire plumbing and drainage system within the building must be tested by the plumber in the presence of a plumbing inspector, under a water or air test as directed. All pipes must remain uncovered in every part until they have successfully passed the test. The plumber must securely close all openings as directed by the Inspector of Plumbing. The use of wooden plugs for this purpose is prohibited.

- A. The water test will be applied by closing the lower end of the main house drain and filling the pipes to the highest opening above the roof with water. If the drain or any part of the system is to be tested separately, there must be a head of water at least six feet above all

parts of the work so tested, and special provision must be made for including all joints and connections in at least one test.

- B. The air test will be applied with a force pump and mercury column under 10 pounds pressure, or to twenty inches of mercury. The use of spring gauges is prohibited.
- C. After completion of the work, when the water has been turned on and the traps filled, the plumber must make a peppermint or smoke test in the presence of a plumbing inspector, if required by said inspector.
- D. The material and labor for the tests must be furnished by the plumber. Where the peppermint test is used, two ounces of oil of peppermint must be provided for each line up to five stories and basement in height.

#### ARTICLE V

#### Electrical Work, Installations and Energy [Amended 11-22-1976 by L.L. No. 10-1976]

##### § 74-32. Statement of purpose.

Since there is danger to life and property inherent in the use of electrical energy, this article shall regulate the design, installation, alteration, replacement, maintenance, repair and inspection of wiring for electric light, power, heat, signal systems and other uses operating in excess of 50 Volts and the installation of all electrical equipment and apparatus operating in excess of 50 Volts, located in or on, any real property in the Village of Pelham Manor, County of Westchester, State of New York.

##### § 74-33. National code adopted.

For the purpose of prescribing regulations governing all electrical installations and work of the type described in the immediately preceding section of this Article V there shall be, and hereby is, adopted the whole of that code known as the "National Electrical Code" edited and published by the National Fire Protection Association as NFPA No. 70, Edition of 1975, approved by the United States of America Standards Institute as USASCI-1975, a copy of which code marked "Exhibit A" is attached hereto and hereby made a part of this article (such code being hereinafter in this Article V referred to as the "Electrical Code"). From the date on which this article takes effect the Electrical Code shall be controlling within the limits of the Village of Pelham Manor.

##### § 74-34. Electrical inspector. [Amended 5-10-2004 by L.L. No. 2-2004]

- A. For purposes of this article an electrical inspector shall be any person possessing a valid and subsisting certificate from the International Association of Electrical Inspectors or the International Codes Council who is registered with the Village of Pelham Manor in accordance with the provisions of this article.
- B. Any person desiring to be an electrical inspector must register with the Building Inspector of the Village of Pelham Manor to perform electrical inspections by providing the

following information and documentation to the Building Inspector for his review and determination as to its acceptability:

- (1) A copy of a valid and subsisting certificate from the International Association of Electrical Inspectors or the International Codes Council, to perform inspections of one- and two-family homes and/or commercial establishments. The original certificate must be displayed to the Building Inspector.
  - (2) Such person's address and telephone contact number.
  - (3) Proof of insurance showing worker's compensation coverage and a general liability policy naming the Village of Pelham Manor as an additional insured and certificate holder in such amount as the Building Inspector shall deem appropriate.
  - (4) If such person is a firm, corporation or other entity, the subject certificate must be provided for each employee for whom authorization is sought to perform electrical inspections.
  - (5) A fee schedule for charges to be incurred by a property owner or contractor for an inspection, which fees may not be charged to the Village.
  - (6) Payment to the Village of Pelham Manor of a processing fee of \$50 for each electrical inspector, which fee may be amended from time to time by resolution of the Village Board.
- C. Based upon the submission above, the Building Inspector shall determine the types of buildings for which an electrical inspector shall be authorized to inspect, and maintain a list in the Village's Building Department specifying same.
- D. The authority granted in accordance with this chapter shall expire on December 31 of every year, but shall be subject to reauthorization upon delivery within 10 days prior to such expiration, of:
- (1) An affidavit from each electrical inspector whose authorization is expiring, confirming that his certificate remains valid and subsisting and confirming his address and telephone number; and
  - (2) Payment of a renewal fee of \$25, which fee may be amended from time to time by resolution of the Village Board.
- E. All inspection fees shall be collected directly from the property owner or contractor in accordance with the fee schedule.
- F. The authority granted to any electrical inspector in accordance with this chapter is subject to revocation upon the Building Inspector's receipt of evidence that the subject electrical inspector has willfully or persistently violated this chapter. Any disputes as to the bases of revocation of such authority shall be referred to the Village Board, whose determination shall be binding.

equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Village of Pelham Manor of the New York Board of Fire Underwriters be deemed to have assumed any such liability by reason of any inspection made pursuant to the Electrical Code.

**Part 2**  
**Building Design**  
[Adopted 4-6-1987 by L.L. No. 1-1987]

**ARTICLE VI**  
**Exterior Design and Appearance**

**§ 74-39. Findings; purpose.**

The Board of Trustees hereby finds that excessive uniformity, similarity, dissimilarity or inappropriateness in the exterior design and appearance of buildings erected in the same neighborhood adversely affects the desirability of immediate and neighboring areas and by so doing impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate use of such real property, prevents the most appropriate development of such areas, produced degeneration of property in such areas with attendant deterioration of conditions affecting the health, safety and morals of the city, deprives the municipality of tax revenue which it otherwise could receive, and destroys a proper balance in relationship between the taxable value of real property in such areas, and the costs of the municipal services provided therefor. It is the purpose of this article to prevent these and other harmful effects of excessive uniformity, similarity, dissimilarity or inappropriateness in the exterior design and appearance of buildings erected in the same neighborhood and thus to promote and protect the health, safety, morals and general welfare of the city.

**§ 74-40. Similarity to neighboring buildings.**

- A. Except as provided in this article, no building permit shall be issued under the Building Code of the Village for the erection, relocation or exterior alteration of any building if it is or will be made or become similar or substantially similar to any neighboring building, as hereinafter defined, then in existence or for which a building permit has been issued, in more than three of the following respects:
- (1) Apparently identical facade.
  - (2) Height of the main roof ridge, or in the case of a building with a flat roof, the highest point of the roof beams above the elevation of the first floor.
  - (3) Height of the main roof ridge above the top of the plate (all flat roofs shall be deemed identical in this dimensions).

(Cont'd on page 7429)

**§ 74-35. Duties of inspector.**

It shall be the duty of the inspector upon making an inspection or reinspection of any electrical installation in or on real property in the Village of Pelham Manor to issue a written report to the Inspector of Buildings, whose duty it shall be to enforce all the provisions of the Electrical Code. The inspector shall make inspections and reinspections of electrical installations, devices, appliances and equipment in and on properties in the Village of Pelham Manor upon the written request of an authorized official of the Village of Pelham Manor, upon the written request of the owner of a building in the Village of Pelham Manor or his electrical contractor, or upon his own volition. In the event of an emergency it is the duty of the inspector to make electrical inspections upon the oral request of an authorized official of the Village of Pelham Manor. It shall be the duty of the inspector to furnish written reports of all inspections to the Inspector of Buildings or to the proper officials of the Village of Pelham Manor and to the owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with the Electrical Code. He shall send a copy of said certificate of compliance to the Clerk of the Village of Pelham Manor, to the owner, lessee or electrical contractor involved or to any official designated to receive such certificates or reports.

**§ 74-36. Violations of code.**

It shall be a violation of the Electrical Code for any person, firm or corporation to install or cause to be installed, or to alter or repair electrical wiring for light, heat or power, in or on properties in the Village of Pelham Manor until an application for inspection has been filed with the New York Board of Fire Underwriters. It shall be a violation of the Electrical Code for a person, firm or corporation to connect or cause to be connected electrical wiring for light, heat or power in or on premises in the Village of Pelham Manor to any source of electrical energy supply, prior to the issuance of a temporary or a final certificate of compliance by the New York Board of Fire Underwriters Electrical Bureau.

**§ 74-37. Code not applicable in certain cases.**

The provisions of the Electrical Code shall not apply to electrical installations in railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as such utility, and located outdoors or in buildings used exclusively for that purpose. The Electrical Code shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing or repair as their principal business. It shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

**§ 74-38. No waiver or assumption of liability.**

The Electrical Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or

- (4) Length of the main roof ridge, or, in the case of a building with a flat roof, length of the main roof.
  - (5) Width between outside walls at the end of the building measured under the main roof at right angles to the length thereof.
  - (6) Relative location of windows in the front elevation or in each of both side elevations with respect to each other and with respect to any door, chimney, porch or attached garage in the same elevation.
  - (7) In the front elevation both relative location with respect to each other of garage, if attached, porch, if any, and the remainder of the building and either height of any portion of the building located outside the limits of the main roof, measured from the elevation of the first floor to the roof ridge, or, in the case of a flat roof, the highest point of the roof beams, or width of said portion of the building if it has a gable in the front elevation, otherwise length of said roof ridge or said flat roof in the front elevation.
- B. Buildings should be deemed to be similar to each other in any dimension with respect to which the difference between them is not more than two feet. Buildings between which the only difference in relative location of elements is end to end or side to side reversal of elements shall be deemed to be similar to each other in relative location of such elements. In relation to the premises with respect to which the permit is sought, a building shall be deemed to be a neighboring building if the lot upon which it or any part of it has been or will be erected is any one of the following lots, as shown on the tax map of the village:
- (1) Any lot on the street upon which the building is to be erected on said premises would front which is the first or the second lot next along said street in either direction from said premises, without regard to intervening street lines.
  - (2) Any lot any part of the street line frontage of which is across said street from said premises or from a lot referred to in Subsection B(1) of this section.
  - (3) Any lot any part of the street line frontage of which faces the end of, and is within the width of, said street, if there are less than two lots between said premises and the end of said street.
  - (4) Any lot on another street which adjoins said premises on such other street.
  - (5) Any lot any part of the street line frontage of which is across such other street from said premises or from a lot referred to in Subsection B(4) of this section.
- C. Notwithstanding any of the foregoing provisions of this section, no building shall be deemed to be a neighboring building in relation to said premises if its rear elevation faces the street upon which the building to be erected on said premises would front.

**§ 74-41. Excessive dissimilarity.**

- A. Except as provided in this article no building permit shall be issued under the Building Code of the Village of Pelham nor for the erection, relocation or exterior alteration of any building if it is of excessive dissimilarity of design or inappropriateness of design or of site

plan in relation to any other neighboring buildings as heretofore defined in this article then existing or for which a permit has been issued or any other structure, included in the same permit application or in relation to the characteristics of building design generally prevailing in the village in respect to one or more of the following features:

- (1) Overall height of building or roof.
  - (2) Overall width and depth of building.
  - (3) Cubical contents.
  - (4) Gross floor area.
  - (5) Other design features causing the structure to be excessively dissimilar or inappropriate such as, but not limited to, architectural design or construction material.
- B. Provided that a finding of excessive dissimilarity of design or inappropriateness of design shall include not only a finding that such dissimilarity or inappropriateness exists but further a finding that it is of such a nature as to produce one or more of the harmful effects set forth in § 74-39.

**§ 74-42. Submission of drawings.**

The Building Inspector may require the applicant for a building permit for the erection, relocation or exterior alteration of any building to submit drawings showing the design of the exterior appearance of such proposed structure and to give notice of the application to the owners of the neighboring properties as defined in § 74-40 of this article.

**§ 74-43. Denial of application.**

In any case in which the Building Inspector of the village shall deny an application for a building permit solely or partly because of the provisions of § 74-40 or 74-41 of this article, he shall promptly send to the applicant, by registered mail, addressed to the address of the applicant set forth in the application, a notice of his action which shall specify the ground or grounds upon which the same is based.

**§ 74-44. Building Board.**

There is hereby created a Building Board which shall consist of the persons holding the positions of Chairman and member of the Village Planning Board from time to time. The Building Board shall have the right to engage from time to time in its discretion an architect or professional engineer to assist the Building Board.

**§ 74-45. Meetings; adoption of rules and regulations.**

- A. Meetings of the Building Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes

of its proceedings, showing the vote of each member upon every question or if absent or failing to vote indicating such fact, and shall also keep records of its examinations and other official actions.

- B. The Board shall have power from time to time to adopt, amend and repeal rules and regulations, not inconsistent with law or the provisions of this article, governing its procedure and the transaction of its business. A majority of the members of the Board shall constitute a quorum for the transaction of business. Every order, decision and determination of the Board shall be filed in the office of the Board and shall be a public record.

**§ 74-46. Administrative review of actions of Building Inspector.**

Insofar as it relates to the provisions of § 74-40 or 74-41 of this article, action of the Building Inspector shall be subject to administrative review only upon an appeal to the Building Board duly taken under § 74-47 of this article.

**§ 74-47. Appeals to Building Board.**

Any person aggrieved by action of the Building Inspector in denying an application for a building permit solely or partly because of the provisions of § 74-40 or 74-41 of this article and any owner, lessee or resident of a neighboring building defined in § 74-40 of this article who claims that action of the Building Inspector in granting an application for a building permit violates such provisions may take an appeal therefrom to the Building Board by filing a notice of appeal, which shall specify the grounds thereof, with the Building Inspector and with the Board within 15 days from the date on which such action was taken. Upon receipt of such notice of appeal, the Building Inspector shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

**§ 74-48. Stay of proceedings.**

Unless the Building Board shall otherwise direct, an appeal duly taken as provided in § 74-47 of this article stays all proceedings in furtherance of the action appealed from.

**§ 74-49. Hearing; decision.**

The Building Board shall fix a reasonable time for the hearing of such appeal duly taken as provided in § 74-47 of this article and give due notice thereof to the parties, and shall hold said hearing and decide said appeal within a reasonable time. The hearing shall be open to the public. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm wholly or partly or may modify the action appealed from insofar as it relates to the provisions of § 74-40 or 74-41 of this article and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the powers of the Building Inspector in connection with the application of the provisions of § 74-40 or 74-41 of this article. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of said provisions, the Board

shall have the power, in passing upon appeals, to vary or modify the application of such provisions in harmony with their general purpose and intent so that the spirit of this article shall be observed, public safety and welfare secured and substantial justice done.

**§ 74-50. Construal of provisions.**

This article shall supplement the provisions of Subdivision 7 of § 89 of Article 4 of the Village Law<sup>2</sup> of the State of New York, being Chapter 64 of the Laws of 1909 as amended and shall modify and supplement the Building Code of the Village of Pelham Manor as are contrary to the provisions of this article.

---

<sup>2</sup> Editor's Note: See now Village Law § 4-412.