

Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Article IV. Administration

§ 77-11. Designation of local administrator.

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

§ 77-12. Floodplain development permit.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Boundary and Floodway Map enumerated in § 77-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as set by the Board of Trustees. In addition, the applicant shall be responsible for reimbursing the Village of Kiryas Joel for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

§ 77-13. Application for permit.

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 77-16C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 77-18, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 77-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 77-14. Duties and responsibilities of local administrator.

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit. The local administrator shall:
 - (1) Review all applications for completeness, particularly with the requirements of § 77-13, Application for permit, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 77-15A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- B. Use of other flood data.
 - (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 77-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
 - (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.
- C. Alteration of watercourses. The local administrator shall:
 - (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
 - (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

- D. Construction stage.
- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, the local administrator shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
 - (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 77-9 of this chapter.
 - (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 77-9 of this chapter.
- G. Certificate of compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in § 77-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
 - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
 - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:
- (1) Floodplain development permits and certificates of compliance.
 - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsection D(1) and (2), and whether or not the structures contain a basement.
 - (3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement.
 - (4) Variances issued pursuant to Article VI.
 - (5) Notices required under Subsection C, Alteration of watercourses.

Article V. Construction Standards

§ 77-15. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Boundary and Floodway Map designated in § 77-6.

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
 - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Village of Kiryas Joel agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Kiryas Joel for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Kiryas Joel for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map adopted in § 77-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
 - (b) The Village of Kiryas Joel agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Kiryas Joel for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Kiryas Joel for all costs related to the final map revisions.

§ 77-16. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2)

New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

- (3) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 77-17. Residential structures.

[Amended 6-4-2002 by L.L. No. 1-2002]

- A. Elevation. The following standards, in addition to the standards in § 77-15A, Subdivision proposals, and § 77-15B, Encroachments, and § 77-16, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:
 - (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above one foot above the base flood level.
 - (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
 - (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified

in feet on the community's Flood Insurance Rate Map enumerated in § 77-6 (at least two feet if no depth number is specified).

- (4) Within Zone AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§ 77-18. Nonresidential structures.

[Amended 6-4-2002 by L.L. No. 1-2002]

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 77-15A, Subdivision proposals, and 77-15B, Encroachments, and § 77-16, Standards for all structures.

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above one foot above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below one foot above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvement of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator, that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 77-19. Manufactured homes and recreational vehicles.

[Amended 6-4-2002 by L.L. No. 1-2002]

The following standards, in addition to the standards in § 77-15, General standards, and § 77-16, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

- A. Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either: (i) be on site fewer than 180 consecutive days; be fully licensed and ready for highway use, or (ii) meet the requirements for manufactured homes in Subsections B, D, and E. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

- B. A manufactured home that is placed or substantially improved in Zones Al-A30, AE and AH that is on a site either:
- (i) Outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood; shall be elevated on a permanent foundation such that the lowest floor is elevated to or above one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- C. A manufactured home to be placed or substantially improved in Zone Al-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
- (1) Elevated in a manner such as required in Subsection B; or
 - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as one foot more than the depth number specified on the Flood Insurance Rate Map enumerated in § 77-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

Article VI. Variances

§ 77-20. Appeals Board.

- A. The Zoning Board of Appeals as established by the Village of Kiryas Joel shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
- (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.

- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection **D** and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 77-21. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in Subsection D(1) through (12) in § 77-20 have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria of Subsections **A**, **D**, **E** and **F** of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 83. LIBRARY

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 1-6-2004 by L.L. No. 1-2004. *Editor's Note: This chapter was originally adopted as Ch. 108, but was renumbered to fit into the organizational structure of the Code.* Amendments noted where applicable.]

§ 83-1. Purpose.

The purpose of this chapter is to promote literacy by establishing a public library pursuant to § 255(1) of the Education Law.

§ 83-2. Public Library created.

There is hereby established the Village of Kiryas Joel Public Library, subject to the provisions of the Education Law. The Library shall be managed by a Library Board as hereinafter provided.

§ 83-3. Appropriations.

- A. The Village Board of Trustees may appropriate moneys raised by tax or otherwise to equip and maintain the Library.
- B. The Library Board shall have control over the expenditure of moneys appropriated to the library fund. The library fund shall be under the care and custody of the Village Treasurer.
- C. The Village Board of Trustees may acquire real or personal property for Library purposes by gift, grant, devise, bequest or condemnation and may take, buy, sell, hold and transfer either real or personal property for Public Library purposes.
- D. The payment or grant of moneys as appropriated for the Library shall invoke the provisions of federal, state and local law such that the amount appropriated by the Town Board of the Town of Monroe for a contract with the trustees of a cooperative library system, a free association library or with another municipal district or body having control of a public library shall be a charge upon the taxable property of that part of the Town outside of the Village of Kiryas Joel.

§ 83-4. Library Board; trustees.

- A. The Public Library shall be managed by a Library Board consisting of trustees according to § 260(1) of the Education Law. The number of appointed trustees shall not exceed five, each serving for a term of office of five years. The initial trustees' terms of office shall be so arranged that the term of one trustee shall expire annually.
- B. No person who is a member of the Village Board of Trustees shall be eligible for the office of public library trustee.
- C. The Library Board shall hold regular meetings at least quarterly. The Board shall fix the day and hour for holding such meetings.
- D.

Within one month of taking office, the first Library Board shall apply to the Board of Regents of the University of the State of New York for a charter in accordance with the vote establishing the Library pursuant to § 261 of the Education Law.

Chapter 85. LITTERING

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 4-28-1995 as L.L. No. 3-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 104.

Solid waste — See Ch. 121.

§ 85-1. Definitions and word usage.

- A. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- B. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

GARBAGE

Any animal or vegetable refuse or waste matter capable of fermentation or decay and, without limitation, normal, usual kitchen and household waste primarily from perishable or disposable items such as leftover food matter; food packaging and containers, including cans, bottles and magazines; dishes, pots, pans, glass, bottles and crockery; and small household appliances.

LITTER

Garbage, refuse, rubbish, newspaper, paper and/or all other waste material.

NEWSPAPER

A product printed on newsprint, including all newspapers, newspaper advertisements and comics.

PARK

A public park, reservation, playground, recreation center or any other public area in the village devoted to active or passive recreation.

PERSON

Any natural person or any firm, partnership, association, corporation, company or organization of any kind.

PUBLIC PLACE

Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, grounds, buildings and parking lots.

REFUSE

All putrescible and nonputrescible solid wastes, including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid and industrial waste.

RUBBISH

Nonputrescible solid wastes consisting of combustible and/or noncombustible wastes and shall include but shall not be limited to paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

§ 85-2. Littering prohibited.

No person shall throw or deposit litter in or upon any property, either public or private, except in conformity with this chapter.

§ 85-3. Placement in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 85-4. Sidewalk maintenance; sweeping litter into public places.

No person shall sweep into or deposit in or on any sidewalk, gutter, street or other place within the village the accumulation of litter from any building or lot or from any private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

§ 85-5. Litter thrown from vehicles.

No person, while a driver or passenger in a vehicle, shall throw, drop or deposit litter upon any street or other public place or private property within the village.

§ 85-6. Vehicle loads to be secured.

No person shall drive or move any truck or other vehicle within the village unless such vehicle is so constructed or loaded so as to prevent any load, contents or litter from being blown or deposited upon any public place.

§ 85-7. Parks.

No person shall throw or deposit litter in any park within the village, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

§ 85-8. Bodies of water.

No person shall throw or deposit litter in any pond, lake, river or any other body of water in a park or elsewhere within the village.

§ 85-9. Private property maintenance.

- A. Litter on private property. No person shall throw or deposit litter on any occupied or vacant private property within the village, whether owned by such person or not, except that the person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.
- B. Owner responsibilities. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 85-10. Compliance with orders of enforcement officers.

All orders of the duly appointed enforcement officers shall be promptly complied with by the person or persons to whom such order is directed.

§ 85-11. Administration and enforcement.

- A. Enforcement officer; appearance tickets. The Code Enforcement Officer, Building Inspector and/or any other person authorized by the Board of Trustees are hereby designated as the officers charged with the enforcement of this chapter and are hereby authorized to issue notices of violation and appearance tickets to secure enforcement. Such appearance tickets shall be in the form prescribed by the Village Board.
- B. Upon the determination that a violation exists in, on or about any private building, premises or property or that any private building, premises or property is the source of litter deposited on public property, the enforcement officer shall serve an appearance ticket or a written notice of violation which orders the remedying of the violation.
- C. A notice of violation shall state the nature of the violation and the provision or term violated and shall set a date as may be reasonably necessary for achieving compliance before proceedings to compel compliance or assess penalties shall be instituted. Such notice shall be served personally or by certified mail to the last known address of the property owner and/or occupant. If service is by certified mail, then a copy of the notice of violation shall be posted at the premises where the violation exists.

§ 85-12. Penalties for offenses; civil penalties.

- A. Any person violating any provision of this chapter or failing to comply with any lawful order of an enforcement officer shall, upon conviction thereof, be guilty of a violation of this chapter.
- B. Any person convicted of a violation of this chapter shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or both; for a second such conviction within six months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 15 days, or both; for a third or subsequent conviction within six months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both, for each such conviction.
- C. In addition to the above, any person who violates this chapter shall, for a first violation, be liable to the village for a civil penalty of not more than \$50; for a second such violation within six months thereafter, such person shall be liable for a civil penalty of not more than \$100; for a third or subsequent violation within six months after the first violation, such person shall be liable for a civil penalty of not more than \$250 for each such violation. Said civil penalties shall be recoverable in an administrative proceeding held by and before the Board of Trustees pursuant to the following procedure:
 - (1) Whenever a violation has not been remedied within the time specified in the notice of violation, an enforcement officer may issue an order to show cause before the Board of Trustees why such penalties should not be imposed.
 - (2) Service of order to show cause.
 - (a) Such order to show cause shall be served personally or by mailing a copy of such order by certified mail to the property owner and occupant to their last known addresses as shown by records of the village and by posting a copy of such order on said premises.
 - (b) A copy of said order may be filed in the County Clerk's office, which order shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided. An order so filed shall be effective for a period of one year from the date of filing. It may be terminated upon an order of a judge or justice of a court of record or upon the written consent of the Attorney for the village. The County Clerk shall mark

the order to show cause and any record or docket thereof as canceled of record upon the presentation and filing of a certified copy of such judicial order of such consent.

- (3) Content of order. Said order to show cause shall state the nature of the violation; the provision or term violated; and the date, time and place for a hearing before the Board of Trustees. The hearing shall be set for a date not less than seven days after the date the order to show cause is mailed.
 - (4) Conduct of hearing.
 - (a) The Board of Trustees shall conduct a hearing at the date, time and place specified in the order to show cause. The hearing may be adjourned from time to time and shall continue until interested persons subject to the order to show cause are heard. No formal rules of evidence shall apply nor shall a stenographic transcript be required.
 - (b) The property owner, occupant and any others subject to the order to show cause may be represented by an attorney and shall have the right to present evidence and examine witnesses to show why penalties should not be assessed and/or why an order to remove an emergency condition should be modified or withdrawn.
 - (c) After the hearing is closed, the Board of Trustees shall make findings and make a determination. Such determination shall indicate the basis and reason for the decision, shall state the dollar amount of any fine(s) imposed and shall be supported by substantial evidence.
 - (d) Any fines imposed, plus, if any fine is imposed, the costs to the village of the proceeding, including but not limited to attorneys' fees and administrative costs, shall be immediately due and payable. Administrative costs shall be determined from time to time by resolution of the Board of Trustees.
 - (e) The determination of the Board of Trustees may be reviewed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is commenced within 30 days of such determination. Judicial review shall not stay any stop-work order or stay payment of any fine and costs imposed.
 - (5) Assessment of fines and costs. All fines and all costs incurred by the village in connection with the administrative proceeding, if unpaid, shall be a lien on the real property and shall be assessed against such property, together with 9% interest per annum, and shall be levied and collected in the same manner as real property taxes.
- D. Correction of violation by village. Compliance with this chapter is required in the interest of the public health, safety and welfare. Notwithstanding any other provision herein, if a property owner fails to correct a violation after notice of the same, the village and its agents shall have the right to enter upon the property and perform the work necessary to correct the violation. The property owner shall be responsible and liable for all costs incurred by the village in connection therewith. If not paid, said costs shall be a lien on the real property and shall be assessed against such property, together with 9% interest per annum, and shall be levied and collected in the same manner as real property taxes.
- E. Alternatively or in addition to the remedies provided by Subsections B, C and D, the Board of Trustees or enforcement officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or enforce any provision of this chapter.

Chapter 92. NOISE

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 5-21-1993 as L.L. No. 4-1993. Amendments noted where applicable.]

§ 92-1. Legislative intent.

[Added 4-28-1995 by L.L. No. 5-1995 *Editor's Note: This local law also provided for the renumbering of former § 92-1, Definitions, as § 92-1.1.*]

The Board of Trustees finds, due to the densely compacted residential development and the very high population of children in the village, that regulation of noise furthers the general welfare of village residents. This Board finds in particular that mobile loudspeakers pose a threat to the general welfare due to the ability of a mobile loudspeaker within the small area of the village to repeatedly disturb the quiet and comfort of persons in their homes and of students and congregants in their schools and places of worship.

§ 92-1.1. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

SOUND DEVICE OR APPARATUS

Any apparatus or device for the making, reproduction or amplification of the human voice or other sound(s).

UNNECESSARY

[Repealed 4-28-1995 by L.L. No. 5-1995]

§ 92-2. Prohibited noises.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration herein shall not be deemed to be exclusive:

- A. The operation of any radio, phonograph, tape recorder, microphone or other sound device or use of any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence.
- B. The keeping of any animal or bird which, by causing frequent or long-continued noise, disturbs the comfort and repose of any person in the vicinity.
- C. The use of any automobile, motorcycle, trail bike, minibike, snowmobile, bus or vehicle so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- D. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- E. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. The erection or construction, including excavation, demolition, alteration or repair, of any structure other than between 8:00 a.m. and 8:00 p.m., prevailing time, except in case of urgent necessity in the interest of public safety as determined by the Code Enforcement Officer or pursuant to other applicable law adopted by the Board of Trustees of the Village of Kiryas Joel.
- G. The creation of any loud or raucous noise on any street or public place so as to be disruptive to any school or other institution of learning, place of worship or hospital.
[Amended 4-28-1995 by L.L. No. 5-1995]
- H. The creation of loud and excessive noise in connection with the loading or unloading of any vehicle, or the opening and destruction of bales, crates and containers in such a manner as to create an unreasonable or unnecessary noise of unreasonable extent and duration.
- I. The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

J.

The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any sale or display of merchandise by the creation of noise.

- K. The sounding of any horn or signal device on any vehicle, except as a warning signal pursuant to the provisions of Subsection 1 of § 375 of the Vehicle and Traffic Law of the State of New York.
- L. Except as otherwise permitted herein, the use of any sound device, loudspeaker or amplifier in such a manner that the sound is projected directly therefrom outside of any building or out-of-doors, or the use of any sound device, loudspeaker or amplifier which is in any way fastened to or connected with any outside wall or window in any building or structure so that the sound therefrom is projected outside of such wall or window. Nothing herein contained shall be construed to prevent the operation of a sound device, loudspeaker or amplifier used in a reasonable manner by any person within any building or structure, provided that said sound device, loudspeaker or amplifier is not so arranged that the sound is projected therefrom directly outside of any building or out-of-doors.
- M. The creation of any loud or raucous noise or any noise which causes public inconvenience or alarm or disturbs the public's peace, comfort or tranquility.
[Amended 4-28-1995 by L.L. No. 5-1995]

§ 92-3. Sound device prohibitions.

It shall be unlawful for any person to use or operate, or cause to be used or operated, any sound device apparatus in, on, near or adjacent to any public street, park or place for commercial or business advertising purposes, or for any person to operate or drive any automobile, truck or other vehicle for commercial or business advertising by means of any sound device or apparatus. The use of any trade, business or corporate name or the name of any person, proprietor or vendor in such commercial or business advertising shall be presumptive evidence that such advertising was conducted by that person, business or corporation.

§ 92-4. Permitted noises.

The following sounds shall not be deemed to be a violation of this chapter:

- A. Sounds created by any government agency for a public purpose.
[Amended 4-28-1995 by L.L. No. 5-1995]
- B. Sounds created by lawn mowers between the hours of 9:00 a.m. and 8:00 p.m., prevailing time, weekdays, and 10:00 a.m. and 8:00 p.m., prevailing time, Sundays.
- C. Sounds created by public utilities in carrying out operation of their franchises pursuant to a permit issued by the Board of Trustees.
- D. Sounds connected with an authorized sporting event of any public or private school, carnival, fair, exhibition, parade or similar event, pursuant to a permit issued by the Board of Trustees. Use of loudspeakers to publicize any such event is permitted pursuant to a permit issued by the Board of Trustees. Any permit required herein for an event or loudspeaker use must be obtained at least 48 hours prior to such event or use.
- E. Sounds on private property which do not carry beyond the boundary lines of the property on which they are created.
- F. Use of loudspeakers not prohibited by § 92-3 above is permitted pursuant to a permit granted by the Board of Trustees under the following conditions:
[Amended 4-28-1995 by L.L. No. 5-1995]
 - (i) Permit applications shall be made on forms prescribed by the village and will be considered by the Board at regularly scheduled meetings. Applications must be submitted to the Village Clerk at least 48 hours prior to the regularly scheduled Board meeting.

- (2) One permit only shall be exercised on a given day at a particular time, and applications for a permit to be exercised at a particular day and time will be considered by the Board on a first-come-first-served basis.
- (3) A permit shall not be exercised for a period in excess of two hours per day, which two-hour period shall be continuous.
- (4) A loudspeaker may be used only between the hours of 12:00 noon and 9:00 p.m.
- (5) Notwithstanding the above, no loudspeaker use shall be permitted after 3:00 p.m. on Saturdays or Sundays.
- (6) The volume of any sound shall not be loud or raucous, nor shall the volume be loud enough to be plainly audible so as to be disruptive to normal activities within any residence, place of worship, school or hospital.
- (7) No vehicle equipped with a loudspeaker shall be stopped for longer than two minutes at any time in any public right-of-way while the loudspeaker is broadcasting.
- (8) No public street shall be obstructed.
- (9) No loudspeaker shall be operated unless the permit holder is in attendance.
- (10) Notwithstanding conditions in Subsection **F(2)** through **F(5)**, inclusive, a religious congregation may apply for and obtain one permit to use loudspeakers for weddings and funerals. Said permit may be exercised only on one tax parcel owned or leased by the congregation. Said permit shall be in the name of the congregation and shall expire after one year, at or prior to which time the congregation may apply for renewal.

§ 92-5. Penalties for offenses; remedies.

- A. Any violation of any provision of this chapter or of any term or provision of any permit issued hereunder shall be a violation of this chapter and is an offense.
[Amended 4-28-1995 by L.L. No. 5-1995]
- B. Upon determination that a violation exists, an enforcement officer shall serve a written notice of violation which orders the remedying of the violation. Such order shall state the nature of the violation and the provision or term violated, shall state that immediate compliance is required and shall state that failure to comply may result in proceedings to compel compliance and/or assess penalties. Such order shall be served personally and if the violation is the result of sound caused by or emanating from private real property, shall be served personally on the property owner or by certified mail to the last known address of the property owner. If service is by certified mail, then a copy of the notice of violation shall be posted at the property. If a person served with a notice of violation fails to cease the violation within 30 minutes after such service, then such failure shall be deemed a separate and distinct violation. If such person fails to cease the violation for an additional 15 minutes or longer after this initial 30 minute time period, then each additional 15 minute time period shall be deemed a separate and distinct violation.
- C. Any person convicted of a violation of this chapter shall, for a first conviction thereof, be punished by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both; for a second such conviction within six months thereafter, such person shall be punished by a fine of not more than \$400 or by imprisonment for not more than 15 days, or both; for a third or subsequent conviction within six months after the first conviction, such person shall be punished by a fine of not more than \$500 or by imprisonment for not more than 15 days, or both, for each such conviction.
- D. In addition to the above, any person who violates this chapter shall, for a first violation, be liable to the village for a civil penalty of not more than \$250; for a second such violation within six months thereafter, such person shall be liable for a civil penalty of not more than \$400; for a third or subsequent violation within six months after the first violation, such person shall be liable for a civil penalty of not more than \$500 for each such violation. Where a violation of this chapter is caused by or is projected from private real property, the owner of such property shall also be liable to the village for said civil penalties. Said civil penalties shall be recoverable in an administrative proceeding held by and before the Board of Trustees pursuant to the following procedure:

[Amended 4-28-1995 by L.L. No. 5-1995]

- (1) Whenever a violation has not been remedied within the time specified in the notice of violation, the enforcement officer may issue an order to show cause before the Board of Trustees why such penalties should not be imposed.
- (2) Service of order to show cause.
 - (a) Such order to show cause shall be served personally; or by mailing a copy of such order by certified mail to the property owner, to the owner's last known address as shown by the records of the village and by posting a copy of such order on said premises.
 - (b) Where practical, a copy of such order may be served personally on the residents of the premises. Such personal service on the residents shall not be a substitute for the service otherwise required, nor shall the failure to provide such personal service invalidate any proceedings pursuant to this chapter.
 - (c) A copy of said order may be filed in the County Clerk's Office, which order shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and rules and shall have the same effect as a notice of pendency as therein provided. An order so filed shall be effective for a period of one year from the date of filing. It may be terminated upon an order of a Judge or Justice of a court of record or upon the written consent of the attorney for the village. The County Clerk shall mark the order to show cause and any record or docket thereof as canceled of record upon the presentation and filing and a certified copy of such judicial order or of such consent.
- (3) Content of order. Said order to show cause shall state the nature of the violation; the provision or term violated; and the date, time and place for a hearing before the Board of Trustees. The hearing shall be set for a date not less than seven days after the date the order to show cause is mailed.
- (4) Conduct of hearing.
 - (a) The Board of Trustees shall conduct a hearing at the date, time and place specified in the order to show cause. The hearing may be adjourned from time to time and shall continue until interested persons subject to the order to show cause are heard. No formal rules of evidence shall apply nor shall a stenographic transcript be required.
 - (b) Any person subject to the order to show cause may be represented by an attorney and shall have the right to present evidence and examine witnesses to show why penalties should not be assessed.
 - (c) After the hearing is closed, the Board of Trustees shall make findings of fact and a final determination. Such determination shall indicate the basis and reason for the decision, shall state the dollar amount of any civil monetary penalty imposed and shall be supported by substantial evidence.
 - (d) In the event that a civil monetary penalty is imposed, that penalty plus the costs to the village of the proceeding, including but not limited to attorneys' fees and administrative costs, shall be immediately due and payable.
 - (e) The final determination of the Board of Trustees may be reviewed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is commenced within 30 days of the filing of the final determination in the Village Clerk's office. Judicial review shall not stay payment of any civil monetary payment and costs imposed.
- (5) Assessment of civil monetary penalties and costs. Where a violation is caused by or is projected from private real property and the owner of such property is subject to the order for show cause, all civil monetary penalties imposed against the owner and costs incurred by the village in connection with the administrative proceeding against the owner, if unpaid, shall be a lien on the real property and shall be assessed against such property, together with 9% interest per annum, and shall be levied and collected in the same manner as real property taxes.

E.

Any person determined by the Board of Trustees or a court of competent jurisdiction to have violated any provision of this chapter by conduct for which a permit issued by the Board of Trustees is required shall be just cause to prohibit issuance of such a permit for a period of six months after the determination of the violation.

[Added 4-28-1995 by L.L. No. 5-1995]

§ 92-6. Enforcement.

[Amended 4-28-1995 by L.L. No. 5-1995]

- A. This chapter shall be administered by the Village Clerk and by any other person appointed by resolution of the Board of Trustees and shall be enforced by the Code Enforcement Officer, any village constable and the New York State police.
- B. All enforcement officers are hereby authorized to issue notices of violation and appearance tickets to secure enforcement of this chapter. A village constable, in addition to or in lieu of issuance of a notice of violation, is authorized to arrest a person who commits a violation of this chapter.

Chapter 104. PROPERTY MAINTENANCE

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 5-21-1993 as L.L. No. 1-1993. *Editor's Note: This local law also provides that it shall supersede § 4-414 of the Village Law to the extent any provision of this law is adjudged inconsistent or in conflict therewith.* Amendments noted where applicable.]

§ 104-1. Legislative intent.

The Board of Trustees of the Village of Kiryas Joel hereby determines it is necessary for the public health, safety, comfort and general welfare of the residents of the Village of Kiryas Joel to provide regulations in accordance with Public Health Law § 302 whereby properties within the incorporated portion of the village are kept clean and free from vermin, mice, rats, raccoons; noxious weeds; and disease-bearing insects, including ticks, mosquitos and flies; are properly maintained; and are kept free of nuisances, hazards, motor vehicles not intended or in condition for legal highway use; debris and litter. Further, it is found and declared that by reason of lack of maintenance and progressive deterioration, certain properties and structures have the further effect of creating blighting conditions leading toward creation of slum-type areas and that, if the same are not curtailed and removed, the conditions will grow and impact the entire community. By reason of timely regulations and restrictions, the public health may be protected, blighted areas prevented and the desirability and amenity value of properties maintained.

§ 104-2. Definitions.

- A. For purposes of this chapter, certain words and phrases shall be construed herein as set forth in this section unless it is apparent from the context that a different meaning is intended. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa.
- B. As used in this chapter, the following terms shall have the meanings indicated:

GARBAGE

Any animal or vegetable refuse or waste matter capable of fermentation or decay.

NOXIOUS WEEDS

Plants or other flora growth that may be hurtful, harmful or may physically affect individuals, such as poison ivy, sumac (trees, bushes or vines), deadly nightshade, Japanese Heliotrope and bindweed. "Noxious weeds" shall not include those plants normally cultivated in gardens.

NUISANCE

(1)

Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New York, its governmental agencies or the regulations and laws of the village.

- (2) Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of premises where said condition exists.
- (3) Any waste material or any other matter attractive to vermin, likely to breed disease, present a fire hazard, create offensive odors or otherwise be prejudicial to good health or being so unsightly of appearance as to be offensive to surrounding properties or when viewed from the public right-of-way.

OCCUPANT

Any person residing, living or sleeping in or on the premises or having actual possession, use or occupancy of a dwelling premises, or any person or entity in possession of or using any premises, or part thereof, whether or not the owners thereof and regardless of the duration of time of such possession, use or occupancy.

OWNER

Any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, with or without accompanying actual possession thereof; or who shall have charge, care or control of any lot, premises, building, structure or part hereof as agent of the owner, or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lessee of any part or all of any building structure or land shall be deemed to be a co-owner with the lessor for the purposes of this chapter and shall have responsibility over the portion of the premises so sublet, leased or assigned.

PERSON

Any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.

PREMISES

A lot, plot or parcel of land, including the buildings or structures thereon.

SOLID WASTE

Materials or substances discharged, discarded or rejected as being spent, useless, worthless or in excess by the owner at the time of such discard or rejection, except sewage and other highly diluted water-carried materials or substances and those in gaseous form. Such waste shall include but is not limited to garbage, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, refuse, abandoned vehicles, agricultural waste, industrial waste, commercial waste and construction and demolition debris.

§ 104-3. Duties of owners and occupants.

- A. In furtherance of the purposes of this chapter, it shall be the duty and responsibility of the owner or occupant of premises to comply with any or all of the requirements and standards of this chapter to keep the premises free of conditions which constitute violations hereof and to promptly remove, prevent or abate such conditions.
- B. Owners and occupants shall have all the duties, obligations and responsibilities prescribed in this chapter, and no such person or entity shall be relieved of any duty, obligation or responsibility hereunder, nor be entitled to assert, as a defense against any charge made against him or them for violation of this chapter, the fact that another owner, operator or occupant or any other third person or entity is also responsible therefor and in violation thereof.

§ 104-4. Applicability of provisions.

The provisions of this chapter shall supplement state and local laws, codes or regulations. Where a provision of this chapter is found to be in conflict with a provision of a state or local law, code or regulation, the more restrictive provision shall prevail when legally permissible.

§ 104-5. General requirements.

- A. Surface and subsurface water shall be appropriately drained to prevent the development of stagnant ponds.
- B. Premises shall be maintained in a clean, safe and sanitary condition free of physical hazards, fire hazards, solid waste, garbage, rubbish, trash, infestation, rodents, roaches, fleas, ticks, any vehicles no longer intended or in condition for legal use on the public highways, hazardous substances, construction and demolition material, noxious weeds or nuisance.
- C. No motor vehicle shall be permitted on any vacant or unimproved property. No more than one vehicle per dwelling unit shall be permitted during any 24 hour period on any property which is improved with at least one dwelling unit.
- D. All fences shall be maintained in safe and substantial condition by the owner of the premises upon which it is located. Such maintenance shall include but not be limited to painting or staining as needed and the replacement of broken or missing sections of fence which may come into disrepair.
- E. Premises not improved with a building or structure shall be maintained in such a manner that noxious weeds do not encroach upon adjoining properties and the grasses thereon shall be mowed or cut at a minimum of once yearly or when the height of growth exceeds 12 inches, whichever is more frequent.
- F. The landscaping on all premises improved with a building or structure thereon shall be properly maintained. Such maintenance shall include but not be limited to the trimming or removal of dead and potentially hazardous or diseased trees, shrubs or portions thereof. Lawns shall be kept mowed to a height not to exceed six inches.
- G. Steps, walks, driveways, parking spaces, parking lots and similar paved areas shall be repaired, replaced, kept free from snow and ice and maintained so as to be free from holes, hazards and dirt so as to afford safe passage to the public under normal use and weather conditions.
- H. Ground cover shall be properly established to prevent undue soil erosion due to the elements.
- I. Premises shall be maintained so that the plant growth thereon shall not:
 - (1) Harm or hinder the development of valued trees and/or shrubs on public or private property;
 - (2) Intrude upon the property of an adjoining property owner;
 - (3) Render offensive odors;
 - (4) Harbor insects (mosquitos, flies, ticks, vermin, etc.) detrimental to the public health; or
 - (5) Create or present a hazard to others.
- J. Building and structures.
 - (1) All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated or sealed with a protective coating of paint or other suitable preservative to protect them from deterioration.
 - (2) All private signs exposed to public view shall be maintained in good repair. Excessively weathered or faded signs shall be repaired, restored or removed. Inoperative electrical or other mechanical signs shall be repaired or removed.
 - (3) Except in one-(1) and two-(2) family dwellings, all floors, walls, ceilings, stairs and fixtures of a building's exterior walls, roofs, porches or appurtenance thereto shall be maintained in a clean, safe and sanitary

condition and shall be maintained in a manner so as to prevent injury to the occupants of the building or to the public.

- (4) The foundation walls of every building shall be maintained in a structurally sound condition.
- (5) The exterior parts of a building shall be maintained so as to keep water from entering the building. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner. Exterior walls, gutters, leaders, soffits, cupolas, roofs and other parts of the building shall be free from loose and unsecured objects and material. Such object or materials shall be removed, repaired or replaced.
- (6) Buildings and structures shall be maintained free of fleas and roaches, vermin and rodent harborage and infestation.
- (7) Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse. Garbage and refuse containers shall be of an approved waterproof type and shall be enclosed in a booth of sufficient size (not exceeding five feet in height) for the use and occupancy of the premises and shall be placed near the front property line. The presence of garbage outside the booth shall be violation of this chapter.

§ 104-6. Public rights-of-way.

- A. The Board of Trustees finds that sidewalks, grass strips and walkway easements adjacent to private property are attributes of the private property. That portion of the public right-of-way between the private property line and the traveled roadway portion of any right-of-way adjoining the private property, including sidewalks and grass strips, and any walkway easements which transverse private property shall be maintained by the owner or occupant of such private property in the same manner as required in § 104-5. This requirement shall apply whether or not the subject private property is occupied by a building or structure.
- B. Snow and ice shall be removed from sidewalks and walkway easements within 24 hours after the end of a snowfall. Sidewalks in front of commercial establishments and commercial parking lots shall be kept free of snow and ice at all times between the hours of 9:00 a.m. and 5:00 p.m. Whenever the owner or occupant of property adjoining a public sidewalk or walkway easement fails to remove the snow and ice from such sidewalk or walkway easement within the time specified herein, the village may remove said snow or ice, by public contract or otherwise, and shall bill the property owner for the expense incurred for labor, equipment and materials used. No notice to the owner or occupants of the failure to comply with this provision is required. If said bill is not paid within 30 days, the amount shall be assessed against the property and become a lien thereon, to be assessed and collected in the same manner as real property taxes in accordance with Village Law § 4-414.
- C. Nothing contained herein shall be construed or interpreted as limiting the authority of the village to take all steps reasonable or necessary to promote and protect the public health, safety and welfare by providing for safe passage of pedestrians and vehicles on streets, sidewalks and public ways. The Board of Trustees, in its discretion, may authorize the removal of obstructions or nuisances, including snow, ice and vegetative growth which impair the customary use of streets, sidewalks and public ways. The Board of Trustees may determine to undertake or authorize such action, in whole or in part, by reasonable classification based upon location, amount of public use and degree of danger or impairment presented. The undertaking of the village to take these actions upon default of the property owner shall not relieve the owner of any responsibilities imposed by this chapter.
- D. The failure or omission by the village to undertake to provide services shall not create any liability attributable to the village. With respect to any dangerous conditions for which the village may be liable, it shall be entitled to receive notice of defect in accordance with § 6-628 of the Village Law. Any duty on the part of the village pursuant to this chapter is a general duty of the village. No person is authorized to create or imply or to assume or infer a special duty by the village.

§ 104-7. Administration and enforcement.

- A. Enforcement Officer; appearance tickets. The Code Enforcement Officer, Building Inspector and or any other person authorized by the Board of Trustees are hereby designated as the officers charged with the enforcement of this chapter, and are hereby authorized to issue notices of violation and appearance tickets to secure enforcement. Such appearance tickets shall be in the form prescribed by the Village Board.
- B. Enforcement procedure. Upon determination that a violation exists in, on or about any building, premises or property, the Code Enforcement Officer shall serve a written notice of violation which orders the remedying of the violation. Such order shall state the nature of the violation and the provision or term violated and shall set a date as may be reasonably necessary for achieving compliance before proceedings to compel compliance or assess penalties shall be instituted. Such order shall be served personally or by certified mail to the last known address of the property owner and/or occupant. If service is by certified mail, then a copy of the notice of violation shall be posted at the premises where the violation exists.
- C. The enforcement officer shall be responsible to direct the proper securing of waste (trash dumpsters, containers or enclosures) upon all properties other than public property and shall provide written notice of noncompliance to the owner, tenant or occupant as provided in Subsection B, which shall require the correction, removal or replacement within five days of any nuisance, hazard, debris or litter not properly secured within a dumpster, container or enclosure. Failure to comply with said notice shall subject such owner, tenant or occupant to the penalties set forth herein.

§ 104-8. Penalties for offenses; remedies.

- A. Any violation of any provision of this chapter or of any lawful order of any enforcement officer shall be deemed a violation of this chapter.
- B. The owner, occupant and/or tenant of the premises shall be jointly and severally liable for any violation.
- C. Any person or entity who violates this chapter shall, upon conviction, be punishable as provided for violations of the State Penal Law.
- D. Alternatively or in addition to those penalties prescribed for violations under state law, any person, firm or corporation who violates this chapter shall be liable to the village for a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. Said civil penalties shall be recoverable in an administrative proceeding held by and before the Board of Trustees pursuant to the following procedure:
 - (1) Whenever a violation has not been remedied within the time specified in the notice of violation, an enforcement officer may issue an order to show cause before the Board of Trustees why such penalties should not be imposed.
 - (2) Service of order to show cause.
 - (a) Such order to show cause shall be served personally; or by mailing a copy of such order by certified mail to the property owner and occupant, to their last known addresses as shown by the records of the village, and by posting a copy of such order on said premises.
 - (b) A copy of said order may be filed in the County Clerk's Office, which order shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided. An order so filed shall be effective for a period of one year from the date of filing. It may be terminated upon an order of a Judge or Justice of a court of record or upon the written consent of the attorney for the village. The County Clerk shall mark the order to show cause and any record or docket thereof as canceled of record upon the presentation and filing of a certified copy of such judicial order of such consent.
 - (3) Content of order. Said order to show cause shall state the nature of the violation; the provision or term violated; and the date, time and place for a hearing before the Board of Trustees. The hearing shall be set for a date not less than seven days after the date of the order to show cause is mailed.

- (4) Conduct of hearing.
 - (a) The Board of Trustees shall conduct a hearing at the date, time and place specified in the order to show cause. The hearing may be adjourned from time to time and shall continue until interested persons subject to the order to show cause are heard. No formal rules of evidence shall apply nor shall a stenographic transcript be required.
 - (b) The property owner, occupant and any others subject to the order to show cause may be represented by an attorney and shall have the right to present evidence and examine witnesses to show why penalties should not be assessed and/or why an order to remove an emergency condition should be modified or withdrawn.
 - (c) After the hearing is closed, the Board of Trustees shall make findings and make a determination. Such determination shall indicate the basis and reason for the decision, shall state the dollar amount of any fine(s) imposed and shall be supported by substantial evidence.
 - (d) Any fines imposed plus, if any fine is imposed, the costs to the village of the proceeding, including but not limited to attorneys' fees and administrative costs, shall be immediately due and payable. Administrative costs shall be determined from time to time by resolution of the Board of Trustees.
 - (e) The determination of the Board of Trustees may be reviewed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is commenced within 30 days of such determination. Judicial review shall not stay any stop-work order or stay payment of any fine and costs imposed.
 - (5) Assessment of fines and costs. All fines and all costs incurred by the village in connection with the administrative proceeding, if unpaid, shall be a lien on the real property and shall be assessed against such property, together with 9% interest per annum, and shall be levied and collected in the same manner as real property taxes.
- E. Correction of violation by village.
- (1) Compliance with this chapter is required in the interest of the public safety, health and welfare. Notwithstanding any other provision herein, if a property owner fails to correct a violation after notice of the same, the village and its agents shall have the right to enter upon the property and perform the work necessary to correct the violation. The property owner shall be responsible and liable for all costs incurred by the village in connection therewith. If not paid, said costs shall be a lien on the real property and shall be assessed against such property, together with 9% interest per annum, and shall be levied and collected in the same manner as real property taxes.
 - (2) The abatement, removal or repair of any nuisance, hazard of other such condition by the Village of Kiryas Joel or its agents shall not operate to excuse the owner, tenant or occupant from properly maintaining any premises as required by this chapter, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any penalties provided for herein.
- F. Emergency condition.
- (1) Whenever an enforcement officer finds that an emergency condition in violation of this chapter exists, which condition requires immediate attention in order to protect the public health or safety, he may issue an order by service of notice in the manner set forth above, reciting the existence of such an emergency condition and requiring that such action be taken by the violator immediately or as soon as it is reasonably necessary to remove the emergency condition. Notwithstanding any other provision of this chapter, such order shall be effective immediately. If the property owner fails to immediately remedy the violation and remove the emergency condition, the village and its agents shall have the right to enter upon the property and perform the necessary work and to recover its costs in the same manner as set forth in § ~~104-8E~~ above.
 - (2) Said order may be appealed by the property owner or occupant to the Board of Trustees by filing a written appeal with the Village Clerk. The filing of an appeal shall not stay the order. The Village Clerk shall forthwith

set the date, time and place for a hearing on the appeal and mail a notice of hearing by certified mail to the appellant at his last known address as shown on the records of the County Clerk and by posting a copy of said notice at the premises. The hearing date shall be not more than 10 days after receipt by the Village Clerk of the appeal.

- (3) The hearing shall be conducted and findings and a determination made in the same manner as set forth in § 104-8D(4) above. This hearing on an appeal and the hearing to assess penalties pursuant to § 104-8D(4) may be held jointly.

- G. Alternatively or in addition to the remedies provided by Subsections C, D, E, and F, the Board of Trustees or Code Enforcement Officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation, or enforce any provision, this chapter.

Chapter 107. PUBLIC ORDER, PEACE AND TRANQUILITY

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 12-4-1998 by L.L. No. 1-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 85.

Noise — See Ch. 92.

Article I. Purpose

§ 107-1. Legislative statement of purpose and considerations.

- A. It is declared that the nature of certain activities affecting public order, peace and tranquility possess characteristics which are likely to cause serious secondary impacts both where practiced and on adjoining property and uses. These activities, therefore, have a significant potential to adversely affect the quality and character of life and property in the neighborhood in which they are practiced and in the village as a whole.
- B. The deleterious effects of such activities have been demonstrated in numerous reports and studies, including increased crime rates, depreciation of property values, deterioration of community character and adverse impacts on the quality of life in the surrounding areas of population concentration, which impacts are exacerbated within small municipalities such as the Village of Kiryas Joel.
- C. Therefore, it is declared that the deleterious effect of such activities on public places, on adjacent areas and on the community as a whole require special regulations in order to ensure that these adverse effects will not create or contribute to the blighting or downgrading of the public places, surrounding neighborhoods or land uses.
- D. It is further declared that the prospect that such activities may occur in areas of the village where children may regularly assemble is of great concern to the Village of Kiryas Joel. Reports and studies demonstrate that such activities are likely to be associated with increased crime rates, the deterioration of residential areas, marginal commercial areas and places of worship, schools and other community institutions serving the children of the village. Such activities further create the potential for minors to be subject to violence, crime, abduction and the general atmosphere that is known to accompany such activities.
- E. It is further declared that the Board of Trustees recognizes and affirms that the rights of assembly, speech and expression are protected by both the federal and the state Constitutions. The Board acknowledges that these regulations must be subject to strict scrutiny in order to determine whether they are consistent with the spirit and intent of the constitutional protection of free assembly, speech and expression.
- F. It is further declared that the Board of Trustees recognizes that the purpose of this regulation is to ensure that the village is able to provide for the appropriate time, place and manner for conduct of such activities and to regulate the secondary effects of such activities on public places, surrounding properties and the community and has carefully considered the purpose and objectives of these regulations so as to ensure that the nature, breadth

and burden of restrictions imposed upon protected assembly, speech and expression are the minimum necessary to achieve the legitimate municipal objectives of the village.

- G. It is further declared that by adopting such regulations, the Board does not intend in any way to control the form or content of protected constitutional rights, speech and expression, or otherwise impose unreasonable burdens by virtue of the regulations of the village on those who wish to participate in such forms of assembly, speech and expression, but to protect the existing quality of life in the village. The regulations demonstrate the village's longstanding endeavors to protect public places, residential areas and other sensitive land uses from the intrusion of similar secondary effects associated with such activities.
- H. It is therefore declared that the special regulations set forth in this chapter shall be adopted to accomplish the primary purpose of preventing and minimizing the deleterious effects of such activities on public, residential, recreational, civic and neighborhood shopping areas of the village.

Article II. Mass Gatherings

§ 107-2. Title.

This article shall be known as the "Kiryas Joel Mass Gatherings Local Law."

§ 107-3. Purpose.

The Kiryas Joel Board of Trustees, for the purpose of preserving the public peace and good order, preventing and suppressing riots, tumultuous assemblages, unnecessary crowds upon the public highways, unreasonably loud or disturbing noises and disorderly conduct within the Village of Kiryas Joel and for the purpose of promoting the health, safety and general welfare of the community, including the protection and preservation of the property of the village and of its inhabitants and peace and good order, finds that it is in the public interest to enact this article.

§ 107-4. Word usage and definitions.

- A. Word usage. Words in the present tense include the future; the singular number includes the plural; the masculine shall include the feminine; "shall" is mandatory; and "may" is permissive.
- B. Definitions. Unless otherwise expressly stated, the following terms shall, for the purpose of this article, have the meanings herein indicated:

BUILDING

A structure wholly or partially enclosed with exterior walls and a roof, of permanent or temporary nature, affording shelter to persons, animals or property.

MASS GATHERING

A gathering of more than 100 persons within a twelve-hour period at a gathering conducted essentially out of doors.

PERSON

Any individual, firm, company, association, society, corporation or group.

STRUCTURE

A combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, stages, prop forms, radio towers, sheds, storage bins, tents, billboards, space signs, bleachers, ramps and seats.

§ 107-5. Permits; removal of waste material.

- A.

No person shall use, allow, let or permit to be used land for a mass gathering, or hold or promote by advertising or otherwise a mass gathering, until a written permit authorizing such mass gathering has been issued by the Kiryas Joel Village Clerk after authorization of such permit by the Kiryas Joel Board of Trustees.

- B. Application for such permit shall be by verified petition of the applicant, addressed to the Board of Trustees and filed by the Village Clerk at least 60 days prior to the date of the mass gathering. The Board of Trustees shall act upon the application within 45 days of such filing. Such application shall include the following information:
- (1) A statement of the name, age and residence address of the applicant and, if the applicant is a corporation, the names and addresses of its directors and officers. If the applicant does not reside within the Village of Kiryas Joel, the application shall state the name and address of an agent who shall be a natural person residing in or having a place of business in Orange County, New York, who is authorized by the applicant and who shall agree by verified statement to accept notices for summonses issued with respect to the application, the conduct of the mass gathering and the provisions of this article.
 - (2) A statement containing the name and address of the record owner of the property and of any persons having the right to occupy said premises or any part thereof under a written lease, license or permit.
 - (3) A statement of the proposed dates and hours of such mass gathering; the maximum dates and hours of such mass gathering; the proposed maximum number of persons who will be permitted to attend the mass gathering; the maximum proposed number of motor vehicles which will be permitted at said mass gathering at any one time and in total; the measures and facilities proposed to limit the number of persons attending to the maximum number proposed; the purpose of the mass gathering; the nature of any entertainment to be provided thereat and the names and addresses of any entertainers to be provided by the applicant or its agent; and the admission fee to be charged, if any.
 - (4) A survey prepared by a licensed engineer or land surveyor of the premises upon which the mass gathering is to be conducted and of any premises to be used for motor vehicle parking or otherwise in connection therewith, together with a statement of the zoning district of such property, the names and addresses of the record owners of adjoining properties, the abutting streets or highways, showing the size and location of existing and proposed buildings or structures to be used in connection with said mass gathering, together with a statement or drawing to scale of the type and materials of each proposed or existing building or structure.
 - (5) A plan or drawing to scale prepared by a licensed engineer or land surveyor showing the method and manner in which:
 - (a) Sanitary facilities are to be provided for the disposal of sewage, garbage, trash and other debris.
 - (b) The method and manner of providing adequate and suitable off-street parking for motor vehicles for persons attending such mass gathering, including the layout of such parking area or areas, the surface or pavement thereof, the manner of designating parking spaces for individual motor vehicles and access drives, the proposed illumination planned for such areas, a statement of the proposed method of suppressing dust and a description of any maintenance equipment or vehicles.
 - (6) A statement containing the type, size, wattage, number and location of any sound amplifier or loudspeaker, sound truck or other similar sound equipment. No such equipment may be used in violation of the Noise Local Law (Chapter 92).
 - (7) A statement specifying the method of preparation, service and distribution of any foods and beverages to be prepared, sold or distributed at the mass gathering or in connection therewith by the applicant or his agents or licensees, together with a statement of the method of disposing of garbage, trash, rubbish or any other refuse arising therefrom. If any food or beverage is to be prepared, sold, served or distributed, a plan or drawing to scale must be attached to the application showing the buildings or structures from which the food or beverage is to be prepared, served, sold or distributed.
 - (8)

- A statement specifying whether any private security guards or police will be engaged and, if so, the number and duties to be performed, including the hours to be worked and areas of responsibility, and their minimum employment qualifications.
- (9) A statement specifying the precautions to be utilized for fire protection, including a plan or drawing to scale specifying the location of fire lanes and water supplies for fire control.
 - (10) A statement specifying the facilities and personnel to be available for the emergency treatment of any person who may require medical or nursing attention.
 - (11) A statement specifying whether any temporary structures are to be utilized and, if so, a plan drawn to scale showing the intended number and location of the same.
- C. No permit shall be issued until a public hearing has been held by and before the Kiryas Joel Board of Trustees to consider such application. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper of the Village of Kiryas Joel.
- D. Issuance of permit; procedure upon finding items inadequate.
- (i) No permit shall be issued until the Board of Trustees shall find the following:
 - (a) The application filed with the Village Clerk contains all of the information and attachments hereinbefore required.
 - (b) Toilet facilities adequate in number and suitable in design are proposed for the mass gathering. Such facilities are to be so located as to be conveniently available and shall be so constructed and maintained that they will not be offensive. Such facilities shall be arranged to be separate for each sex.
 - (c) Adequate provision is made for the collection and disposal of solid wastes, garbage and trash.
 - (d) Adequate provision is made for off-street parking, including an adequate system of access drives with suitable surface or pavement and night illumination of the same with a safe and proper electrical supply and emergency electrical supply for such night illumination. Any such illumination shall be arranged so that no light will shine onto neighboring properties.
 - (e) Adequate provision is made for the proper disposal of existing and reasonably potential surface water.
 - (f) An adequate sound-amplification system may be provided which will enable persons attending the mass gathering to hear transmissions therefrom without being audible on properties outside the mass gathering areas.
 - (g) The facilities and plans for the preparation, service and distribution of foods and beverages to be sold or distributed at the mass gathering would provide an adequate and sanitary supply of wholesome food to the persons reasonably expected to attend the mass gathering, and the method of disposing of garbage, trash, rubbish and other refuse therefrom is adequate to prevent hazard to health and nuisance on the premises or on adjoining premises.
 - (h) The applicant's plan for providing private security guards or police is adequate in the number of security guards or police to be provided, the minimum employment qualifications of such guards or police and the hours during which the same will be present at the site of the mass gathering.
 - (i) The applicants outdoor lighting and illumination plan provides necessary lighting on the mass gathering premises without illumination of adjoining premises and adjoining highways, and such plan includes adequate emergency electrical generating facilities on the premises in the event of a power failure.
 - (j) The applicant's plan for emergency medical and nursing treatment is adequate.
 - (k) The applicant's plan for temporary structures and facilities to be available for persons attending such mass gathering provides an adequate number of reasonable facilities.

- (l) The applicant has made adequate provision for fire prevention and fire protection.
 - (m) Adequate provision is made to protect adjoining properties by fencing.
 - (n) The mass gathering site is served by public highways sufficient in number and adequate in type and width to prevent unreasonable traffic congestion within the Village of Kiryas Joel.
 - (o) The proposed mass gathering would not unreasonably interfere with the rights of owners and occupants of adjoining and neighboring lands to reasonably use and enjoy such adjoining and neighboring lands, and such mass gathering would not create a public nuisance.
- (2) If the Board of Trustees determines that any of the items enumerated in Subsection **D(1)(a)** through **(o)** are inadequate in the interests of public health, morals and welfare, or because of noncompliance with state, county or town laws, ordinances, codes, rules or regulations, it shall advise the applicant in what manner the same are inadequate and specify minimum acceptable requirements with respect to those items.
- E. No permit shall be issued until all persons interested in the lands upon which such mass gathering is to be held shall furnish the village with written authorization for the village and its agents to go upon such property at any time from and after the filing of such application and until 20 days after the end of such mass gathering for the purpose of inspecting such premises, the facilities provided and to be provided thereon and the cleaning of said premises and adjoining premises after the termination of the mass gathering. Such authorizations shall be irrevocable during such period.
- F. No permit shall be issued unless the applicant shall furnish the village with a comprehensive liability insurance policy insuring the village against liability for damage to persons or property with limits of not less than \$500,000/\$1,000,000 for bodily injury or death, and limits of not less than \$500,000 for property damages, sufficient to save the village harmless from any liability or cause of action which might arise by reason of the granting of the permit, and not cancelable without 10 days' prior written notice to the village. The applicant shall further provide a security deposit of \$500 with the village to insure the removal of trash and other waste material as hereinafter provided, which deposit shall be returned to the applicant within 10 days from the date of the termination of the assembly after deduction therefrom of all expenses caused by the applicant's noncompliance to remove said trash and other waste material.
- G. Within five days from the end of such mass gathering, all trash, papers, garbage and other waste material shall be removed from the mass gathering premises, and such premises shall be restored to the same condition in which it was found at the time of the filing of the application for such mass gathering with the Village of Kiryas Joel Village Clerk. All trash, papers, garbage and other refuse shall be removed from the public highways within five days of the termination of such mass gathering for a distance to be specified by the Board of Trustees in the permit granted the applicant.
- H. Any permit hereunder may be revoked by the Board of Trustees upon a finding that the applicant has failed to provide the facilities specified in its application or required by the village or in the event that the village shall find that the facilities to be provided by the applicant cannot be reasonably provided within the time remaining until the scheduled date of the mass gathering.

§ 107-6. Penalties for offenses.

In addition to any penalty provided by law, the Board of Trustees may maintain an action or proceeding in the name of the village in any court of competent jurisdiction to compel compliance with or to restrain violation of this article.

Article III. Parades and Processions

§ 107-7. License required.

No person on or after the effective date of this article shall conduct or allow to be conducted any outdoor parade or procession without first obtaining a license therefor, in compliance with the terms of this article.

§ 107-8. Definitions.

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

PARADE OR PROCESSION

The occupying or marching on any street of the Village of Kiryas Joel, to the exclusion or interruption of other citizens and their individual right and use thereof. A group of 10 or more persons any of whom are carrying signs or placards in excess of two square feet intended to be read by passersby, shall be deemed a parade or procession.

§ 107-9. License application.

- A. A duly executed application, in writing on a form furnished by the Village Clerk of the Village of Kiryas Joel, shall be submitted to the Board of Trustees of the Village of Kiryas Joel at least seven business days prior to the parade or procession activity.
- B. Such application must secure the approval of the Board of Trustees and a written license issued by the Village Clerk.
- C. Said application shall contain the object, time and route of such parade and/or procession.

§ 107-10. Conditions; restrictions; violations.

- A. The Board of Trustees may place reasonable time, place and manner restrictions on parades and processions.
- B. No parade or procession may utilize a dead-end street or cul-de-sac unless the starting or ending point of such parade or procession is properly located on such street. The permission of the owner of such property shall be filed along with the application. No parade may utilize any route other than that approved by the Board of Trustees.
- C. No parade or procession shall disturb or linger near a school in session, near a place of worship while services or prayers are being conducted or near the residence of a clergyman. Shouting, noise-making, stopping or standing within 100 feet of such premises without permission shall be a violation.
- D. If there are any costs incurred for arrangements for traffic or crowd control, such costs shall be borne entirely by the applicant.
- E. Violations of the conditions of this license shall render the license null and void, constitute a violation of this article and subject the licensee to the penalties provided.

§ 107-11. Exemptions.

If such requested parade or procession shall be for a charitable, religious or philanthropic purpose and exemption is sought from the provisions of this article, upon a sworn application setting forth the name and address of the person and/or organization, the period during which the parade or procession is to be conducted, a specific statement of the charitable, religious or philanthropic purpose and the relationship between the parade or procession and that stated purpose, and if the Board of Trustees is satisfied that the stated purpose is charitable, religious or philanthropic, it shall so notify the applicant in writing and shall exempt the applicant from the provisions of § 107-12 and allow the exemption from other provisions of this article to the extent that such exemption does not conflict with the general purposes for which this article was adopted.

§ 107-12. License fee.

The license fee is hereby established at \$25, unless otherwise determined by the Board of the Village of Kiryas Joel.

§ 107-13. Penalties for offenses.

Any person who shall violate any provision of this article shall be guilty of a summary offense and shall be fined a sum not to exceed \$250 for each violation.

Article IV. Loitering

§ 107-14. Legislative intent; findings.

In addition to the general findings of this article, the Board of Trustees of the Village of Kiryas Joel makes the following findings with respect to this article:

- A. There have been numerous citizen complaints directed to the Mayor and Trustees and other local officials concerning the incidence of persons gathering in the public areas of the village creating a nuisance without apparent purpose or business. Investigation of these complaints has resulted in the finding that, in the places complained of, large quantities of refuse, empty beverage containers and other litter have accumulated. In addition, it has been recognized and reported that such activities have discouraged citizens from legitimate utilization of these areas.
- B. The complaints received and the investigations show that such activities very often are participated in by large groups of people and are associated with noise, yelling, often of an obscene nature, fighting and rowdiness in addition to litter.
- C. It is also found that where this kind of activity occurs, acts of vandalism have been found to occur and damage to public and private property has been sustained. It is also found that the protection of the health, safety and welfare of the community requires action in the public interest to regulate such behavior.

§ 107-15. Definitions.

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

LOITER

To stand, lounge, linger, congregate or remain parked in a motor vehicle at a public place or place open to the public and to engage in any conduct prohibited under this article. "Loiter" also means to collect, gather, congregate or be a member of a group or of a crowd of people who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this article.

PLACE OPEN TO THE PUBLIC

Any place open to the public or any place to which the public is invited and in, on or around any privately owned place of business, private parking lot or private institution, including places of worship or any place of amusement and entertainment, whether or not a charge for admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office or apartment building as well as parking lots or other vacant private property not owned by or under the control of the person charged with violating this article or, in the case of a minor, not owned by or under the control of his parent or guardian.

PUBLIC PLACE

Any public street, road or highway, alley, lane, sidewalk, crosswalk or other public way or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot or any vacant lot.

§ 107-16. Prohibited conduct.

- A. It shall be unlawful for any person or group of persons to loiter at, on or in a public place or a place open to the public in such manner:

- (1) As to interfere with, impede or hinder the free passage of pedestrian or vehicular traffic;
 - (2) As to interfere with, obstruct, harass, curse or threaten or do physical harm to another member or members of the public; or
 - (3) That, by words, acts or other conduct, it is clear that there is a reasonable likelihood to result in a breach of the peace or disorderly conduct or to cause annoyance, inconvenience or alarm or to create a risk thereof.
- B. It shall be unlawful for any person to loiter, as defined herein, at a public place or place open to the public and to fail to obey the direction of a public official or officer properly identified, to move on, when not to obey such direction shall endanger the public peace and safety or disturb the peace.

§ 107-17. Exceptions.

A gathering of persons shall not be considered to be guilty of loitering if it is engaged in activity intended to be conducted in the public place or shopping center or for which the public place was arranged or designed.

§ 107-18. Penalties for offenses.

Any person violating any of the provisions of this article shall be punished, upon conviction, by a fine of \$50 for a first offense and \$100 for a second offense. Each day that a violation of or failure to comply with any provision of this enactment or any regulations promulgated hereunder by the Board of Trustees, occurs shall constitute a separate and distinct violation.

§ 107-19. Severability.

If any provision of this article shall be invalidated by any court, such provision shall be deemed severable, and the remaining provisions shall continue in full force and effect.

§ 107-20. When effective.

This article shall take effect immediately upon filing with the Secretary of State.


Chapter 114. SEWERS


[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 12-4-1998 by L.L. No. 2-1998. *Editor's Note: This local law superseded former Ch. 114, Sewers, adopted 5-21-1993 by L.L. No. 3-1993. Amendments noted where applicable.*]

GENERAL REFERENCES

Water — See Ch. 151.

114a Objectionable Substance Limitations 

114b Toxic Pollutants 

114c Schedule of Sewer Rents Improv and Conn Charges 

Article I. Regulations

§ 114-1. Definitions and word usage.

- A. Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows:

BOD (DENOTING "BIOCHEMICAL OXYGEN DEMAND")

The quantity of oxygen utilized in the biochemical oxidation of organic or other unstable matter under standard laboratory procedure in five days at 20° C., expressed in parts per million in weight.

BUILDING DRAIN

That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys such discharge to the building wall.

BUILDING SEWER

That part of the horizontal piping of a drainage system which extends from the end of the building drain and which receives the discharge of the building sewage disposal system or other point of disposal.

COMBINED SEWER

A sewer receiving both surface runoff and sewage (sanitary wastes and/or industrial wastes).

GARBAGE

Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

INDUSTRIAL WASTES

The liquid wastes resulting from the processes employed in industrial establishments and which are free of fecal matter.

INTERCEPTOR

A device designed and installed so as to separate and retain deleterious, hazardous or otherwise undesirable matter, such as grease, oil or sand, from normal wastes and permit only normal sewage or liquid wastes to discharge into the disposal terminal by gravity.

NATURAL OUTLET

Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON

Any individual, firm, company, association, society, corporation or group.

PH

The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PRIVATE SEWER

A sewer privately owned and not directly controlled by a public authority.

PROPERLY SHREDDED GARBAGE

The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

PUBLIC SEWER

A common sewer directly controlled by a public authority.

SANITARY SEWER

A pipe which carries sewage and excludes storm-, surface and ground water.

SEWAGE

Any liquid waste containing animal, human or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

SEWAGE TREATMENT PLANT

Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS SYSTEM

All facilities for collecting, pumping, treating and disposing of sanitary sewage.

SEWER

A pipe or conduit for carrying sewage.

SLOPE

The grade or pitch of a line of pipe in reference to a horizontal plane. In drainage, it is usually expressed as the fall in a fraction of an inch per foot of length of pipe.

STORM SEWER OR STORM DRAIN

A sewer used for conveying rainwater, surface water, condensate, cooling water or similar liquid wastes, exclusive of sewage and industrial waste.

SUPERINTENDENT

The Superintendent of the municipal sewage works system for the Village of Kiryas Joel as appointed by the Village Board.

SUSPENDED SOLIDS

Solids that either float on the surface or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

WATERCOURSE

A channel in which a flow of water occurs, either continuously or intermittently.

- B. "Shall" is mandatory; "may" is permissive.
- C. Any American Society for Testing and Materials (ASTM) or federal specifications referred to in this chapter shall mean the latest published amendments or revisions applicable at any time.

§ 114-2. Unlawful disposal or discharge; connection to public sewer required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Village of Kiryas Joel or in any area under the jurisdiction of said village any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the Village of Kiryas Joel or any area under the jurisdiction of said village any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.
- C. The owner of any property used for human occupancy, employment, recreation, commerce, industry or other public purpose which abuts on any street or right-of-way in which there is located a public sanitary sewer of the Village of Kiryas Joel is hereby required, at his expense, to connect its plumbing facilities directly with said public sanitary sewer in accordance with the provisions of this article within 30 days of the notice to do so, provided that said public sewer is within 150 feet of a building containing plumbing facilities. The property owner must connect to the curb connection, which curb connection will be constructed by the Village Sewer Department.
- D. Where a public sewer is not available as defined in § 114-1, the private sewage disposal system shall remain under the jurisdiction of the Orange County Department of Health.

§ 114-3. Surface and storm waters.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage to any sanitary sewer. Combined sewers transporting both stormwater and sanitary wastes and/or industrial wastes shall not be allowed to continue in use, if such are actually in use, or to be constructed at any time in the future.

§ 114-4. Prohibited discharge.

No person shall discharge or cause to be discharged any of the following described wastes or waters to the sanitary sewer system.

- A. Any liquid or vapor having a temperature higher than 150° F.
- B. Any sewage or waste which may contain more than 100 parts per million by weight of fat, oil or grease, on an average, over a two-hour period.
- C. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- D. Any garbage that has not been properly shredded.
- E. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.
- F. Any sewage or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- G. Any sewage or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.
- H. Any sewage or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- I. Any noxious or malodorous gas or substance capable of creating a public nuisance.
- J. Any untreated contaminated (see Subsection K) cooling water or any uncontaminated cooling water.
- K. Any industrial, institutional or commercial waste that contains concentrations of parameters in excess of the limits set forth in the Objectionable Substance Limitations and toxic pollutant tabulations appended to this chapter.
Editor's Note: The Objectionable Substance Limitations and the list of toxic pollutants not to be discharged to sanitary sewers are included at the end of this chapter.
These lists may be modified if pollutant concentrations, or additional pollutants, are indicated in the future as having deleterious effects on the functioning of the sewage treatment plant or on the biota of the receiving stream.

§ 114-5. Wastes subject to prior approval; preliminary treatment; manholes and testing.

- A. The admission into the public sewers of any sewage or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight, or containing more than 350 parts per million by weight of suspended solids; or having the characteristics described in § 114-8; or having an average daily flow greater than 5% of the average daily sewage flow of the village; or violating the Objectionable Substance Limitations
Editor's Note: The Objectionable Substance Limitations are included at the end of this chapter.
shall be subject to the review and approval of the Board of Trustees. Where necessary, in the opinion of the Board of Trustees, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to 350 parts per million by weight, or reduce objectionable characteristics or constituents to within the maximum limits provided for in § 114-8 or in the Objectionable Substance Limitations or control the quantities and rates of discharge of such sewage or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted to the Village Engineer. The Village Engineer shall make a recommendation to the Board of Trustees before the Board decides what pretreatment, if any, is required.
- B. Where preliminary treatment facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- C. When required by the Village Engineer or Sewer Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and

other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible it all times.

- D. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls, whereas pH is determined from periodic grab samples.)

§ 114-6. Inspection facilities.

Where required by the Board of Trustees, the owner of any property served by a building sewer carrying industrial or unusual wastes shall provide facilities suitable for observation, sampling and measurement of the wastes.

§ 114-7. Contracts with special users.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefor by the industrial concern, provided that such agreement is approved by the Board of Trustees of the Village of Kiryas Joel.

§ 114-8. Grease, oil and sand interceptors.

- A. Grease, oil and sand interceptors shall be provided when, in the opinion of the Village Engineer or Sewer Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amount or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units.
- (1) All interceptors shall be of a type and capacity approved by the Sewer Superintendent or Village Engineer and shall be located so as to be readily and easily accessible for cleaning and inspection.
 - (2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted, shall be gastight and watertight.
- B. Where installed, all interceptors shall be maintained by the owner at his expense and in continuously efficient operation at all times.
- C. Specific entities requiring interceptors:
- (1) Garages and automobile-washing establishments. No person operating or owning a commercial garage or automobile wash rack shall permit any sewage or effluent therefrom to flow into any public sewer or house connection sewer unless such wash rack is roofed over and is equipped with a standard sand and grease trap approved by the Village Engineer.
 - (2) Restaurant sinks and dishwashers. Every dishwashing sink, dishwashing machine or other device intended or used for washing dishes and cooking utensils in any establishment serving 100 or more meals per day shall be connected to the house connection sewer through a grease interceptor as hereinafter provided.

- (3) Industrial sand and grease interceptors required. Every fowl or animal slaughterhouse and every meat-packing or meat-curing establishment and all equipment in any soap factory, tallow-rendering, wool-pulling, hide-tanning or hide-curing establishment or other industry from which any considerable amounts of grease or sand are to be discharged shall be connected with the public sewer through a grease trap or sand and grease trap as hereinafter provided.
- D. Minimum performance of traps. No grease trap shall be connected with the public sewer which has a rate of flow of less than 16 gallons per minute and a grease retention capacity of less than 18 pounds.

§ 114-9. Sanitary sewer and manhole construction.

- A. Sanitary sewers.
- (1) Sanitary sewers shall not be less than eight inches in diameter and/or shall be of adequate size and capacity to serve their tributary area on the design basis of 100 gallons of average daily sewage flow per capita per day contributed by the estimated future tributary population. Also included shall be a design allowance for groundwater infiltration of less than 100 gallons per inch of pipe diameter per mile of pipe per day. The slope of the sanitary sewers shall be such so as to provide a minimum velocity of two feet per second or a maximum velocity of 15 feet per second when said sewer is flowing full and the appropriate pipe roughness coefficient as approved by the Superintendent is utilized. Sanitary sewers shall be properly bedded with appropriate materials and laid to grade by use of laser techniques. Sanitary sewers shall be constructed to the ASTM specifications. The village reserves the right to specify and require the encasement of any sewer pipe with concrete, the installation of the sewer pipe in concrete cradles or other special techniques if foundation and construction conditions are such as to warrant such protection, in the opinion of the Superintendent.
 - (2) Joints for pipe shall be made according to manufacturer's recommendations. The rubber rings for joints shall conform to ASTM specifications and subject to the approval of the Superintendent. The pipe shall be installed according to manufacturer's directions and as approved by the Superintendent.
 - (3) Sanitary sewers shall be of such design and construction that infiltration or exfiltration shall not exceed 100 gallons per inch of pipe diameter per mile of pipe per day. Leakage tests shall be conducted by the contractor, at his expense, in the presence of the Superintendent or an authorized inspector. The details of the method shall be subject to the approval of the Superintendent.
- B. Manholes. Manholes shall be constructed of precast concrete, complete with a cast-iron frame and cover in accordance with the standard detail drawings on file in the Village Office and subject to the approval of the Superintendent.

§ 114-10. Connections.

- A. No person shall make any connection with the curb connection or a public sewer without first obtaining a permit from the village. This shall be in addition to any other required permits. There shall be a building sewer permit required for service connections to the public sewer system. The application shall be accompanied by plans and whatever other information is considered pertinent in the judgment of the Inspector.
- B. A permit and inspection fee, as well as a connection charge as authorized by Article III, will be charged for the connection to or installation of sewer lines. For purposes of this section, unless otherwise designated by the Village Board, the Village Engineer or Village Sewer Superintendent or their agents are the Village Sewer Inspectors.
- C. Powers and authority of inspectors. The Village Engineer and/or his duty authorized agents shall be permitted to enter upon all properties for the purposes of inspection, observation and measurement and in general enforcement of this chapter. The Village Engineer may act for the Building Inspector in the enforcement of the

sewerage aspects of the New York State Uniform Fire Prevention and Building Code, which the Village of Kiryas Joel has adopted.

- D. Old building sewers. The lines outside a building leading to the curb connections or public sewer may be used by property owners only if they are watertight, gastight and meet all other aspects of this section.
- E. Piping. The building sewer shall be constructed of sewer pipe conforming to the ASTM specifications.
- F. The size and slope of the building sewer from the building drain to the main public sewer shall be subject to the approval of the Superintendent. In no case shall the diameter of the building sewer be less than four inches between the building drain and the main public sewer. The slope of the pipe shall not be less than 1/4 inch per foot. Proper reducer or increaser fittings shall be used between all changes of pipe sizes and materials so as to make a water- and gastight joint.
- G. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drains shall be lifted by approved artificial means and discharged to the building sewer at the owner's expense. No water-operated sewage ejector shall be used.
- H. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by said Inspector. Pipelaying and backfill shall be performed in accordance with ASTM specifications, except as modified in these rules and regulations. No backfill shall be placed until the work has been inspected by the Inspector or his representative. Building sewers and water service branches or connections shall not be laid in the same trench.
- I. All joints shall be watertight and gastight.
- J. New materials and methods of construction. Alternate materials and methods may be used only if they have been specifically approved by the Village Engineer. The Engineer may approve any alternate, provided that the proposed design is satisfactory and complies with the intent of this chapter and that the material or method of work offered is for the purpose intended and at least the equivalent of that here prescribed in quality, strength, effectiveness, durability and safety.
- K. Fresh-air vents and gas traps shall be required in all buildings connected to a public sewer.
- L. Repairs. Repairs to sewage connections shall be made with such materials as are provided for by this article for new work, insofar as is practical.
- M. Maintenance of the sewer from the pavement line into the house is the responsibility of the property owner. In the event that a property is unable to discharge its wastes into the public sewer, it will be presumed that the fault is in the private connection unless contrary facts are in evidence.

§ 114-11. Remedies; penalties for offenses.

- A. In the event that any property owner shall fail or refuse to connect to the sanitary sewer system of the Village of Kiryas Joel when the property owner's land abuts upon a street or right-of-way which has a sewer main in the same, and the sewer main is within 150 feet from a building containing plumbing facilities, and after written notice has been given to the property owner to hook on, then the village shall have the right to make the connection to the village sanitary sewer main by entering the private property of said resident and hooking into any sewer outlet which can be found on the private property. All expenses, including labor and materials used in connecting the private sewer from the property line to the premises, shall be charged to the owner of the land and, in the event that it is not paid within 30 days, shall become a lien against the property and shall be added to the general tax roll of the Village of Kiryas Joel against the name of the owner of the property at the time the work was performed.
- B. The village shall also have the right to disconnect any improper connection from the public sewer after a written notice by the village to the property owner. In the event that the property owner fails to correct the connection, the village shall have the right to enter upon the property to make a proper connection and to assess all labor and material costs against the property in the same manner as set forth in Subsection A of this section. Such charge

for material and labor expended by the village shall be a charge against the property and, in the event that it is not paid to the village within 30 days, then this charge shall become a lien upon the property and be added to the tax roll against the owner of the property at the time the work was done.

- C. Repairs and maintenance. Whenever a sewer user, by reason of violating this chapter, causes obstruction, damage or destruction of a public sewer or appurtenances thereto, he shall reimburse the village for the cost of flushing, cleaning, repairing or replacing the public sewer involved. Such a charge shall be a lien on the property and shall be added to the village tax roll against the owner of the property.

Article II. Sewerage Facilities and Use Rents

§ 114-12. Definitions.

As used in this article, the following terms shall mean and include:

COUNTY CHARGES

The combined amount of county operation and maintenance (O&M) sewer rents and county benefit assessments made by the Orange County Sewer District No. 1 (OCSD No. 1) to properties within the village.

EQUIVALENT DWELLING UNIT (EDU)

A unit used for billing and charge purposes intended to reflect the average usage of a single-family dwelling as determined from time to time by the Board of Trustees. The Board shall take into account such factors as amount of flow, quality of effluent, peak flows and benefits conferred upon the property in establishing EDU'S.

SEWERAGE FACILITIES RENT

The rent, rate or charge imposed or levied by the Village of Kiryas Joel in accordance with the benefit conferred on all properties within the village derived from the village wastewater treatment and collection facilities. It shall be primarily, but not exclusively, for the payment of capital expenditures and the annual debt redemption on the indebtedness incurred for the construction, enlargement, expansion and addition to the sewage treatment plant.

SEWER USE RENT

The rent, rate or charge comprising the scale of annual charges imposed or levied by the Village of Kiryas Joel for the use of the sewer system or any part or parts thereof. It shall be primarily, but not exclusively, for the payment of operation and maintenance, including replacement, of the sewage treatment plant and collection facilities.

This charge shall be made to properties within the village not paying O&M sewer rents to the OCSD No. 1.

§ 114-13. Rents established.

The Village of Kiryas Joel does hereby establish and impose a scale of sewer facilities and use of rents for the use of services rendered by the sewer system to the real property within the corporate limits of the village upon the following basis: The total amount of the annual wastewater operation budget and annual debt service, together with necessary reserves, less in allowance for connection charges collected pursuant to Article III shall establish the annual amount to be collected by sewerage facilities and use rents. This total amount shall be divided by the total number of EDU's in the village, provided that the ratio between the sewerage facilities rents and the sewer use rents shall be determined so that the total amount of sewerage facilities rents, sewer use rents and county charges shall be approximately equivalent per EDU.

§ 114-14. Additional rent for certain discharge.

It shall be the duty of the Sewer Superintendent to make a survey annually or at such other times as may be required by the Board of Trustees to determine whether there is being discharged into the sewer system from any real property within the corporate limits of the village sewage or other waste which, in the opinion of such Superintendent, contains unduly high concentrations of solids or any other substance adding to the operating costs of the sewer system. Upon the completion of such survey, he shall file with the Board of Trustees a report of his finding, indicating whether additional sewer rent charges should be levied for such sewage or other waste, and, if so, he shall set forth

recommended charges for the same. The Board of Trustees is authorized to fix and determine such additional sewer use rent charges therefor as shall be equitable, in addition to the sewer use rents provided for by the preceding sections.

§ 114-15. Accrual date.

The Board of Trustees shall, by resolution or by agreement with the OCSD No. 1, determine the date when sewer use rents shall begin to accrue.

§ 114-16. Billing and collection.

- A. All sewer use and sewerage facility rents shall be due and payable at the office of the Village Clerk quarterly each year commencing as provided for herein. Sewer use rents may be based on estimated consumption.
- B. Bills will be sent out to all property owners by the village. The village will not employ a collector, and the failure of any property owner to receive a bill promptly shall not excuse nonpayment of the same. In the event that the property owner fails to receive a bill promptly, he shall demand the same at the Village Clerk's office.
- C. Terms of payment. Bills will be rendered at the net amount and will be due when presented.
- D. If bills are not paid within 30 days from the date due, a penalty of 10% will be added to the same.
- E. Sewer use rents shall constitute a lien upon the real property served by the sewer system or such part or parts thereof for which sewer use rents are hereby established and imposed, and sewerage facilities rents shall constitute a lien upon the real property against which they have been imposed. The lien shall be prior to and superior to every other lien or claim, except the lien of an existing tax assessment or other lawful charge imposed by or for the state or a political subdivision or district thereof.
- F. The Village Clerk shall annually certify the amounts of all unpaid sewer use rents and sewerage facilities rents, including penalties, computed to the first day of the month following the month in which the fiscal year commences, with a description of the real property affected thereby, and shall present such certificate to the Board of Trustees and shall enter the same or an abstract thereof in the minutes of the meeting. The Board of Trustees shall levy such amounts against the real property liable therefor as a part of the annual village tax levy, setting forth such amounts in separate columns in the annual tax roll. The sewer use fund and sewerage facilities rents shall be credited with the amount of all such unpaid sewer rents, including penalties, and such amounts, when collected, shall be credited to the general fund.

Article III. Wastewater Treatment Facilities Improvement and Connection Charges

§ 114-17. Authority to establish charges.

The Board of Trustees is hereby empowered to establish, and from time to time revise, by resolution, charges of the following categories:

- A. Wastewater treatment facilities improvement and connection charge.
 - (1) Residential.
 - (2) Commercial.
 - (3) Industrial.

§ 114-18. Allocation of funds.

Moneys received by the village attributable to the charges herein shall be held in trust for the purpose of mitigating the capital facility needs resulting from new construction. Moneys shall be utilized for the purpose of providing capital improvements which increase the capacity of sewer systems in compliance with all statutory, regulatory and permit requirements. The moneys shall not be used for operations and maintenance. The Board of Trustees shall establish from time to time such capital reserve funds and/or trust and agency funds as are necessary and appropriate to effectuate the purpose of this article.

§ 114-19. Payment of charges.

No new residential, commercial or industrial unit shall connect to or change the use of the connection to the village wastewater treatment system until all charges attendant thereto have been paid.

§ 114-20. Annual review; refunds.

- A. The Board of Trustees shall annually, in conjunction with the adoption of the budget, review the charges, capital improvement program and capital reserve accounts. The purpose of such review shall be:
- (1) To determine whether charges are adequate and sufficient to mitigate anticipated needs without being burdensome or in excess of the fair share of costs attributable to new development and to revise such charges as the Board of Trustees shall deem advisable.
 - (2) To consider a refund of moneys where capital improvement goals have been met without the exhaustion of such moneys. Completion of a phase or portion of a capital improvement program shall not mandate the refund of moneys where program goals remain to be accomplished and such funds will be utilized for such purposes.
 - (3) To consider the refund of moneys which have not been allocated for a particular capital improvement within three years of payment. Moneys shall be deemed allocated to a particular project when so designated by the Board of Trustees and the state environmental quality review process prerequisite to the implementation of such improvements has commenced.
- B. The Board of Trustees is hereby empowered to establish an administrative mechanism for the refund of connection charges when such charges have not been found necessary for the funding of capital improvements. Such refunds shall be fairly allocated.

Chapter 117. SIDEWALKS; NOTICE OF DEFECTS

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 1-14-2003 by L.L. No. 2-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Bonds — See Ch. 50.

Littering — See Ch. 85.

Property maintenance — See Ch. 104.

Streets — See Ch. 124.

Zoning — See Ch. 155.

§ 117-1. Definitions.

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

OCCUPANT

- A. A person who is in physical possession of a property; or
- B. A person who has responsibility for, and control over, the condition of a property, the activities conducted on that property, and the persons allowed to enter that property.

OWNER

- A. In the case of land, any person who is recorded on the tax records as the owner of land; or
- B. In the case of property other than land, any person who is in lawful possession thereof.

PERSON

Includes any individual, corporation, society, association, partnership or firm, and the successor or the heir, executor, administrators, or other legal representatives of a person.

SIDEWALK

That part of a highway especially adapted to the use of or ordinarily used by pedestrians and includes that pan of the highway between the curblineline (or the edge of the roadway where there is no curblineline) and the adjacent property line, whether or not paved or improved.

§ 117-2. Maintenance; liability.

Every occupant, owner or person of every house, shop, building, lot, parcel of land, or other property that adjoins or is abutting to or on a sidewalk in the Village of Kiryas Joel shall be charged with the responsibility to keep such sidewalk in a good state of repair and free from defects and debris. Failure to maintain may result in the Village of Kiryas Joel undertaking such repair or remedy and charging back to the property owner. On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner shall be held liable in ton for such damages to another. Alternatively, should the Village of Kiryas Joel be called upon to make such payment to a third party, the Village will look to the adjoining/abutting landowners for contribution and indemnity.

§ 117-3. Civil action prohibited without written notice.

No civil action shall be maintained against the Village of Kiryas Joel or the Superintendent of Public Works for damages or injury to person or property sustained by reason of any highway, bridge, culvert, sidewalk, building or other Village property being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Village Clerk or Village Superintendent of Public Works and there was a failure or neglect within a reasonable time after giving such notice to repair or remove the defect, danger or obstruction complained of; no civil action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or sidewalk unless written notice thereof, specifying the particular place, was actually given to the Village Clerk or Village Superintendent of Public Works and there was a failure or neglect to cause snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 117-4. Written notices.

The Superintendent of Public Works shall transmit and arrange with the Village Clerk within five days after receipt of all written notices received by him pursuant to this chapter. The Village Clerk shall cause all written notices received by him pursuant to this chapter to be represented to the Board within five days of the receipt thereof or at the next succeeding Board meeting, whichever shall be sooner.

Chapter 121. SOLID WASTE

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 5-12-1992 as L.L. No. 1-1992. Amendments noted where applicable.]

§ 121-1. Legislative intent.

A clean, wholesome and attractive environment is declared to be of importance to the health and safety of the inhabitants of the Village of Kiryas Joel. The purpose of this chapter is to regulate garbage, rubbish and refuse collection and disposal to establish village standards for collection of waste and recyclables.

§ 121-2. Definitions and word usage.

- A. For purposes of this chapter, certain words and phrases shall be construed herein as set forth in this section unless it is apparent from the context that a different meaning is intended. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular, and vice versa.
- B. As used in this chapter, the following terms shall have the meanings indicated.

ASHES

The soft solid residue of combustion or any residue from the burning of any material.

BULK WASTE

An item of solid waste larger than two feet by two feet by four feet or heavier than 50 pounds.

CARDBOARD

A thick paperboard made of paper pulp, including but not limited to corrugated boxes, cardboard cartons, pasteboard and similar corrugated materials.

GARBAGE

Any animal or vegetable refuse or waste matter capable of fermentation or decay. Without limitation, "garbage" shall include normal, usual kitchen and household waste primarily from perishable or disposable items such as leftover food matter; food packaging and containers, including cans, bottles and magazines; dishes, pots, pans, glass, bottles and crockery and small household appliances.

HAZARDOUS SUBSTANCE

Any material, natural or manufactured, which by itself or in concentration with other like or dissimilar material will contaminate to environmentally unsafe levels the atmosphere, soil or water, whether above or below the ground.

MULTIRESIDENTIAL PREMISES

A building or parcel of land having three or more dwelling units.

NEWSPAPERS

A product printed on newsprint, including all newspapers, newspaper advertisements and comics.

OCCUPANT

A person occupying or using.

PERSON

Any individual, partnership, association, firm, corporation or any and all combinations of individuals acting in concert.

RECYCLABLES

Discarded material which may be reclaimed, comprising solid waste consisting of newspapers, glass bottles and jars and metal food and beverage cans, plastics and such other materials as designated by resolution of the Village Board of Trustees.

RECYCLING CENTER

Any combination of structure, machinery and facilities used for the off-loading of recyclables and the reloading of recyclables into vehicles for disposal and/or marketing.

REFUSE

See "rubbish."

RESIDENCE

A building or parcel of land having less than three dwelling units.

RESIDENT

A person residing in a residence.

RUBBISH

Discarded material, including paper boxes, bottles, tin cans, papers, rags, shoes, metal, rubber and wooden scrap and other material of the same general nature.

SOLID WASTE

Materials or substances discharged, discarded or rejected as being spent, useless, worthless or in excess by the owner at the time of such discard or rejection, except sewage and other highly diluted water-carried materials or substances and those in gaseous form. Such waste shall include, but is not limited to, garbage, sludge, rubbish, refuse, trash, ashes, incinerator residue, street cleanings, dead animals, offal, abandoned vehicles, agricultural waste, industrial waste, commercial waste and construction and demolition debris.

TRASH

See "rubbish."

§ 121-3. Dumping prohibited.

No person shall throw, dump, abandon, discard or cause to be thrown, dumped, abandoned or discarded any solid waste materials upon any public property or private property within the village.

§ 121-4. Nuisances prohibited.

- A. No person shall accumulate, keep, store, dump, leave, burn, bury or otherwise dispose of any solid waste in such an amount or kind and in such a manner as to permit, allow or suffer the same to become an attraction to or habitat for vermin or a breeding place for flies or to emit an unwholesome, noisome and noxious odor, vapor, gas or smoke which escapes from the building or premises where such solid waste is being or has been so treated or disposed of to a highway or any other public place or to the premises of any other person or persons. Such activities are hereby prohibited in the village, and any such condition shall be deemed to be a public nuisance and annoyance and damaging to the comfort, repose, health or safety of the inhabitants of said village.
- B. No person having custody or control of premises within the village shall permit or cause any garbage, rubbish or other refuse, including recyclables, within his control, to become a hazard or potential hazard to public travel, health or safety or to become a nuisance of any sort.

§ 121-5. General obligation of property owners and occupants.

It shall be the obligation of each property owner and occupant to collect, store and dispose of all solid waste in a neat, safe and sanitary manner.

§ 121-6. Use of village services.

The Board of Trustees may require property owners and occupants of properties in the village, or classes thereof, to utilize village-provided, contracted or franchised collection and carting services.

§ 121-7. Use of containers and receptacles.

- A. All persons shall keep solid waste and recyclables in closed, sanitary, clean, leakproof metal and/or plastic containers. Garbage containers shall be of such size and number as to provide adequate storage and shall be cleaned when necessary. Solid waste and recyclables shall be segregated and kept in separate containers, and

recyclables shall be further separated as required by regulations adopted pursuant to this chapter or otherwise adopted by a governmental authority.

- B. All containers at curbside for collection shall be kept in a neat and orderly manner.
- C. Outside storage of bulk waste containers shall be in a neatly constructed enclosure.

§ 121-8. Spills; removal of receptacles.

- A. Property owners and occupants shall further be responsible for cleaning up any spilled waste, whether due to accidents, animals, vandalism or any other cause, within 12 hours of that spill.
- B. Empty barrels, cans, containers and/or receptacles shall be removed from the roadside and brought to their storage location within 12 hours of pickup.

§ 121-9. Collection frequency.

To control odor, insects and disease, property owners and occupants shall maintain a program of solid waste removal at least weekly or such that no more than 300 pounds of solid waste ever accumulate.

§ 121-10. Vegetative yard waste.

Nothing in this chapter shall be construed as preventing any person from utilizing vegetative yard waste for compost, mulch or other agricultural, horticultural, silvicultural, gardening or landscaping purposes.

§ 121-11. Hazardous or toxic wastes.

- A. No person shall deposit or dispose of any hazardous or toxic waste in garbage and/or refuse collected or to be collected by any village-provided, contracted or franchised collection and carting service.
- B. Every property owner or occupant who generates hazardous or toxic waste through a manufacturing, commercial or industrial process or for commercial purposes, and every carter who collects the same for transport, storage or disposal, shall notify the Village Clerk within 10 days of said collection and identify in writing the name of the waste generator, the type of waste(s), the quantity or amount of waste by type, the date of collection and the name of the carter. No person shall accumulate, store, dump, leave, burn, bury or otherwise dispose of any such wastes in the village.

§ 121-12. Use and payment for village services.

- A. The Board of Trustees is hereby authorized to establish a village department for collection and carting of garbage and refuse or to contract for, or to grant licenses or franchises for such collection and carting.
- B. The Board of Trustees is hereby authorized to promulgate by resolution such rules and regulations as may be necessary or advisable for the carrying out the purposes of this chapter. Such rules and regulation may, without limitation, provide for:
 - (1) Fees, assessments and/or taxes and the time and manner of collection thereof, together with penalties and administrative fees for late payment.
 - (2) The time, place and manner of collection of such garbage and refuse.
 - (3) Classification of wastes.
 - (4) Designation of service areas.
 - (5) Establishment of property classes for service.

- (6) Required utilization of service by designated property owners and occupants.
 - (7) Limitations on the amount of garbage and refuse disposed and surcharges for disposal of materials in excess of such amounts.
 - (8) Qualifications for collectors and carters of garbage and refuse.
 - (9) The time, place and manner of bulk pickup.
 - (10) Such other matters as are reasonably necessary to effectuate the purposes of this chapter.
- C. Any fees which may be imposed pursuant hereto shall constitute a lien on the real property served by the garbage and refuse collection and carting services. The lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the state or a political subdivision or district thereof.
- D. The payment of fees, together with applicable penalties and administrative costs, by the owner of property shall be deemed a required improvement for such property in the interest of public safety, health, comfort and general welfare. Pursuant to Village Law § 4-414, such fees shall be assessed, levied and collected in the same manner as provided for special assessments pursuant to Village Law § 5-518.

§ 121-13. Mandatory recycling: legislative purpose.

- A. A resource recovery system for the mandatory separation of recyclables from garbage and refuse within the village is necessary to reduce the amount of solid waste generated and assure that solid waste is disposed of in the most economical and environmentally acceptable manner.
- B. The Board of Trustees hereby finds that the mandatory recycling of certain waste materials is imperative to further the general health, safety and welfare of the village and its residents. The Board finds that the most effective means of regulating the recycling process is by adoption of regulations by resolution of the Board of Trustees.

§ 121-14. Adoption of recycling regulations.

The Board of Trustees is empowered to promulgate and establish by resolution rules and regulations implementing the mandatory separation of recyclables established by this chapter. Until regulations are adopted by the Board of Trustees, all laws and regulations adopted by the County of Orange with respect to recycling shall govern recycling in the village. Violations of such regulations shall be deemed a violation of this provision.

§ 121-15. Recycling required.

- A. The recycling of certain materials, which materials shall be specified by resolution of the Board of Trustees, is hereby required.
- B. All recyclables shall be placed in waste receptacles for collection removal and disposal.
- C. Recyclables shall not be placed in the same waste receptacle or garbage can or otherwise mixed or combined with other forms of solid waste for collection, removal or disposal.
- D. The Board of Trustees is empowered to designate the schedule for collection removal and disposal of recyclables. Recyclables shall not be collected, removed or disposed of other than in conformance with the schedule established by the Board of Trustees.
- E. No person having custody or control of premises within the village shall permit or cause any garbage, rubbish or other refuse, including recyclables, within his control, to become a hazard or potential hazard to public travel, health or safety or to become a nuisance of any sort.

§ 121-16. Recycling provisions for multiresidential premises.

The owner, manager and superintendent of every multiresidential complex shall provide and maintain, in a neat and sanitary condition, recycling collection area or areas to receive newspaper and other designated recyclables which are generated by residents of the complex. In cases where a condominium cooperative, homeowner or similar association exists, the association shall be responsible for provision and maintenance of the recycling collection areas. Said recycling collection areas shall be constructed and capable of receiving recyclables within 30 days of the enactment of this chapter.

§ 121-17. Penalties for offenses.

- A. Any person who commits, causes, permits or allows to permit any violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and shall also be liable for any such violation and the penalty therefor.
- B. For every violation of any provision of this chapter except such provisions which specify a fine, the person shall be subject to a fine of not more than \$250 or to imprisonment not exceeding 15 days, or to both such fine and imprisonment, and, in addition, any license or permit issued pursuant to this chapter may be revoked.
- C. In addition to the above-provided penalties and punishment, the Village Board may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.
- D. Each day that a violation continues to exist shall be deemed a separate offense.

§ 121-18. Enforcement; rules and regulations.

The village is authorized to enforce the provisions of this chapter and to promulgate, amend and repeal rules and regulations implementing this chapter in order to carry out and enforce the intent and purposes thereof, and revise by resolution any rule or regulation to conform to upgraded standards.

Chapter 124. STREETS

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 9-4-2007 by L.L. No. 4-2007. *Editor's Note: This chapter also superseded former Ch. 124, Streets, adopted 12-5-2002 by L.L. No. 2-2002. Amendments noted where applicable.*]

GENERAL REFERENCES

Bonds — See Ch. 80.

Littering — See Ch. 85.

Property maintenance — See Ch. 104.

Sidewalks; notice of defects — See Ch. 117.

Zoning — See Ch. 155.

124a Appendix A 

Article I. Street Specifications

§ 124-1. Purpose.

It is the purpose of these specifications to establish minimum acceptable standards for street construction in the Village of Kiryas Joel, Orange County, New York. In setting forth these standards for the protection of the public safety, the Village Board determines that the specifications, standards and requirements contained herein are the minimum standards to which all streets in the Village of Kiryas Joel must hereinafter be constructed, reconstructed, widened, or restored. Existing streets shall be brought up to these standards by developers as needed to accommodate new

development. The terms "streets" and "roads" are used interchangeably in these specifications and shall include, without limitation, widenings. Sidewalks and walkways are used interchangeably in these specifications.

§ 124-2. Preparation and submission of design plans for new and/or widened streets.

A plan of the proposed street shall be prepared by a qualified professional engineer or qualified land surveyor licensed by the State of New York.

- A. The street design plans shall show the following elements, as a minimum:
- (1) Proposed right-of-way of at least 50 feet (60 feet for designated streets) described by metes and bounds.
 - (2) Location, width (30 feet minimum or 40 feet minimum on designated streets), profiles and grades of the proposed roadway.
 - (3) Cross sections of the roadbed, curbs, and sidewalks, superelevations and maximum safe speed of curves.
 - (4) Storm drainage system including calculated runoffs, culverts, ditches and other drainage structures with invert elevations, slopes and calculated capacities.
 - (5) Location of easements and utilities, including electrical, gas, telephone, water and sewer lines, signs, sidewalks, streetlights, hydrants, mail boxes, and walkway easements. Streetlights shall be set at a maximum spacing of 200 feet. Fire hydrants shall be set at a maximum spacing of 350 feet. Fire hydrants and mailboxes shall be set two feet off the sidewalk. No fences, trees, bushes, plants, or any type of obstruction shall be permitted within the right-of-way. No private structures or parking may be within 10 feet of the sidewalks.
 - (6) Positive drainage outlets shall be indicated and means of access (easement) if not within applicant's property. Easements shall be described by metes and bounds.
 - (7) Names of adjacent property owners including names of property owners adjacent to off-site drainage outlets.
 - (8) Private roads or driveways serving more than six dwelling units shall be constructed to these standards unless a specific waiver is approved by the Planning Board. Where any property having an existing private intersection with a Village street undergoes a change in use, it shall conform with these street specifications.
- B. One copy each of the plans shall be submitted to the Village Department of Public Works (hereinafter "DPW") and Village Engineer at the time of application to the Planning Board pursuant to the Code of the Village of Kiryas Joel, and to the County Commissioner of Public Works when said proposed street drains towards, intersects or may otherwise affect a County highway. Such streets must not be subject to any right or easement to others which will in any way interfere with its use as a street at all times. Such streets, widenings, easements, public improvements and infrastructure must be offered to the Village by an appropriate offer of dedication, including deeds and easements, containing the correct metes and bounds description as shown on the approved map. The offer of dedication, deeds, easements and filing instruments must be approved by the Attorney for the Village. Fees must be paid by the applicant.
- C. A technical review by the DPW and/or Village Engineer of the street plans, as described herein, is required. Field inspection by the Village Engineer, or Village DPW, of the proposed street or streets during construction is also required. The applicant shall reimburse the Village for the professional fees required in accordance with the review and/or inspection.
- D. Permanent and temporary easements must be furnished in said deed granting to the Village the right, though not the responsibility, to maintain all outlets for surface water or natural stream drainage which will run from such roadway over private property to a point where a natural watercourse exists and to which such outlet and easement will carry such water. A minimum of 20 feet width of easement shall be required for the maintenance of said easements.

- E. All the proposed improvements, including, without limitation, pavements, sidewalks, curbs, widenings, and all other improvements, must be constructed to conform to the minimum requirements and standards set forth herein and notation citing Chapter 124, Streets Specifications, in the Code of the Village of Kiryas Joel be affixed to the street improvement plan and approved subdivision plot. The Village may withhold certificates of occupancy if all improvements have not been properly completed. The failure to cite the street specifications shall not relieve any person of the requirement to comply with the street specifications.

§ 124-3. Alteration of approved plans.

Plans submitted shall not be altered or amended after having been approved by the Village DPW and Planning Board, unless amended plans are resubmitted and approved. However, the developer, at his own expense, shall provide any additional infrastructure, storm drainage facilities or utilities as may be ordered by the Village DPW, if during the course of construction, in the opinion of the Village DPW, the Village Engineer and/or the County DPW, such additional structures of facilities are necessary to prevent any need for future installations of utilities or culverts within the pavement area, to assure the durability of pavement, future maintenance of right-of-way, or welfare and safety of the public.

§ 124-4. Sale of lots or dwelling units, building permits, and certificates of occupancy.

- A. Before offering for sale any lot or dwelling unit not on a public highway or on a public highway to be widened or reconstructed, the applicant must first file at the office of the Village Clerk plans which have been approved by the Planning Board of the Village of Kiryas Joel. Public improvements, including, without limitation, new road construction and road widenings, must be completed in accordance with state and local law.
- B. Prior to the issuance of a building permit for any property, the developer shall complete, for street purposes, the clearing and grubbing and excavation; filling; rough grading and storm drainage; both within the development and the required off-site drainage, as hereinafter specified. All street right-of-way fronting, and drainage easements serving such lot and extending from existing improved right-of-way and easements up to and including the last lots upon which a building permit is requested to be issued shall be improved in order to assure suitable access by fire, police, ambulance and other emergency vehicles to sites of actual building construction.
- C. Prior to the issuance of a certificate of occupancy for a structure on any lot, the street upon which the lot fronts must have been satisfactorily constructed. All related street and public improvements, including sidewalks, utilities, connections, streetlighting, street signs, fire hydrants, mailboxes, and surface restoration, etc., must have been properly completed. Dedication as set forth below must have been accepted. The Village may, at its discretion, permit the application of the top course of asphalt to be deferred, if the new road is expected to experience significant use by construction equipment for a period of time in conjunction with ongoing development. This will only be considered if adequate monetary funds, directly accessible by the Village, are posted by the developer for this and related preparatory work. The one-year maintenance period would begin upon the satisfactory completion of the top course of asphalt and subsequent acceptance by the Village.

§ 124-5. Certification by engineer.

- A. Where streets are to be dedicated, such dedication shall not be accepted until the applicant's professional engineer or licensed land surveyor and the Village DPW, and if requested by the Village, the Village Engineer shall have certified to the Village Board in writing that the construction of the streets and/or street widenings, public improvements, and infrastructure have been completed in accordance with the approved plans and specifications that follow, and that the total right-of-way area has been cleared of all debris and all construction completed in a workmanlike manner. The Village shall have the right to rely on the opinion of the applicant's engineer, even if it has received a concurring opinion from its own professionals.
- B.

In his written certification, as required above, the developer's professional engineer shall state clearly that he has inspected all phases of the street construction and that all work has been completed in accordance with the approved plans and specifications.

- C. There shall also be a certification from a licensed land surveyor stating that the new street, sidewalk, utilities, and infrastructure, together with related improvements, have been constructed within the right-of-way bounds.
- D. Inspection procedures during road construction, involving the developer's engineer, the contractor, and the Village, are described in a following section.

§ 124-6. Design and construction specifications.

- A. The following sections include general and more detailed specifications for design and construction of new streets and all streets must hereinafter be constructed, reconstructed, widened, or restored. These are minimum standards, which may have to be made more stringent for specific situations, if so determined by the Village DPW or the Village Engineer.
- B. The following streets are designated through streets and shall have a minimum right-of-way width of 60 feet and a minimum pavement width of 40 feet: Acres Road, Bakertown Road, Forest Road, Schunemunk Road, Mountain Road and County Route 44. The Village DPW may, and a developer shall, open such streets to the full right-of-way width. Any issues related to the placement of improvements in the right-of-way or related to the exact bounds of the right-of-way shall be determined by the Village DPW with the assistance of the Village Engineer. An appeal may be had to the Board of Trustees, whose decision shall be final.
- C. Figure 1
Editor's Note: Figure 1 is on file in the Village offices.
shows typical cross sections for new Village Roads/Streets, with minimum dimensions. The widths of right-of-way and pavement will be construed to larger when required by this chapter.

§ 124-7. Dead-end streets and culs-de-sac.

- A. Dead-end streets and culs-de-sac are subject to the development standards as may be adopted in the Subdivision of Land regulations. See the Code of the Village of Kiryas Joel.
Editor's Note: See § 155-14, Subdivision of lots.
- B. Cul-de-sac shall generally be circular, with radii of sufficient length to permit both cars and trucks to negotiate the curve in a counterclockwise direction.

§ 124-8. Intersections.

- A. Intersections are subject to the development standards as may be adopted in the Subdivision of Land regulations. See the Code of the Village of Kiryas Joel.
Editor's Note: See § 155-14, Subdivision of lots.
All intersections with existing Village or county roads shall be constructed with the edge of pavement having a radius of 20 feet maximum. Intersections within a development shall be constructed with the edge of pavement having a radius of 25 feet minimum and 35 feet maximum. All intersections shall be illuminated by streetlights.
- B. Where a development street intersects a Village or county road, the approved plans will show the proposed type, length and diameter of pipe and drainage flow along the existing public road. The pipe will be installed and paid for by the developer under the direction of the Village DPW and Village Engineer, or the County DPW or his representative, as the case may be. The grade of the intersecting street with a Village or county road shall be a negative 2% from the edge of pavement of the Village or county road for a distance of 50 feet along the center line of the new road. The County DPW shall be notified of all intersections with county roads, for approval of location, grade and drainage structures. All intersection configurations shall comply with sight distance requirements set forth herein.

§ 124-9. Sight distance.

A. Minimum horizontal sight distance shall be as follows:

Speed Limit (mph)	Sight Distance (feet)
30	200

B. The above-mentioned minimum sight distances shall apply to street intersections and driveways. Additional sight distance may be required in specific locations, in consideration of steep slopes, or other conditions.

§ 124-10. Curve radii.

In general, street lines within a block, deflecting from each other at any one point by more than 10°, shall be connected with a curve, the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets. The outer street line in each case shall be parallel to such inner street line. A tangent of at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

§ 124-11. Grades.

The grade of the street shall not be in excess of 10% nor less than 1%. At intersections, a 2% negative grade shall be provided for a distance of 50 feet from the edge of the traveled way. The Village DPW or Village Engineer must approve any exception.

§ 124-12. Driveways.

- A. The developer shall design and construct all driveways within the limits of the right-of-way with sufficient sight distance and with a grade no more than one inch per foot from curb or ditch line to the right-of-way line. Driveways shall include, without limitation, private street entrances on public streets. All driveways shall have a minimum eight-inch R.O.B. gravel foundation course from curb or ditch line to right-of-way line and no less than three-inch asphalt wearing course from curb or street pavement line to right-of-way line, which shall be applied during or after the laying of the street pavement. The Village DPW or Village Engineer may require asphalt paving beyond the right-of-way line, into the property, where special circumstances warrant. Driveways may be required to constructed to street specifications if warranted.
- B. All driveways shall be graded to the satisfaction of the Village DPW prior to the surfacing of such driveways. Any driveway not complying with these requirements shall be reconstructed at the expense of the property owner.
- C. If driveway culverts are required, they shall be minimum 12 inches in diameter and 30 feet long. Culvert pipe material shall comply with culvert drain pipe as specified elsewhere. Minimum 12 inches of cover shall be provided over the culvert.

§ 124-13. Easements.

Where surface water from streets must lead through, other than gutters and storm drains or existing stream channels, outside the right-of-way, permanent drainage easements having a minimum width of 20 feet shall be provided to a point where a natural watercourse exists. In some cases, this may include easements over property outside the boundaries of the subdivision involved. Natural stream or ditch channels shall have a minimum of 20 feet wide permanent easements and be shown on the proposed plans of the subdivision, if required by the Village Engineer for a specific public purpose. All permanent easement lines shall be monumented as a right-of-way. The Village shall have an easement for public use in any improvements, facilities, and appurtenances installed within street rights-of-way, including, without limitation, water and/or sewer lines, whether or not dedicated to any public agency.

§ 124-14. Erosion control.

Road and development plans shall include erosion control measures, which will be provided during construction as necessary, using appropriate techniques for specific situations. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion, and also to prevent resulting property damage, siltation, and contamination of watercourses or impoundments. Erosion control measures may include hay bales, silt fences, diversion ditches, siltation ponds, dumped stone, or other provisions, used singly or in combination as needed.

§ 124-15. Curbs.

On all streets, Portland cement concrete curbs shall be constructed to the dimensions and specifications shown in the attached Figure 3.

Editor's Note: Figure 3 is on file in the Village offices.

A base course of eight inches of R.O.B. gravel, tamped and free of stone over two-inch thickness shall be laid under all curbing. A concrete mix of 4,000 psi after 28 days shall be used and shall be finished and cured to the satisfaction of the Village DPW and Village Engineer. Curbs shall be depressed four inches at all driveways. Stone curbs or precast curbs may be substituted on approval of the Village DPW and Village Engineer. Sections of curb may not be longer than 10 feet without suitable expansion joints.

§ 124-16. Guide rails.

Where required by the Village Engineer or Village, the developer shall provide and install guide rails in accordance with the standards set forth in the Highway Design Manual, Facilities Design Division, New York State Department of Transportation, Chapter 10.

§ 124-17. Drainage.

- A. The drainage system, and/or culverts, with respect to all proposed streets and driveways, shall be designed in accordance with established engineering principles and approved by the Village DPW and Village Engineer. Plans for any drainage structure other than pipe culverts, when existing or proposed, shall be submitted in detail to the Village DPW and Village Engineer for approval. The minimum grade of any drainage pipe or culvert shall not be less than 1%. The approved plans shall show invert elevations of the inlet and outlet of all drainage structures. Any deviation from the approved plans shall be on approval of the Village DPW or Village Engineer, in writing. Any substantial change shall require amendment of the subdivision plat or site plan. No culvert pipe shall be less than 15 inches in diameter unless by approval of the Village DPW and Village Engineer. Pipe for culverts may be reinforced concrete, which shall conform to the attached specifications for materials, aluminized corrugated metal pipe of a gauge in accordance with the New York State Specifications for corrugated metal pipe, or high-density polyethylene corrugated pipe with smooth interiors, equal to ADS N-12 pipe.
- B. The width of the trench in which the pipe is laid shall be sufficient to permit tamping of the backfill around the pipe. A cushion of a least six inches shall be laid in line with grade prior to laying the pipe. No rock over three inches in thickness shall protrude or lay in this cushion. The soil below the cushion shall be stable enough that there will be no settlement of pipe after backfilling the trench.
- C. The pipe shall be laid to true line and grade on the prepared bed of the trench. All connections for corrugated metal pipe shall consist of twelve-inch corrugated metal bands lapping on equal portions of the sections to be connected. Backfilling of the trench shall be done with R.O.B. gravel or other suitable material approved by the DPW. The backfill shall be made in layers of no more than 18 inches which shall be compacted. The top of any drainage pipe shall be no less than 12 inches below the finished grade of pavement unless approved by the Village DPW or Village Engineer.
- D. Drainage systems shall be designed to preserve the natural patterns and directions of drainage that existed prior to development.

- E. All drainage structures shall be of a size sufficient to carry natural water runoff and stormwater, and also that which, in the opinion of the Village DPW or Village Engineer, may be reasonably anticipated from future construction both from within the development and from adjoining properties. Additional or larger culverts and drainage structures shall be installed and paid for by the developer if the Village DPW and Village Engineer so direct. In general, storm sewers and culverts shall be designed for a twenty-five-year frequency storm. Ditching and grading shall be designed and planned in conjunction with the storm sewer system to handle overflows from larger storms, in order to prevent or minimize flooding and water damage. Storm drainage systems in areas of higher-density development or in other sensitive areas may have to be designed to handle larger storms.

§ 124-18. Inspection during construction.

The following procedures shall be followed during the various stages of development and construction of all streets, public improvements, utilities and infrastructure (NOTE: Inspections are required before any covering or backfilling of work!):

- A. Prior to commencing work, a jobsite meeting will be held, including the developer's contractor and engineer, and the Village DPW and Village Engineer. General procedures shall be discussed, including time schedules, notification requirements, and subsequent work activities. Specific procedures for dealing with drainage, erosion, traffic control, materials to be used, and other pertinent matters shall be discussed at this meeting. The center line of the proposed road should be staked out prior to this meeting, along with any easements.
- B. After construction has commenced, but prior to the placement of any fill material, another jobsite meeting shall be held, including the same parties as mentioned above. The areas stripped and rough graded shall be inspected. The Village DPW and Village Engineer shall determine if field conditions warrant additional measures, such as additional excavation, perforated drains, geotextile fabric, or more erosion control measures. Gravel or shale proposed to be used for embankment fill or road subbase shall be approved by the Village, along with equipment and procedures to be used for placement and compaction.
- C. Prior to blacktopping, the Village DPW and Village Engineer shall inspect the prepared subbase, and shall check for gravel content, compaction, and grades. He may order sample holes dug, or compaction tests, as he determines necessary.
- D. The Village DPW and Village Engineer shall also inspect the drainage system at this time, including pipe sizes, catch basin placement, and relative elevation of catch basin tops. The developer's engineer or land surveyor shall furnish written certification regarding actual lines and grades of the road prior to paving. The certification shall also state that the drainage system as installed is in conformance with the approved plans, including pipe sizes, elevations slopes, and catch basin placement and elevations. If other underground utilities, including, without limitation, water and sewer pipes have been installed as part of the project, similar inspections and written certification shall be required for them.
- E. The Village DPW and Village Engineer shall make an inspection after the binder asphalt course has been applied, and again after the top course has been applied. He shall check for proper thickness, compaction, quality of asphalt, and transition to catch basin tops, paved gutters, and other critical points.
- F. The Village DPW shall make intermediate or additional inspections as it deems advisable during the course of the work. At its request, the Village Engineer may also be present during these inspections, or may conduct inspections independently. No action or inspection by the Village DPW or Village Engineer shall relieve the responsibility of the developer to construct the road and related improvements in accordance with the approved plans and the Village street specifications. The developer is responsible for retaining an engineer to provide the necessary inspection and quality control during construction, and to provide the necessary certifications to the Village after construction is completed.

§ 124-19. Clearing and grubbing.

- A. The developer shall clear the entire area within the limits of:

- (1) The street right-of-way.
 - (2) Stream channels and ditches.
 - (3) Easements areas (as determined by the Village DPW).
- B. All stumps, roots, walls and buildings shall be excavated and removed from the above areas. Any change of Subsection A(1), (2), or (3) must receive prior approval of the DPW and Planning Board. Special permission may be granted to save specific individual trees within the right-of-way bounds.

§ 124-20. Grading and subbase preparation.

- A. The developer shall complete the shaping of the street right-of-way, streams and ditches and easement areas to the line and grade as shown on the approved plans and as otherwise may be directed by the Village DPW and Village Engineer. In the construction of the roadway, all topsoil, loam, rocks and organic material shall be removed until a satisfactory subbase is established.
- B. Wherever possible, or as directed by the Village DPW and Village Engineer, topsoil shall be stockpiled in designated areas for subsequent surface restoration. All fills shall be made with acceptable material as approved by the Village DPW and Village Engineer. Such fills shall be made in layers of not more than 18 inches each and properly compacted with a ten-ton roller or equivalent.
- C. If the Village DPW and Village Engineer determine that field conditions warrant extra provisions during road construction not specifically shown on the road plans, they may so direct their inclusion. Examples include perforated lateral drains to relieve wet areas, and geotextile fabric to improve soil stability in designated areas. Fabric to be used shall be approved by the Village and shall generally be a porous woven product, exhibiting excellent qualities of strength, tear resistance, and minimal deformation.
- D. The subgrade shall be shaped to line and grade with no depressions. The subgrade shall be stable in all respects to the satisfaction of the Village DPW and Village Engineer before the foundation course is laid. No large stones or rock ledges shall protrude into the foundation course.
- E. Also, before the foundation course is laid, all storm and sanitary sewers and all utilities, including house connections for existing and future homes, and hydrants, shall have been installed to the satisfaction of the Village DPW and Village Engineer.
- F. All slopes and sidewalk areas within the right-of-way shall be graded before the foundation course is made and all loose and exposed stone will be removed. All slopes shall be fully stabilized in a manner satisfactory to the Village DPW.

§ 124-21. Foundation course.

- A. The foundation course shall consist of approved screened ("Item 4") gravel with a minimum compacted depth of nine inches. The material shall be placed on the prepared subgrade in two layers and each layer shall be fine graded and thoroughly compacted by rolling with a ten-ton roller or other equivalent compaction equipment. The screened gravel shall be fine graded and compacted to an elevation allowing for the wearing course and approved by the Village DPW. Compaction of the foundation course shall generally be minimum 95% of standard proctor maximum density. A minimum of three months shall be allowed for the street to settle and compact before pavement shall be constructed. Stakes with final line and grade shall be maintained by the developer at all times to check the foundation course as well as pavement. Material specifications for R.O.B. gravel and screened gravel are given in these specifications, in a following section.
- B. An alternate subbase foundation would consist of five-inch minimum thickness of approved "Item 4" screened gravel overlying 15 inches minimum thickness of approved shale.

§ 124-22. Pavement.

- A. After the foundation course has been inspected and approved by the Village DPW and Village Engineer with the three-month settlement period elapsed, and found to be at a grade allowing for the finished pavement, the pavement shall be laid as follows:
- (1) Paving shall be done on dry days only, with surface temperatures not less than 40° F., when placing asphalt with a compacted lift thickness of three inches or greater, and at least 45° F. for a compacted lift thickness between one inch and three inches. Asphalt shall be from a source approved by the Village. Proper equipment shall be provided for the work. Trucks delivering the hot asphalt shall be insulated or covered with canvas. Pavers shall be capable of spreading and finishing courses of plant mix material in lane widths in accordance with the specified section grades and thicknesses. Steel wheel rollers shall be 10 tons. All equipment, procedures, asphalt material, asphalt temperatures, etc., shall conform with applicable standards of the New York State Department of Transportation, described in Section 401 of their publication Standard Specifications.
 - (2) After the foundation course is prepared, a layer of New York State Type 3 binder asphalt shall be applied and compacted to a minimum thickness of four inches. The asphalt shall be rolled immediately after application. The four-inch binder asphalt course shall be applied over the full width of pavement, curb to curb.
 - (3) A layer of New York State Type 6 top course asphalt shall be applied over the binder course curb to curb, and compacted to a depth of two inches. Where specified on project plans, or required by the Village, Type 6 high-friction asphalt shall be used instead of Type 6 top course. The asphalt shall be rolled immediately after pavement. Bituminous tack coat will be applied on all paved surfaces that will be covered with new asphalt.
- B. Unless the Village permits otherwise, the top course asphalt shall be applied as soon as possible after the binder course has been placed and compacted.

§ 124-23. Surface restoration.

All slopes and other unpaved ground surfaces to be restored shall be fine graded in conformance to the lines and grades shown on the plans. Suitable topsoil shall be placed and lightly compacted to a minimum thickness of three inches. Topsoil may be reused from on-site stockpiles, or imported from outside sources. Soil tests shall be done on site to determine if application of fertilizer or pH adjustment chemical is needed. Seeding shall generally be a mixture of fast-growing annual, mixed with perennial, seed that will flourish in sun or shade. Typical recommended mixture is red fescue and bluegrass seed at the rate of eight pounds per 1,000 square feet. Mulching should immediately follow, such as an application of grain straw at two tons per acre. On very steep slopes, the use of other ground cover, such as crown vetch, may be preferable. Stabilization treatment shall be accomplished with 15 days of soil exposure by grading.

§ 124-24. Groundwater.

If, in the opinion of the Village DPW and Village Engineer, it is necessary to intercept and carry away groundwater within the limits of the right-of-way, to protect the stability of the road bed, curb or sidewalk areas, the subdrainage required by the Village DPW and Village Engineer shall be installed. Perforated pipe or porous wall pipe having a minimum diameter of four inches, encased in six inches of $\frac{3}{4}$ clean crushed stone or crushed gravel, shall be used for such purpose in amount deemed necessary by the Village DPW and Village Engineer. The crushed stone shall be enveloped with a suitable porous woven fabric.

§ 124-25. Catch basin and curb inlets.

Catch basins and curb inlets shall be constructed in order that surface water be intercepted. On square or rectangular catch basins, six-inch walls up to five feet depth, eight-inch walls up to 10 feet depth, twelve-inch wall over 10 feet depth shall be used. Precast reinforced concrete catch basins with standard design walls may also be used. Such structures

shall be spaced at 400 feet or less. Whenever, in the opinion of the Village DPW and Village Engineer, ground conditions or other circumstances require it, larger or heavier materials, additional materials, or reinforcing, or other modifications and improvements in design and construction shall be made, as directed by the Village DPW and Village Engineer at any time prior to construction of pavement. All catch basins shall have sixteen-inch sumps. Pipe penetrations shall be neat, and cut off flush with the interior walls of the catch basin. Annular spaces around the pipe and other openings shall be sealed with nonshrink grout. Cast iron frame and grate types to be used shall be pre-approved by the Village, but shall generally be equal to Campbell Foundry heavy duty "bicycle" grates.

§ 124-26. Headwalls.

Headwalls of concrete, mortared or dry stone masonry shall be constructed at the outlet and inlet ends of all culvert pipe. Culverts shall extend to the toe of embankment. The bearing of all headwalls shall have a solid base. If soft material is encountered, it shall be removed and backfilled with R.O.B. gravel. It shall be the responsibility of the developer that no headwalls shall crack or become tipped from settlement for a period of one year. A concrete mix of 4,000 psi after 28 days shall be used. The Village DPW and Village Engineer may, at their discretion, permit flared end sections, as furnished by the pipe manufacturer, in lieu of headwalls.

§ 124-27. House drains.

Roof and cellar drains shall in no case be allowed to flow onto the street right-of-way or into sanitary sewers. With the approval of the Village DPW and Village Engineer in writing, these drains may be piped to existing stormwater drains, if any, to which they will be connected on top only. Such drains must be installed prior to the start of the application of the foundation course. Drains from sanitary sewers or septic tanks will not be permitted to flow into street ditches or storm drains under any circumstances.

§ 124-28. Street signs.

- A. The developer shall furnish and install street name signs at all intersections in locations within the right-of-way approved and directed by the Village. Stop signs, parking restrictions and warning signs shall also be installed by the developer at the direction of the Village.
- B. All signs shall conform to the Manual on Uniform Traffic Control Devices for Street and Highways and shall be set to a depth of three feet below the ground surface.

§ 124-29. Marking of right-of-way.

- A. The developer shall establish and clearly mark on site the limits of street right-of-way and easements with concrete monuments; and the center line and grades of the finished road pavement and the location and elevations of drainage structures as shown on the approved plans with construction stakes. Such construction stakes shall be maintained at the developer's expense until the construction of road pavement, drainage structures, curbs, sidewalks and shoulders has been completed, inspected and approved by the Village DPW and the Village Engineer.
- B. The developer's engineer or licensed surveyor shall certify that the location of all right-of-way lines is accurate before acceptance of the street by the Village Board.
 - (1) Crushed gravel. Shall meet the same requirements as crushed stone except that the mixture must have a minimum of 75% fractured particles. Reference is NYSDOT Material Designation 703-0202.
 - (2) Cover material. Shall consist of clean, sound, hard blue stone particles $\frac{3}{8}$ inch in size.
- C. All materials will be sampled and tested whenever it may appear to be desirable. All materials must pass the soundness tests for "Type B" as prescribed by the Specifications of the New York State Department of Public Works and approved by the Village DPW and Village Engineer.

- D. Concrete for headwalls, etc.
 - (1) All concrete for headwalls, etc. shall be mixed in mechanical mixers with contents of 100% Portland cement, clean water free of oil, salt, acids, alkali, vegetable matter or other deleterious matter, and aggregate that is clean, hard crushed stone or crushed gravel free from clay, silt, loam or other deleterious matter.
 - (2) Concrete shall develop an average ultimate compression strength, based on a four-inch slump, of not less than 4,000 psi at 28 days and approved by the Village DPW and Village Engineer.
- E. Reinforced concrete pipe. The specifications shall be the same as the New York State Department of Public Works Specifications for Reinforced Concrete Pipe, except that the tongue and groove pipe is preferred for all sizes. Each piece of pipe shall be stamped as such and the condition of pipe shall be approved by the Village DPW and Village Engineer.
- F. Corrugated metal pipe. Corrugated metal pipe shall conform to the requirements of AASHTO. Designations M190 and M36 and shall be fully bituminous coated. The Village DPW and Village Engineer may require the corrugated pipe shall be in accordance with the New York State Specifications for Corrugated Metal Pipe.
- G. High-density polyethylene pipe. Corrugated polyethylene pipe shall conform to the standards of AASHTO M294, and ASTM D3350, using high-quality virgin resin compounds. Smooth interior wall pipe shall be used, equal to N-12 pipe as manufactured by Advance Drainage System of Columbus, Ohio.
- H. Bituminous material.
 - (1) All bituminous material shall conform with the general specifications for materials of construction as given in Part II, Section 6 of the Public Works Specifications, State of New York, Department of Public Works, Division of Construction. See also Section 702 of the NYSDOT Standard Specifications. See Section 703 for aggregate.

§ 124-30. Specifications for materials.

- A. Subbase gravel. All material shall be hard stone and well graded from coarse to fine, free of topsoil, sod and other objectionable materials and in general shall conform to the following:
 - (1) R.O.B. gravel. The particles shall be of size that will pass through a four-inch square mesh, with no more than 10% passing #200 mesh sieve, and approved by the Village DPW and Village Engineer. Reference is NYSDOT Item 304.04.
 - (2) Screened gravel. This is processed material, commonly known as "Item 4," conforming to the following particle size distribution:

Sieve Size Designation	Percent Passing By Weight
2 inch	100%
1/4 inch	30% to 65%
No. 40	5% to 40%
No. 200	0% to 100%

Reference is NYSDOT Item 304.05

- (3) Shale or slag. All shale or slag shall be hard durable material, well graded from coarse to fine, with no particles larger than four inches, and meet with the approval of the Village DPW of Highways and Village Engineer. Reference is NYSDOT Material Designation 703-0204.
- B. Crushed stone, crushed gravel and cover material.
 - (1) All materials shall consist of clean, durable, sharp-angled fragments of rock or gravel, free from soft or disintegrated stone, dirt, or other objectionable materials. Carbonate stone is preferred.
 - (2) Materials.

- (a) Crushed stone. Shall meet the following percentages by weight, passing through the square screen openings.

Percent Passing by Weight	Screen Size (inches)
100%	1 1/2
90% to 100%	1
15%	1/2

Reference is NYSDOT Material Designation 703-0201

- (b) For the application of bituminous material, distributors must be provided with acceptable units for the control of temperature of material. The bituminous material must be heated to such temperatures as are required by the Village. No bituminous material shall be applied when the surface of the pavement is wet, and the Village reserves the right to order the application of such material to be stopped when it deems the conditions unfavorable. Reference is NYSDOT Standard Specification Section 400.

C. Streetlights. Shall have a six feet (minimum) arm as furnished by Orange and Rockland Utilities.

§ 124-31. Sidewalk placement.

All properties fronting on streets shall have sidewalks. All sidewalks shall be flush with the curb. To assure that sidewalks on adjacent properties are set flush (match in grade and alignment), the site plan applicant shall analyze existing conditions no less than 20 feet beyond the applicant's property line (along the frontage of adjacent parcels) and utilize this information when establishing the placement and elevation of sidewalks along the applicant's frontage.

§ 124-32. Sidewalk construction requirements.

Construction requirements for sidewalks shall be as follows:

- A. Minimum width: six feet zero inches.
- B. Grades/cross-slopes: to meet Americans with Disabilities Act.
Editor's Note: See 42 U.S.C. § 12181.
- C. Construction details: to meet NYSDOT "Standard Details." Concrete shall develop an average ultimate compression strength, based on a four-inch slump, of not less than 4,000 psi at 28 days and approved by the Village DPW and Village Engineer. Steel mesh reinforcement is required.
- D. Elevation: shall be in compliance with NYSDOT requirements. Where sections of sidewalk will be traversed by heavy vehicular traffic, the granular base course and the concrete thickness shall both be increased to a minimum of six inches.

§ 124-33. Sidewalk/drainage considerations.

Generally, drainage shall be directed away from the right-of-way.

§ 124-34. Interpretation and application.

These standards and specifications shall be interpreted to be the standards for streets and roads within the Village of Kiryas Joel and shall have precedence over any law, regulation or ordinance to the extent necessary to be so effective. Any variations of the standards and specifications cited herein shall be subject to the approval of the Village Board on the recommendation of the Village DPW and Village Engineer. The prescriptive rights set forth in Village Law § 6-626 shall be applicable to the full width of the right-of-way. Any improvements existing in the right-of-way shall be deemed amortized during such period. Any claim, proceeding or action for change of width must be presented within the time set forth in § 6-616. The failure to timely present a verified claim (not a notice of claim) may not be excused.

§ 124-35. Severability.

In the event that any part of these street specifications, or of any ordinance or regulation which may govern or otherwise affect them, if for any reason modified or invalidated, the other portions of said specifications not affected thereby shall remain in full force and effect.

§ 124-36. Effect on other provisions.

The Board of Trustees hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this chapter. The provisions of law intended to be superseded include all the Village Law and any other provision of law that the Village may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Village has failed to specify any provision of law that may require supersession. The Board of Trustees hereby declares that it would have enacted this chapter and superseded such inconsistent provision had it been apparent.

§ 124-37. (Reserved)

§ 124-38. (Reserved)

§ 124-39. (Reserved)

§ 124-40. (Reserved)

Article II. Street Openings and Excavations

§ 124-41. Purpose.

The purpose of this article is to regulate excavations in public streets, easements, rights-of-way, sidewalks and roads, which are maintained by the Village, through a permit process designed to ensure the safety, operation and proper completion of the work.

§ 124-42. Definitions.

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

APPLICANT

Any person, as defined herein, who makes application for a permit.

CURB CUT

The opening along the curblines at which point vehicles may enter or leave the street.

DRIVEWAY

A roadway intended to provide vehicular access from a Village street to a house or other development.

EMERGENCY

Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

PERSON

Any natural person, partnership, firm, association, corporation, utility corporation or authority created pursuant to law.

STREET

A public street, public easement, public right-of-way, sidewalk or public road which is accepted or maintained by the Village.

STREET OPENING

Any excavation, cutting or other construction that requires removal of part or all of the surface of a street.

DPW

The Department of Public Works in the Village or its authorized representative.

VILLAGE

The Village of Kiryas Joel, County of Orange, State of New York.

§ 124-43. Street openings.

- A. Permit required for openings. No person shall make any excavation or otherwise open any Village street without first obtaining a permit from the DPW as hereinafter regulated; provided, however, that any person maintaining any facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided that the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the DPW is open for business, and said permit shall be retroactive to the date when the work was begun.
- B. Applications for permits for street openings.
- (1) An application shall be filed in triplicate with the DPW and shall be accompanied by a plan showing in detail the following information as appropriate: the location of the proposed opening, the dimensions of such opening, a construction schedule, a short statement of the purpose for which the street is to be opened, the name of the owner for whom the work is to be done and the name of the contractor who is to perform the work, accompanied by the fee hereinafter provided, to be paid to the Village of Kiryas Joel and received by the Village Clerk. The DPW shall file a copy of the application with the Village Clerk and Village Engineer, together with a written report of action taken by the DPW.
 - (2) All applicants shall furnish a cash bond in the amount approved by the DPW of at least \$500 to be deposited with the Village Clerk, to assure that after completing the excavation or other work, the street or other public facility is in as good a condition as it was prior to the work. This provision shall not apply to a public utility company or to a developer who has posted a bond pursuant to the Village's development bond local law.
- C. Permit fee for street openings, excavations and pavement cuts. A nonrefundable permit fee set by resolution of the Village Board shall accompany each application submitted in accordance with this article. The fee will be filed with the Village Clerk, who will provide a receipt for the approved permit.

§ 124-44. Notice required.

For every street opening, every applicant shall give at least 72 hours' advance written notice, including a diagram, engineering drawings or the equivalent thereof, of a proposed excavation in any street, new driveway, new street or new curb cut to persons, corporations or municipalities engaged in the underground distribution of gas, electricity, water, sewage, etc., via lines or mains within the vicinity of the proposed excavation.

§ 124-45. Scheduling of work.

In the interest of efficiency and the proper maintenance and construction of streets and other facilities, the Village DPW is authorized to regulate the scheduling of all work conducted in accordance with this article in order to minimize the number of times a street must be opened. Accordingly, all applicants are encouraged to coordinate their work requiring the opening of streets.

§ 124-46. Commencement of work; termination of permit.

Work for which a permit has been issued shall commence within 30 days after the issuance of the permit. If not so commenced, the permit shall be deemed to be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

§ 124-47. Expiration of permit.

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee is unable to complete the work within the said time, he shall, prior to the expiration of the permit, present in writing to the DPW a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the DPW, such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work; such time shall be determined by the DPW.

§ 124-48. Public works under other jurisdiction.

The provisions of this article shall not be applicable in those instances where the street or highway is maintained by the State of New York or by the County of Orange.

§ 124-49. Revocation of permit.

- A. Any permit may be revoked by the DPW, upon notice to the permittee, for:
- (1) Violation of any condition of the permit or of any provisions of this article.
 - (2) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of other.
- B. A permittee may be granted a period of up to three days from the date of the notice to correct the violation.
- C. Written notice of any such violation shall be served upon the permittee or his agent engaged in the work. Notice may be given either by personal delivery or by certified mail.
- D. When any permit has been revoked and the work authorized by the permit has not been completed, the DPW shall cause such work to be done as may be necessary to restore the street or part thereof to as good a condition as before the curb cut for the street or driveway or the street opening was made, or construct or repair the new street to Village standards. All expenses incurred by the Village shall be recovered from the deposit or bond the permittee has filed with the Village. If the bond does not cover such expenses, the permittee shall reimburse the Village for any additional costs.

§ 124-50. Protection of excavations and construction.

Any person making an excavation covered by this article shall erect a suitable barrier or guard for the protection of persons using the streets or sidewalks and shall set up and maintain during the hours of darkness sufficient lights or flashers to properly illuminate the area. The permittee shall also take all necessary precautions for the protection of the Village and of public service companies or municipal districts and adjoining property owners and others which might be endangered by such excavations or the work incident thereto, and shall comply with all directions given by the DPW with respect to such barriers, lights, flares and protective measures. Traffic control devices shall be placed at least 100 feet in advance of all obstructions to adequately warn and direct traffic. The DPW reserves the right to order the immediate correction of any unsafe condition and order the installation of additional signs, lights or other traffic control devices or to require the assignment of a worker to direct traffic. Upon finding by the DPW that such

protective measures are not adequate, the Village may install such protective devices. The cost thereof shall be charged against the permittee's cash deposit or bond.

§ 124-51. Liability; insurance.

It shall be the duty and responsibility of any applicant to agree to save the Village, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit and shall provide a certificate of insurance evidencing that he is covered by public liability insurance in the limits of not less than \$3,000,000/\$1,000,000 bodily injury and \$500,000 property damage, which policy shall name the Village of Kiryas Joel, its officers, employees and agents as additionally named insured. The applicant must also file with the Village evidence of statutory coverage for workers' compensation and disability insurance. The acceptance of any permit under this article shall constitute such an agreement by the applicant, whether the same is expressed or not. Acceptance or approval by the Village of any work done pursuant to a permit is done by the Village pursuant to its general duties and shall not create any liability on the part of the Village and shall not be determinative of whether or not the work was properly completed.

§ 124-52. Inspection of completed work; refund of deposit.

Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening or the completion of the new street or driveway, the DPW shall inspect the completed work. If the work has been completed in accordance with this article, the Village shall then refund to the permittee his deposit, less any and all cost incurred by the Village in connection with said permit. Until the granting of such a refund, the permittee shall remain liable for proper guarding and protection as provided herein.

§ 124-53. Forfeiture of deposit.

- A. In the event that the street is not restored to its original condition or the work has not been completed pursuant to the terms and conditions of the permit within 10 days after notice from the Village DPW that the work has not been satisfactorily performed or the street is not in acceptable condition, the aforesaid deposit placed with the Village DPW shall be forfeited to the Village.
- B. The Village Board may thereafter order the Village DPW to collect, out of the moneys deposited, a sufficient sum of money to repair or replace the said street or other public facility or to complete the construction of a new road to the standards acceptable to the Village.

Chapter 125. STORMWATER MANAGEMENT

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 9-4-2007 by L.L. No. 6-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Building code administration — See Ch. 53.

Flood damage prevention — See Ch. 77.

Zoning — See Ch. 155.

125a Schedule A 

Article I. Findings; Purpose; Statutory Authority; Applicability; Exemptions

§ 125-1. Findings.

It is hereby determined that:

- A.

Land development activities and associated increases in site impervious may often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species; and may cause property damage;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Economic losses can result from adverse impacts on stormwater quantity and velocity and on the waters;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities is in the public interest and will help to reduce threats to public health and safety; and
- I. Regulation of land development activities by means of standards governing stormwater management and site design is intended to regulate development such that it is compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 125-2. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 125-1 hereof. This chapter seeks to meet those purposes by seeking to achieve the following objectives:

- A. Meet the minimum requirements for control of construction site and postconstruction runoff of the New York State SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01, as amended or revised;
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature and streambank erosion, and maintain the integrity of stream channels;
- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained.

§ 125-3. Statutory authority.

In accordance with the Municipal Home Rule Law of the State of New York, the Village of Kiryas Joel Village Board of Trustees has the authority to enact and amend local laws for the purpose of promoting the health, safety or general welfare of the Village of Kiryas Joel and for the protection and enhancement of its physical environment. The Board of Trustees may include in any such local law provisions for the appointment of any municipal officer, employee, or independent contractor to effectuate, administer and enforce such local law.

§ 125-4. Applicability.

- A. This chapter shall be applicable to all land development activities as defined in § 125-6 of this chapter.
- B. The Village shall designate a Stormwater Management Administrator who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Administrator may:
 - (1) Review the plans;
 - (2) Upon approval by the Board of Trustees, engage the services of a professional engineer to review the plans, specifications and related documents; and/or
 - (3) Accept the certification of a licensed professional that the plans conform to the requirements of this chapter and other applicable laws and regulations.
- C. All land development activities subject to review and decision by the applicable municipal board shall be reviewed pursuant to the standards contained in this chapter, and other applicable laws and regulations.
- D. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles I and II of this chapter shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved preliminary subdivision plat shall be consistent with the provisions of this chapter.
- E. A stormwater pollution prevention plan consistent with the requirements of Articles I and II of this chapter and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved final subdivision plat shall be consistent with the provisions of this chapter.
- F. A stormwater pollution prevention plan consistent with the requirements of Articles I and II of this chapter shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved site plan shall be consistent with the provisions of this chapter.
- G. No land development activity not subject to review as stated in Subsection C above shall be commenced unless and until the Village Planning Board has approved a stormwater pollution prevention plan (SWPPP) submitted to the Board.

§ 125-5. Exemptions.

The following activities may be exempt from review under this chapter:

- A. Agricultural activity as defined in this chapter.
- B. Alteration or maintenance of an existing structure which will not have an impact on the quantity or quality of the surface water discharge from the site.
- C. Routine maintenance activities that disturb less than one acre of land and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- D. Repair to any stormwater management practice or facility deemed necessary by the Building Inspector, Engineer or other person designated by the Board of Trustees.

- E. Land development activity that received approval by the Village Planning Board prior to the effective date of this chapter. However, said activity shall not be exempt from compliance with applicable state laws or regulations governing stormwater management and control.
- F. Land development activity for which a building permit has been approved prior to the effective date of this chapter. However, said activity shall not be exempt from compliance with applicable state laws or regulations governing stormwater management and control.
- G. Cemetery graves.
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activity immediately necessary to protect life, property or natural resources.
- J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- K. Landscaping and horticultural activities in connection with an existing structure, provided such activities do not disturb one acre or more of land.

Article II. Stormwater Control

§ 125-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY

The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover, including ground cover, shrubs, brush and trees.

DEDICATION

The appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

The New York State Stormwater Design Manual, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER

A person who undertakes land development activities.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that has or may be determined as a federal wetland; a New York State mapped wetland; or an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY

Construction activity including but not limited to, clearing, grading, excavating, blasting, soil disturbance or placement of fill that results in disturbance of one or more acre of land, or activity that disturbs less than one acre of land area that is part of a common plan of development or sale which will or has disturbed one or more acre of land, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, the developer, or any other person holding proprietary rights in the land.

MAINTENANCE DECLARATION

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified by the NYSDEC or Stormwater Management Administrator as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Coldwater fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed and operated for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT ADMINISTRATOR

The Building Inspector, engineer or other person designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 125-7. Stormwater pollution prevention plans.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall receive approval until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.
- B. Contents of stormwater pollution prevention plans. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type and size of project.
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s) (Site map should be at a scale no smaller than one inch equals 100 feet.);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project closeout;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

- (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (13) Name(s) of the receiving water(s);
 - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable;
 - (16) Any existing data that describes the stormwater runoff at the site; and
 - (17) Any additional information shall be provided if requested by the Stormwater Management Administrator.
- C. Land development activities as defined herein and meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Subsection **D** below as applicable:
- (1) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B: stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
- D. SWPPP requirements for Conditions A, B and C:
- (1) All information in § **125-7B** of this chapter;
 - (2) Description of each postconstruction stormwater management practice;
 - (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
 - (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
 - (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
 - (6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
 - (7) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
 - (8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property; and
 - (9) Inspection and maintenance declaration binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § **125-9D** of this chapter.

- E. Plan certification. The SWPPP shall be prepared by a certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.
- F. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- G. Contractor certification.
 - (1) Each contractor and subcontractor who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- H. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 125-8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter. These documents are on file in the Village Building Department.
 - (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").
 - (2) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Water quality standards. No land development activity may cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 125-9. Maintenance and repair of stormwater facilities.

- A. Maintenance during construction.
 - (1) The applicant and developer of the land development activity shall at all times properly construct, operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) The applicant or developer or representative identified in the SWPPP shall be on site at all times when land development activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days, in addition, and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Administrator and also copied to the site logbook.

- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement declaration that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village and its agents to determine whether the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices shall be operated and maintained in compliance with the SWPPP and all other conditions of approval. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations.
- D. Maintenance declarations. The property owner shall execute a formal maintenance declaration for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance declaration shall be consistent with the terms and conditions of Schedule A annexed as part of this chapter, entitled "Sample Stormwater Control Facility Maintenance Declaration."
- Editor's Note: Said schedule is included at the end of this chapter.*
- The terms and conditions of Schedule A may be amended from time to time by resolution of the Village Board of Trustees. The Village, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 125-10. Administration and enforcement.

- A. Construction inspection.
- (1) Erosion and sediment control inspection.
 - (a) The Village of Kiryas Joel may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant where the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Kiryas Joel enforcement official at least 48 hours before any of the following:
 - [1] Start of construction;
 - [2] Installation of sediment and erosion control measures;
 - [3] Completion of site clearing;
 - [4] Completion of rough grading;
 - [5] Completion of final grading;
 - [6] Close of the construction season;
 - [7] Completion of final landscaping;
 - [8] Successful establishment of landscaping in public areas.

- (b) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until all violations are corrected and all work previously completed has received approval by the Stormwater Management Administrator.
- (2) Stormwater management practice inspections. The Village of Kiryas Joel Stormwater Management Administrator is authorized to conduct inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices constructed or located on site and off site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- B. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
- C. Submission of reports. The Stormwater Management Administrator may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- D. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Village of Kiryas Joel, its officers, employees and agents, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection **B** above.
- E. Performance guarantee.
 - (1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Kiryas Joel in its approval of the stormwater pollution prevention plan, the Village of Kiryas Joel may require the applicant or developer to provide, prior to construction, a cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Kiryas Joel as the beneficiary. The security shall be in an amount to be determined by the Village of Kiryas Joel based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Kiryas Joel, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Village of Kiryas Joel.
 - (2) Performance and maintenance guarantee. The developer, prior to construction, shall be required to provide the Village of Kiryas Joel with a performance and maintenance bond to ensure proper construction, operation and maintenance of all stormwater management and erosion control facilities, both during and after construction. If the developer's successor(s) fails to properly construct, operate and maintain stormwater management and/or erosion and sediment control facilities, the Village, its officers, employees and agents, may enter upon the property and perform any work necessary to cause proper construction, operation and/or maintenance of the facilities, and may draw upon the account of the bond to cover all such costs, including legal, engineering and inspection costs. The maintenance bond shall cover the estimated cost of properly maintaining the system for five years after substantial completion of construction.
- F.

Recordkeeping. The Village of Kiryas Joel may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 125-11. Enforcement; penalties for offenses.

- A. This chapter may be enforced by the Stormwater Management Administrator. The Stormwater Management Administrator is authorized to issue and serve appearance tickets in connection with violations of this chapter.
- B. It shall be a violation of this chapter if any land development activity or any other disturbance of land does not fully comply with the requirements of this chapter, or with the terms or provisions of the SWPPP, or with any lawful order or notice issued by the Stormwater Management Administrator.
- C. Notice of violation. If the Village determines that a violation has occurred, the Stormwater Management Administrator may issue a written notice of violation. The notice of violation should generally contain:
 - (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action; and
 - (5) A statement of the penalty or penalties that may be assessed against the person(s) to whom the notice of violation is directed.
- D. Stop-work orders. The Stormwater Management Administrator may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those permitted activities that remedy the violation(s) causing issuance of the stop-work order. The stop-work order shall be in effect until the Stormwater Management Administrator confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to remedy a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- E. Violations and penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 14 days, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 14 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 14 days, or both. Each day's continued violation shall constitute a separate additional violation.
- F. Civil penalties.
 - (1) In addition to and not in lieu of the above, any person who violates any provision of this chapter or who builds or alters any structure or use of land in violation of any statement or plan submitted and approved thereunder who assists therein shall be liable to the Village for a civil penalty in an amount not to exceed \$350 for a first violation; in an amount not less than \$350 nor more than \$700 for a second violation committed within a period of five years of the first violation; and in an amount of not less than \$700 nor more than \$1,000 for a third and each subsequent violation committed within a period of five years of the first violation. Each week's continued violation shall constitute a separate additional violation.
 - (2) Civil penalties may be ordered in any action or proceeding by any court of competent jurisdiction, including but not limited to state and federal courts. All penalties shall be paid to the Village.

- (3) The judgment amount of any civil penalty ordered pursuant to this section, if not paid, may be assessed and levied against the real property which is the subject of the penalty and collected in the same manner as a real property tax.
- G. In addition to and not in lieu of the remedies authorized above, the Board of Trustees or the Enforcement Officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or threatened violation of this chapter or to enforce any provision of this chapter.
- H. In addition to and not in lieu of the remedies authorized above, where a violation of this chapter may cause injury or damage to public or private property or to the public interest or environment or may cause, in whole or in part, noncompliance by the Village with stormwater or erosion control requirements, then, after due notice and opportunity to be heard is given the violator, the Village, its officers, employees and agents, shall have the authority to enter upon private property and take necessary corrective and restorative action to remedy such violation. All costs of such Village action, including but not limited to corrective, engineering, legal and administrative costs, shall be billed to the owner of the property. If not paid, such costs may be assessed and levied against the property and collected in the same manner as real property tax. In the event of an emergency, the Village shall be authorized to enter upon the property and take action without notice to the property owner or opportunity to be heard.
- I. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, no certificate of occupancy shall be issued and no building or land shall be occupied.
- J. Restoration of lands. Any violator of this chapter may be required to restore land to its undisturbed or prior condition. In the event that restoration is not undertaken within a reasonable time after notice and opportunity to be heard, the Village, its officers, employees and agents shall have the authority to enter upon the private property and take necessary corrective and restorative action to remedy violations of this chapter. All costs of such Village action, including but not limited to corrective, engineering, legal and administrative costs, shall be billed to the owner of the property. If not paid, such costs may be assessed and levied against the property and collected in the same manner as real property tax.

§ 125-12. Fees for services.

The Village of Kiryas Joel may require any person undertaking land development activities regulated by this chapter to reimburse to the Village the Village's reasonable costs for review of SWPPPs, inspections, or SMP maintenance performed by or on behalf of the Village.

Chapter 127. SWIMMING POOLS

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 7-29-1993 as L.L. No. 11-1993. *Editor's Note: This local law also provides that it shall supersede § 4-4.14 of the Village Law to the extent any provision of this law is adjudged inconsistent or in conflict therewith.* Amendments noted where applicable.]

§ 127-1. Legislative intent.

The Board of Trustees of the Village of Kiryas Joel finds, due to the densely compacted residential development and the very high population of small children in the village, that outdoor swimming pools pose a hazard to the safety, health and welfare of village residents. This Board finds that 62.9% of the total population of the village consists of children 17 years old and under, compared to 27.6% in the rest of Orange County. The residential density of the village is 1,332 dwelling units per 850 acres. The Board finds that due to the close proximity of residential buildings and small yards, swimming pools, even if enclosed with fences, cannot be properly and safely monitored to safeguard the children of the village. This Board finds that a private outdoor swimming pool is not an inalienable property right and that the privilege of owning an outdoor pool must give way to the overriding concern of child safety. This Board further finds that swimming pools in lawful existence and in regular use on the effective date of this chapter may remain; however, all such pools must be fully and securely enclosed to prevent entry to the pool.

§ 127-2. Prohibition.

No outdoor swimming pool, whether above or below ground, shall be permitted, except wading pools no larger than eight feet in diameter or similar size and 18 inches deep.

§ 127-3. Special circumstances.

Upon petition to the Board of Trustees and upon a showing of special circumstances, the Board of Trustees may allow a private outdoor swimming pool, on a case-by-case basis, subject to terms and conditions imposed by the Board and subject to compliance with the State Uniform Fire Prevention and Building Code and other applicable state codes.

§ 127-4. Existing swimming pools.

Any swimming pool lawfully in existence and in regular use on the effective date of this chapter may remain in use. Any such pool must be fully and securely enclosed by an eight-foot-high stockade fence. Further, all such pools must comply with the State Uniform Fire Prevention and Building Code and other applicable state codes.

§ 127-5. Enforcement; penalties for offenses; remedies.

- A. This chapter shall be enforced by the Code Enforcement Officer and any other person authorized by resolution of the Board of Trustees.
- B. Any violation of any provision of this chapter or of any lawful order of an enforcement officer shall be deemed a violation of this chapter. The owner, occupant and/or tenant of the premises shall be jointly and severally liable for any violation.
- C. Upon determination that a violation of this chapter exists, the Code Enforcement Officer shall serve a written notice of violation which orders the remedying of the violation. Such order shall state the nature of the violation and the provision or term violated and shall set a date as may be reasonably necessary for achieving compliance before proceedings to compel compliance or assess penalties shall be instituted. Such order shall be served personally or by certified mail to the last known address of the property owner and/or occupant. If service is by certified mail, then a copy of the notice of violation shall be posted at the premises where the violation exists.
- D. Any person, firm or corporation who or which violates this chapter shall be liable to the village for a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. Said civil penalties shall be recoverable in an administrative proceeding held by and before the Board of Trustees pursuant to the following procedure:
 - (1) Whenever a violation has not been remedied within the time specified in the notice of violation, an enforcement officer may issue an order to show cause before the Board of Trustees why such penalties should not be imposed.
 - (2) Service of order to show cause.
 - (a) Such order to show cause shall be served personally or by mailing a copy of such order by certified mail to the property owner and occupant, to their last known addresses as shown by the records of the village, and by posting a copy of such order on said premises.
 - (b) A copy of said order may be filed in the County Clerk's office, which order shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided. An order so filed shall be effective for a period of one year from the date of filing. It may be terminated upon an order of a Judge or Justice of a court of record or upon the written consent of the attorney for the village. The County Clerk shall mark the order to show cause and any record or docket thereof as canceled of record upon the presentation and filing of a certified copy of such judicial order of such consent.

- (3) Content of order. Said order to show cause shall state the nature of the violation; the provision or term violated; and the date, time and place for a hearing before the Board of Trustees. The hearing shall be set for a date not less than seven days after the date of the order to show cause is mailed.
 - (4) Conduct of hearing.
 - (a) The Board of Trustees shall conduct a hearing at the date, time and place specified in the order to show cause. The hearing may be adjourned from time to time and shall continue until interested persons subject to the order to show cause are heard. No formal rules of evidence shall apply nor shall a stenographic transcript be required.
 - (b) The property owner, occupant and any others subject to the order to show cause may be represented by an attorney and shall have the right to present evidence and examine witnesses to show why penalties should not be assessed and/or why an order to remove an emergency condition should be modified or withdrawn.
 - (c) After the hearing is closed, the Board of Trustees shall make findings and make a determination. Such determination shall indicate the basis and reason for the decision, shall state the dollar amount of any fine(s) imposed and shall be supported by substantial evidence.
 - (d) Any fines imposed plus, if any fine is imposed, the costs to the village of the proceeding, including but not limited to attorneys' fees and administrative costs, shall be immediately due and payable. Administrative costs shall be determined from time to time by resolution of the Board of Trustees.
 - (e) The determination of the Board of Trustees may be reviewed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is commenced within 30 days of such determination. Judicial review shall not stay any stop-work order or stay payment of any fine and costs imposed.
 - (5) Assessment of fines and costs. All fines and all costs incurred by the village in connection with the administrative proceeding, if unpaid, shall be a lien on the real property and shall be assessed against such property, together with nine-percent interest per annum, and shall be levied and collected in the same manner as real property taxes.
- E. Correction of violation by village.
- (1) Compliance with this chapter is required in the interest of the public safety, health and welfare. Notwithstanding any other provision herein, if a property owner fails to correct a violation after notice of the same, the village and its agents shall have the right to enter upon the property and perform the work necessary to correct the violation. The property owner shall be responsible and liable for all costs incurred by the village in connection therewith. If not paid, said costs shall be a lien on the real property and shall be assessed against such property, together with nine-percent interest per annum, and shall be levied and collected in the same manner as real property taxes.
 - (2) The abatement, removal or repair of any nuisance, hazard or other such condition by the Village of Kiryas Joel or its agents shall not operate to excuse the owner, tenant or occupant from properly maintaining any premises as required by this chapter, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any penalties provided for herein.
- F. Alternatively or in addition to the remedies provided by Subsections **D** and **E**, the Board of Trustees or Code Enforcement Officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or enforce any provision of this chapter.

Chapter 129. TAXATION

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

Article I. Furnishing of Utility Services

[Adopted 11-20-1978 by L.L. No. 2-1978]

§ 129-1. Imposition of tax.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of January, nineteen hundred seventy-nine, is hereby imposed upon every utility doing business in the Village of Kiryas Joel which is subject to the supervision of the State Department of Public Service, which has a gross income for the 12 months ending December 31 in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law; and a tax equal to 1% of its gross operating income from and after the first day of January nineteen hundred seventy-nine, is hereby imposed upon every other utility doing business in the Village of Kiryas Joel which has a gross operating income for the 12 months ending December 31 in excess of \$500; which taxes shall have application only within the territorial limits of the Village of Kiryas Joel and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Kiryas Joel, New York, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

§ 129-2. Definitions.

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

GROSS INCOME

Includes receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income), made or service rendered for ultimate consumption or use by the purchaser in the Village of Kiryas Joel, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also, receipts from interest, dividends and royalties derived from sources within the Village of Kiryas Joel other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction (except sales for resale and rentals) within the Village of Kiryas Joel whatsoever; provided, however, that the words "gross income" shall include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of Kiryas Joel, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of Kiryas Joel.

GROSS OPERATING INCOME

Includes receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the Village of Kiryas Joel, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever.

PERSON

Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity and persons, their assignees, lessees, trustees

or receivers, appointed by any court whatsoever, or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality and public districts.

UTILITY

Includes every person subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or furnished gas, electric, steam, water, refrigerator, telephone or telegraph service, by means of mains, pipes or wires; regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.

§ 129-3. Utility to keep records.

Every utility subject to tax under this Article shall keep such records of its business and in such form as the Treasurer of the Village of Kiryas Joel may require, and such records shall be preserved for a period of three years, except that the Treasurer of said village may consent to their destruction within that period or may require that they be kept longer.

§ 129-4. Annual filing required.

Every utility subject to tax hereunder shall file annually, on or before the 25th day of March a return for the 12 calendar months preceding such return date or any portion thereof for which the tax imposed hereby is effective; provided, however, that in lieu of the annual return required by the foregoing provisions, any utility may file quarterly, on or before March 25th, June 25th, September 25th and December 25th, a return for the three calendar months preceding each such return date, and in case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Treasurer of the Village of Kiryas Joel on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Treasurer of said village, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and he may require any utility doing business in the Village of Kiryas Joel to file an annual return, which shall contain any data specified by him, regardless of whether the utility is subject to tax under this Article. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a copartner thereof, or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

§ 129-5. Payment of tax.

At the time of filing a return as required by this Article, each utility shall pay to the Treasurer of the Village of Kiryas Joel the tax imposed by this Article for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§ 129-6. Unsatisfactory returns; hearing; assessment of additional tax.

- A. In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Treasurer of the Village of Kiryas Joel, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him, or if no return is made for any period, the Treasurer of said village shall determine the amount of tax due from such information as he is able to obtain and if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Treasurer of said village for a hearing, or unless the Treasurer of said village of his own motion shall reduce the same. After such hearing, the Treasurer of said village shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York, if application therefor is

made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall first be deposited with the Treasurer of the Village of Kiryas Joel and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding; or, at the option of the applicant, such undertaking may be in sum sufficient to cover the tax, interest, penalties, cost and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.

- B. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as required by this Article, the tax may be assessed at any time.

§ 129-7. Notice requirements.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the persons for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this Article or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this chapter by the filing of notice, shall commence to run from the date of mailing of such notice.

§ 129-8. Failure to file return or pay tax.

Any person failing to file a return or a corrected return, or to pay any tax or any portion thereof, within the time required by this Article, shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed on such tax became due; but the Treasurer of the Village of Kiryas Joel, for cause shown, may extend the time for filing any return and if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

§ 129-9. Refunds.

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Treasurer of the Village of Kiryas Joel or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Treasurer of said village shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Treasurer of said village. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Treasurer of said village as hereinbefore provided, unless the Treasurer of said village, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this Article. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of, and the Treasurer of said village may receive additional evidence with respect thereto. After making his determination, the Treasurer of said village shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78 of the Civil Practice Law and Rules, subject to the provision hereinbefore contained relating to the granting of such an order.

§ 129-10. Action to enforce payment.

Whenever any person shall fail to pay any tax or penalty imposed by this Article, the attorney for the village shall, upon the request of the Treasurer of the Village of Kiryas Joel, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Treasurer of said village. Each such tax and

penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

§ 129-11. Tax to be charged against utility.

The tax imposed by this Article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 129-12. Treasurer to make rules and regulations.

In the administration of this Article, the Treasurer of the Village of Kiryas Joel shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this Article and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 129-13. Confidentiality.

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Treasurer of the Village of Kiryas Joel, or any agent, clerk or employee of the Village of Kiryas Joel, to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this Article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Kiryas Joel in an action or proceeding under the provisions of this Article or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this Article when the returns or facts shown thereby are directly involved in such action or proceeding; in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby as are pertinent to the action or proceeding, and no more.
- B. Nothing herein shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this Article, together with any relevant information which in the opinion of the Treasurer of said village may assist in the collection of such delinquent taxes, or the inspection by the attorney for the village or other legal representatives of the Village of Kiryas Joel of the return of any person who shall bring action to set aside or review the tax based thereon, or against whom an action has been instituted in accordance with the provisions of this Article.
- C. Any offense against the foregoing secrecy provisions of this Article shall be punishable by a fine not exceeding \$500 or by imprisonment not exceeding three months or both, and if the offender be an officer, agent, clerk or employee of the Village of Kiryas Joel, he shall be dismissed from office and shall be ineligible to hold any office or employment in the Village of Kiryas Joel for a period of two years thereafter.
- D. Notwithstanding any provisions of this Article, the Treasurer of said village may exchange with the chief fiscal officer of any city or any other village in the State of New York information contained in returns filed under this article, provided that such city or other village grants similar privileges to the Village of Kiryas Joel, and provided that such information is to be used for tax purposes only; and the Treasurer and said village shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§ 129-14. Taxes to be paid into Village Treasury.

All taxes and penalties received by the Treasurer of the Village of Kiryas Joel under this article shall be paid into the Treasury of the village and shall be credited to and deposited in the general fund of the village.

Article II. Exemption for Cooperative, Condominium, Homesteading and Rental Projects

§ 129-15. Eligible projects.

Any cooperative, condominium, homesteading or rental project which receives payments, grants or loans pursuant to Article XVIII of the Private Housing Finance Law or any new construction project which receives payments, grants or loans pursuant to Article XIX of the Private Housing Finance Law shall be exempt from taxation pursuant to Real Property Tax Law § 421-e as provided in this article.

§ 129-16. Exemption granted.

Eligible projects, as set forth in § 129-15, shall be exempt from all of the taxes imposed by a municipality, whether a county, town or village, including those imposed by a school district, other than assessments for local improvements, for the period set forth in § 129-17. For purposes of this article, assessments for local improvements shall include, without limitation, taxes and assessments for improvements which are eligible for assessment pursuant to Village Law Article 22, entitled "Local Improvements."

§ 129-17. Period of exemption.

The period of such exemption shall not exceed 20 years in the aggregate after the initial taxable status date following completion of the project wherein such exemption is effective. Such exemption shall not exceed:

- A. Followed by 12 years of full exemption;
- B. Followed by two years of 80% exemption;
- C. Followed by two years of 60% exemption;
- D. Followed by two years of 40% exemption;
- E. Followed by two years of 20% exemption.

§ 129-18. Termination of exemption; registration of projects.

- A. Such exemption shall cease if the eligible project ceases to be subject to one or more provisions of Article XVIII of the Private Housing Finance Law, pursuant to the provisions of Paragraph c of Subdivision 6-a of § 1102 of the Private Housing Finance Law.
- B. Eligible projects shall enter an agreement with the village which shall provide for the registration of all eligible projects and provide, inter alia, for reports and information to be filed with the village prior to January 1 of each year for which exemption is sought. Such agreement shall provide that the village be notified immediately if the project ceases to be eligible for exemption as provided herein. Upon certification by the village of a project's eligibility, a copy of this article and such certification for such project attested to by the Village Clerk may be filed with any assessing unit wherein the project is located to effectuate the exemption.

§ 129-19. Nonexclusivity.

The tax exemption authorized by this article shall be in addition to any other tax exemption or abatement authorized by law.

Chapter 134. TAXICABS

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 8-14-1985 by L.L. No. 1-1985; amended in its entirety 9-4-2007 by L.L. No. 5-2007. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 140.

§ 134-1. Definitions.

The following words, for the purpose of this chapter, shall have the meanings herein indicated:

BUSINESS

One or more acts relating to transporting a passenger or passengers for hire.

CRUISING

The driving of a taxicab upon a street for the purpose of soliciting or the plying of prospective passengers for hire.

DRIVER

Any person driving a taxicab for hire upon a street.

OPERATE

The picking up of a passenger for hire within the Village, whether such passenger is discharged at a destination within the Village or without the Village. Nothing in this chapter shall apply to abridge, limit or regulate the right of any person not licensed hereunder to convey passengers by taxicab or limousine from points of origin outside the Village to points of destination within the Village or through the Village.

OWNER

Any person owning one or more taxicabs and driving or causing any such vehicle to be driven upon the street for hire. "Owner" shall also include a purchaser under a reserve title contract, conditional sales agreement or vendor's lien agreement and the lessee of any such vehicle or vehicles.

PASSENGER

A person other than the driver who is an occupant of a taxicab. For the purpose of this chapter, such person or persons shall be presumed to be passenger for hire.

PERSON

An individual, firm, partnership, unincorporated association, corporation or any other legal entity.

STREETS

Any street, highway, avenue or other public thoroughfare located within the Village.

TAXICAB

A motor vehicle used in the business of carrying passengers for hire, other than a limousine, and not operated on a fixed route.

TAXI STAND

A public place alongside the curb of a street or elsewhere which has been so designated by the Village Board.

TERMINAL

A fixed base of operation of the owner of a taxicab or limousine.

VILLAGE

The Village of Kiryas Joel.

§ 134-2. License required.

- A. No person shall own or keep for hire within the limits of the Village any taxicab on or along any street in the Village without first obtaining the license hereinafter provided for. No person shall drive any vehicle for hire without first obtaining the license hereinafter provided for.
- B. The Village Clerk is hereby authorized to issue such licenses as are hereinafter provided for upon receipt of a proper application countersigned and approved by the Board of Trustees of the Village and the payment of the annual fee.
- C. Annual fee shall be fixed from time to time by resolution of the Board of Trustees.

§ 134-3. Refusal and revocation of license.

- A. Any licenses required by this chapter may, for any good and sufficient reason, be refused to any applicant. The Board of Trustees may limit the number of taxi licenses issued pursuant to this chapter if the Board, after reviewing Village population, traffic congestion, needs of public convenience and necessity for taxi services and other relevant factors, determines that it is in the best interest of the Village to limit the number of taxi licenses.
- B. Any license that has been granted may, before the expiration thereof, be revoked by the Board of Trustees of the Village for good cause shown.

§ 134-4. Insurance requirements.

Each applicant shall, before the issuance to him of a license under this chapter or any renewal thereof, file with the Village Clerk a certificate of insurance that the applicant and each motor vehicle is insured against public liability in an amount not less than the minimum limits required by the laws of the State of New York for personal injury and property damage or such minimum amounts determined by the Board of Trustees, whichever is greater. The insurance policy shall be maintained in force during the period covered by the license. Such certificate and insurance policy shall provide that the Village shall be given 30 days prior written notice of cancellation. Such policy shall not be cancelled or suspended either by the insured or the insurer unless at least 30 days' notice, in writing, of the intention to cancel or suspend such policy has been filed with the Village Clerk. Upon suspension or cancellation of insurance, the license of said operator shall stand suspended until such time as an acceptable policy or certification of insurance shall be on file with the Village Clerk.

§ 134-5. Application for taxi owner's license.

Every person applying for an owner's license shall file, together with the fees for such license, with the Village Clerk a written application upon forms to be furnished by the Village Clerk, verified under oath, stating:

- A. The name and address of the applicant, specifying, in the case of any unincorporated association, the name and address of each member thereof, and, in the case of a corporation, the name and address of each officer, director and shareholder owning 20% or more of the shares thereof.
- B. A complete statement by the applicant specifying the amounts of all unpaid judgments against the applicant and the nature of the transaction or acts giving rise to said judgments and the name and location of the court in which and the date on which each was entered.
- C. All motor vehicle-related misdemeanors or felonies of which the applicant, or any member thereof if an unincorporated association, or any officer, director and shareholder owning 20% or more of the shares thereof if a corporation, has been convicted. The applicant shall state the name and location of the court, the date of such conviction and the sentence imposed.
- D. The experience in the transportation of passengers of the applicant, or of each member thereof if an unincorporated association, or of each officer, director and stockholder owning 20% or more of the shares thereof if a corporation.
- E. That the public convenience and necessity require the granting of a license.

- F. Any trade name under which the business is operated, together with a certified copy of the certificate thereof on file with the County Clerk.
- G. The number of vehicles to be operated by the applicant and description of each such vehicle, including the make, model, passenger seating capacity, year of manufacture, copies of a current New York State registration of a type which permits the use of the vehicle as a taxicab, vehicle identification number and, if it has ever been in any accident, the date and nature of the accident and a description of the damage done to such vehicle.
- H. The age of the applicant, or of each member thereof if an unincorporated association, or of each officer, director and shareholder owning 20% or more of the shares thereof if a corporation.
- I. The location of any and all taxi stands proposed to be established by the applicant and terminals proposed to be used by the applicant.
- J. Any other relevant information which the Village Clerk may require.

§ 134-6. Requirements for vehicle substitution.

Any motor vehicle licensed under this chapter may be withdrawn from service during the term of the license and some other motor vehicle substituted in the place thereof, provided that notice is filed with the Village Clerk with the information required by § 134-5G and authorization is obtained from the Village Clerk before such substituted vehicle is placed in service. The requirements for the substituted vehicle shall be the same as the requirements hereinbefore specified for the vehicle originally licensed with sticker issued at no charge.

§ 134-7. Application for driver's license.

- A. Every person applying for a taxi driver's license shall file with the Village Clerk a written application upon forms to be furnished by the Village Clerk. The application shall contain the applicant's name and address, his age, the number and photocopy of his chauffeur's license issued by the State of New York, the name and address of his employer, if any, and such other information as may be required by the Board of Trustees. Each applicant shall also furnish not fewer than two unmounted photographs, two inches by three inches in size, which shall be recent photographs and be a substantial likeness of the applicant.
- B. Each applicant shall also present recommendations of two people certifying the good character of the applicant.
- C. Authorization for the Village to obtain a copy of the applicant's driving record and criminal history from the New York State Department of Motor Vehicles.
- D. Medical certification.

§ 134-8. Expiration of licenses; fees.

- A. All licenses issued under this chapter shall expire on May 31 following the date of issuance.
- B. The annual license fees shall be set by resolution of the Board of Trustees from time to time as follows:
 - (1) Taxicab driver's license: not less than \$75 per year.
 - (2) Taxicab owner's license: not less than \$500 per year for the first vehicle and \$25 per year for each additional taxicab.

§ 134-9. Rules and regulations for licensees.

The following regulations shall apply to all licenses and to all persons holding any license or licenses issued pursuant to this chapter.

- A. Every taxicab licensed under this chapter shall have affixed in a conspicuous place in the interior thereof the license issued by the Village Clerk and the taxicab driver's license of the person driving and operating the same. Each vehicle must also display the company name and vehicle number in the front and back of the vehicle. Vehicle numbers shall not be less than six inches by four inches in size.
- B. No taxicab driver shall induce any person to be carried by any taxicab by willful misrepresentation.
- C. Every taxicab owner shall keep the inside of taxicabs operated in his business in a clean and sanitary condition, and every driver shall at least once a day thoroughly clean the inside of every taxicab operated by him that day.
- D. Every taxicab shall provide windows in the tonneau or passenger section of the cab sufficient in number and of such size and dimensions so that at all times persons may be readily seen through the windows with sufficient distinctiveness as to identify such persons. Taxicabs shall not have tinted windows.
- E. No taxicab driver shall cruise in search of passengers.
- F. No taxicab driver shall drive or operate a taxicab while he is under the influence of alcohol or any other controlled substance, nor shall he drink intoxicating liquor or take any controlled substance while on duty. A taxicab driver shall be deemed to be under the influence of alcohol and/or a controlled substance if the driver does not satisfy the most stringent standards found in the New York Vehicle and Traffic Law.
- G. No taxicab driver shall at any time so fasten or lock the doors on the cab that it is impossible for a passenger to open the same from the inside, and every cab shall be provided with means for fastening the doors so that they may be readily opened on the inside by a passenger.
- H. All taxicab drivers shall neither refuse nor neglect to convey any orderly person or persons upon request, unless presently engaged or unable to do so due to his physical condition or the condition of the vehicle.
- I. All taxicab owners shall keep a written record of all taxicab calls on a form approved by the Village Clerk, and all records must be kept for at least one year.
- J. Every taxicab driver shall deliver any property left by a passenger to the Village Hall within 24 hours of its discovery.
- K. No taxicab driver or owner shall permit any other person to use his license.
- L. No taxicab driver shall operate any cab for more than 12 hours continuously in any twenty-four-hour period.
- M. Every taxicab driver shall, at the start and conclusion of each period of duty, inspect all lights on the taxicab he has been driving, test the horn or other signaling device and report any failures, together with any brake failures or other mechanical failures, to his employer, and any and all such failures shall be corrected before the cab is again placed in service.

§ 134-10. Annual taxicab inspection.

All taxicabs shall be inspected at least once a year or upon the receipt of a complaint by the Village. The annual inspection shall be made at the time of license renewal. If a taxicab shall be found not reasonably safe for operation, the Village shall order the cab withdrawn from service, and it shall not thereafter be used or operated as a taxicab until such defects are remedied and approved by the Village Trustees.

§ 134-11. Penalties for offenses.

- A. Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$500 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

- B. The Board of Trustees may also impose administrative fines in similar amount to those set forth above, the payment of which shall be a condition of holding a license.
- C. In addition or as an alternative to the above-provided penalties, the Board of Trustees may also maintain an action or proceedings in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.
- D. Any taxi license holder or driver, employee or agent of any taxi license holder issued pursuant to this chapter who is found to be in violation of any section of this chapter by the Board of Trustees shall have his taxi license revoked.

Chapter 140. VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 5-12-1992 as L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Taxicabs — See Ch. 134.

Article I. General Provisions

§ 140-1. Definitions.

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE

The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.

OFFICIAL TIME STANDARD

Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 140-2. Authority to install traffic control devices.

The Board of Trustees of the Village of Kiryas Joel shall provide for the installation and maintenance of traffic control devices when and as required under the provisions of this chapter, to make effective the provisions of this chapter, and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

§ 140-3. Schedules; adoption of regulations.

- A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VII of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.
- B. Regulations shall be adopted by the Board of Trustees in accordance with provisions of the Village Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Board of Trustees to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

§ 140-4. Amendment of regulations.

The schedules contained in Article VII of this chapter for the recording of regulations adopted pursuant to the provisions of this chapter may be amended or added to from time to time by resolution of the Board of Trustees.

Article II. Traffic Regulations

§ 140-5. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (§ 140-26), attached to and made a part of this chapter

§ 140-6. Speed limits.

The maximum speed at which vehicles may proceed on or along any streets or highways within the village is hereby established at 25 miles per hour, except that the speed limit for vehicles proceeding on or along those streets or parts of streets described in Schedule II (§ 140-27) shall be as indicated in said schedule.

§ 140-7. One-way streets.

The streets or parts of streets described in Schedule III (§ 140-28), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

§ 140-8. Prohibited turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule IV (§ 140-29), attached to and made a part of this chapter.

§ 140-9. Stop intersections.

The intersections described in Schedule V (§ 140-30), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 140-10. Yield intersections.

The intersections described in Schedule VI (§ 140-31), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 140-11. Truck route system.

- A. A truck route system upon which all trucks, tractors and tractor-trailer combinations having a total gross weight in excess of five tons are permitted to travel and operate shall be as set forth in Schedule VII (§ 140-32).
- B. All trucks, tractors and tractor-trailer combinations having a total gross weight in excess of five tons are hereby excluded from all streets except those streets listed in Schedule VII, except that this exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the street from which such vehicles and combinations are excluded.

§ 140-12. Vehicular weight limits.

[Added 5-21-1993 by L.L. No. 6-1993]

- A. All motor vehicles in excess of the gross weights indicated are hereby excluded from all streets or parts of streets described in Schedule XIII (§ 140-38.).
- B. The regulations established in this section shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.

Article III. Parking, Standing and Stopping

§ 140-13. Application of Article.

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 140-14. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule VIII (§ 140-33), attached to and made a part of this chapter.

§ 140-15. No standing.

No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule IX (§ 140-34), attached to and made a part of this chapter.

§ 140-16. Parking prohibited certain hours.

No person shall park a vehicle between the hours specified in Schedule X (§ 140-35), of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said Schedule X, attached to and made a part of this chapter.

§ 140-17. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XI (§ 140-36) at any time between the hours listed in said Schedule XI of any day, unless otherwise indicated, upon any of the streets or part of streets described in said Schedule XI, attached to and made a part of this chapter.

§ 140-18. Loading zones.

The locations described in Schedule XII (§ 140-37), attached to and made a part of this chapter, are hereby designated as loading zones.

Article IV. Removal and Storage of Vehicles

§ 140-19. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway or public parking lot within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Board of Trustees.
- B. When any vehicle is found unattended on any highway or public parking lot within the village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Board of Trustees.

§ 140-20. Storage and charges.

After removal of any vehicle as provided in this Article, the Board of Trustees may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom stored of the amount of all expenses actually and necessarily incurred in effecting such removal and storage.

§ 140-21. Notice of removal.

It shall be the duty of the Village of Kiryas Joel Village Clerk to ascertain to the extent possible the owner of the vehicle or the person having the same in charge and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same.

Article V. Regulations During Removal of Snow

§ 140-22. Interference with snow removal operations.

It shall be unlawful for any persons to interfere with, impede, obstruct, hinder, interrupt or delay any vehicles or equipment engaged or used in the operation of plowing snow or of removing snow from any public road or street or from any part thereof within the corporate limits of the Village of Kiryas Joel, New York.

§ 140-23. Parking prohibited until streets cleared.

It shall be unlawful for any person to place, park or leave any automobile, truck or other vehicle on any public road or street within the corporate limits of the Village of Kiryas Joel, New York, after a fall or precipitation of snow of three inches or more and thereafter until the snow has been removed or cleared from such public road or street unless such automobile, truck or other vehicle is at all times attended by and in charge of a person capable of operating it.

§ 140-24. Owners to remove obstructing vehicles.

The owner of the person in charge of any automobile, truck or other vehicle parked or standing on any public road or street within the corporate limits of the Village of Kiryas Joel, New York, shall move the same out of the path of any vehicle or equipment engaged or used in the operation of plowing snow or of moving snow from such road or street so as not to interfere with, impede, obstruct, hinder, interrupt or delay such operation of plowing or removing snow, and it shall be unlawful for such owner or person to fail or refuse to remove such automobile, truck or other vehicle.

Article VI. Miscellaneous Provisions

§ 140-25. Penalties for offenses.

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days, or by both such fine and imprisonment; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of not more than \$100 or by imprisonment for not more than 45 days, or both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of not more than \$250 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Article VII. Schedules

§ 140-26. Schedule I: Traffic Control Signals.

In accordance with the provisions of § 140-5, traffic control signals shall be installed at the following described intersections:

Intersection
(Reserved)

§ 140-27. Schedule II: Speed Limits.

In accordance with the provisions of § 140-6, speed limits other than 25 miles per hour are established as indicated upon the following streets or parts of streets.

Name of Street	Speed Limit (mph)	Location
(Reserved)		

§ 140-28. Schedule III: One-Way Streets.

In accordance with the provisions of § 140-7, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Name of Street	Direction of Travel	Limits
Garfield Road		From Kennedy Court to Hayes Court

§ 140-29. Schedule IV: Prohibited Turns at Intersections.

In accordance with the provisions of § 140-8, no person shall make a turn of the kind designated below at any of the following locations:

Name of Street	Direction of Travel	Prohibited Turn	Hours	At Intersection of
(Reserved)				

§ 140-30. Schedule V: Stop Intersections.

In accordance with the provisions of § 140-9, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Stop Sign On	At Intersection of
Acres Road	Forest Road
Buchanan Court	Kennedy Court
Carter Lane	Forest Road
Carter Lane	Wilson Road
Forest Road	Shopping Center
Forest Road	Van Buren Drive
Garfield Road	Hayes Court
Getzil Berger Boulevard	Israel Zupnick Drive
Hayes Court (dead end)	Satmar Drive
Hayes Road	Forest Road
Israel Zupnick Drive	Acres Road
Israel Zupnick Drive	Bakertown Road
Kahan Drive	Israel Zupnick Drive
Kennedy Court	Garfield Road
Krolla Drive	Acres Road
Krolla Drive	Satmar Drive

Stop Sign On	At Intersection of
Lizensk Boulevard	Schunnemunk Road
Mordche Scher Boulevard	Forest Road
Mordche Scher Boulevard	Schunnemunk Road
Mountain Road	Forest Road
Nursery Road	Schunnemunk Road
Orshava Court	Satmar Drive
Quickway Road	Forest Road
Quickway Road	Van Buren Drive
Raywood Drive	Schunnemunk Road
Sanz Court	Forest Road
Satmar Drive	Acres Road
Satmar Drive (two ends)	Hayes Court
Schunnemunk Road	Forest Road
Shineva Court	Van Buren Drive
Shopping Center	Forest Road
Siget Court	Satmar Drive
Stropkov Court	Quickway Road
Stropkov Court	Stropkov Court
Taylor Court	Hayes Court
Van Buren Drive	Forest Road
Vayoel Moshe Drive	Israel Zupnick Drive
Wilson Road	Schunnemunk Road

§ 140-31. Schedule VI: Yield Intersections.

In accordance with the provisions of § 140-10, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Yield Sign on 30	Direction of Travel	At Intersection of
Fillmore Court		Taylor Court

§ 140-32. Schedule VII: Truck Route System.

In accordance with the provisions of § 140-11, a truck route system upon which trucks, tractors and tractor-trailer combinations in excess of five tons may travel is hereby established on the following streets or parts of streets:

Name of Street	Location
(Reserved)	

§ 140-33. Schedule VIII: Parking Prohibited at All Times.

In accordance with the provisions of § 140-14, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
(Reserved)		

§ 140-34. Schedule IX: No Standing.

In accordance with the provisions of § 140-15, no person shall stand a vehicle upon any of the following described streets or parts of streets:

Name of Street	Side	Location
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(Reserved)	Name of Street	Side	Location
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§ 140-35. Schedule X: Parking Prohibited Certain Hours.

In accordance with the provisions of § 140-16, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

(Reserved)	Name of Street	Side	Hours/Days	Location
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§ 140-36. Schedule XI: Time Limit Parking.

In accordance with the provisions of § 140-17, no person shall park a vehicle for longer than the time limit shown upon any of the following described streets or parts of streets:

(Reserved)	Name of Street	Side	Time Limit; Hours/Days	Location
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§ 140-37. Schedule XII: Loading Zones.

In accordance with the provisions of § 140-18, the following described locations are hereby designated as loading zones:

(Reserved)	Name of Street	Side	Location
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§ 140-38. Schedule XIII: Vehicular Weight Limits.

[Added 5-21-1993 by L.L. No. 6-1993]

In accordance with the provisions of § 140-12, all motor vehicles in excess of the gross weights indicated are excluded from the streets or parts of streets described below:

Name of Street	Gross Weight (tons)	Location
Israel Zupnick Drive	2	Beginning at a point in the northwesterly right-of-way line of Israel Zupnick Drive, where the same is intersected by the southwesterly line of Getzil Berger Boulevard, all as shown on a certain plat entitled, "Final Subdivision Plat, Section II, Forest Acres," filed in the Orange County Clerk's Office on June 15, 1983, as Map Number 6259 and running; thence 1. S. 45°-17'-36" E. 50.25 feet crossing said Israel Zupnick Drive to a point in the southeasterly line of the same; thence 2. Southwesterly and southerly, on a curve to the left, having a radius of 225.00 feet, an arc distance of 111.00 feet along the same to a point; thence 3. N. 79°-56'-21" W. 50.00 feet on a line radial to the previous curve to a point in the aforementioned northwesterly line of Israel Zupnick Drive, said point also being the most northerly corner of a parcel of land reputedly owned by the United Talmudical Academy; thence 4. Northerly and northeasterly, on a curve to the right, having a radius of 275.00 feet on a line parallel with and 50.00 feet distant from the above mentioned Course Number 2 to a point of reverse curvature; thence 5. Northeasterly, northerly and northwesterly on a curve to the left, having a radius of 30.00 feet, an arc distance of 41.68 feet to a point in the aforementioned southwesterly line of Getzil Berger Boulevard; thence

Name of Street	Gross Weight (tons)	Location
		6. S. 45°-17'-36" E. 26.14 feet along said line of Getzil Berger Boulevard to the point and place of beginning.

Chapter 151. WATER

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 3-2-2004 by L.L. No. 3-2004. *Editor's Note: This local law also superseded former Ch. 151, Water, adopted 5-21-1993 by L.L. No. 5-1993.* Amendments noted where applicable.]

GENERAL REFERENCES

Bonds — See Ch. 50.

Property maintenance — See Ch. 104.

Sewers — See Ch. 114.

Swimming pools — See Ch. 127.

Zoning — See Ch. 155.

§ 151-1. Quality standards.

The quality of the water supply shall meet accepted standards of purity.

§ 151-2. Prohibitions.

- A. There shall be no use or sale of water or water service within the Village of Kiryas Joel without the express written approval of the Village.
- B. There shall be no individual wells or private wells installed after the effective date of this chapter without the express written approval of the Board of Trustees. There shall be no connection made to any individual well or private well presently in use after the effective date of this chapter,
- C. There shall be no connection to the Village's water system without a permit issued by the Water Department and payment of all fees and usage charges.

§ 151-3. Distribution system.

- A. The water supply of the Village of Kiryas Joel shall be distributed through a piping system entirely independent of any piping system conveying another water supply.
- B. Extensions to the distribution system.
 - (1) In all subdivisions and sites seeking a supply of water from the Village of Kiryas Joel, the distribution system within the subdivision or site must be designed so as to provide maximum opportunity for improving distribution within the area and for accommodating reasonably foreseeable expansion requirements. Adequate provision must be made for future system extensions, and the mains must be properly sized to accommodate foreseeable needs.
 - (2) All plans and specifications for the water system, main and appurtenances must be approved by the Village Water Department.
 - (3) An irrevocable offer of dedication and bargain and sale deeds for all water mains, appurtenances and easements must be provided and approved as to their form by the Village Attorney.
 - (4) The Village may provide water during construction and for testing purposes during the construction process. However, no water shall be supplied to homes or units constructed within a subdivision or an extension district unless and until the entire system has been accepted by the Village Board of Trustees.

- (5) All application and/or connection fees must be paid prior to connection to the system. Such fees may be established and amended from time to time by resolution of the Board of Trustees.

§ 151-4. Revocation of permission to connect.

Permission to connect to the water system will be given upon the express condition that the Board of Trustees may, at any time, revoke and annul said permission, if deemed in the best interests of the Village.

§ 151-5. Inspections.

- A. All water facilities for any property from the service tap to the water meter, including isolation valves, must be inspected by the Superintendent of Water. At least three working days' notice must be given to the Superintendent of Water when any plumbing is ready for inspection, and the plumber doing the work shall furnish all of the necessary assistance or appliances therefor.
- B. The plumber shall remove or repair any defective material or labor when so ordered by the Superintendent of Water.
- C. Under no circumstances can any plumber, or any of his employees doing the work of plumbing, act as the agent or representative of the Water Superintendent.

§ 151-6. Meters.

- A. All water used on any premises or for any purpose whatever shall be metered. No bypass shall be made or maintained unless approved by the Village and metered. Property owners shall be responsible for the cost and installation of water meters. Meters must be replaced when over 10 years old. The Village may replace any meter over five years old at customer expense. Only meters which have been obtained from the Village shall be installed. The Village Water Superintendent shall determine the type and size of meter in each instance.
- B. The meter(s) shall be installed within the building to be served as close as practical to the point where the service pipe enters the building by an outside wall and shall be set with the inlet and outlet with the register on top and shall be located so as to be readily accessible at all times for reading, inspection and repair. Isolation or stop valves shall be provided on both inlet and outlet sides of the meter. These valves must be "ball" valves, not gate valves.
- C. In the event of a discrepancy between the water consumption as indicated by the remote reading device and the water consumption as measured by the water meter, the water consumption as measured by the water meter shall be controlling. At all times customers must promptly pay their water bills, even if disputing a charge.
- D. Outside meter pits may be installed in special cases on written approval of the Village Water Superintendent. Such meter pits must be installed in accordance with Village specifications and at the expense of the property owner.
- E. Provision shall be made to prevent hot water from entering the meter. No tee or other fitting through which water may be drawn shall be used or placed between the main and the meter. The Superintendent or agent may, at any reasonable time, enter upon the premises for the purpose of inspecting pipes, reading or checking the water meter and may discontinue the supply of water when the customer has failed to comply with Water Department rules and regulations or for nonpayment of water bills.
- F. Meters shall be paid for by the property owner. All meters supplied by the Village of Kiryas Joel shall remain the property of the Village. Meters furnished by other parties will not be permitted.
- G. Plumbers, after completing the work of introducing the water in a property and testing the pipes and fixtures, shall turn the water off at the curb stop until a meter has been set on the service.
- H. There shall be no tampering with water meters or breaking meter seals with the intent to slow, stop or alter the reading of a water meter. In the event of tampering, the owner shall be responsible for paying for all unpaid water as estimated by the Village.

- I. At the request of a consumer, the Water Department will test the meter supplying the property of said consumer. If the meter, on test, is found to be registering over 3% more water than actually passes through it, no charge will be made for the test; otherwise, a current charge, established by the Board of Trustees and in effect at the time, will be imposed. No credit to the customer for overbilling shall be given for any usage more than six months prior to the test.
- J. When a meter is not working or cannot be read due to inaccessibility, the customer will be billed based on the Village's estimate of water used. In the event access to a meter has been limited by the property owner or resident, water consumption shall be billed at three times the estimated usage. The usage will be adjusted at the next actual reading when the meter is made accessible.
- K. Any meter which fails to work properly due to improper installation or tampering shall be repaired or replaced by the owner at the owner's sole cost and expense. The Village reserves the right to test any such meter before it is placed in service.
- L. All new construction begun after the effective date of this chapter shall provide for each dwelling unit to be separately metered. No connection to a building shall be allowed until all dwelling units are metered.

§ 151-7. Usage charges.

- A. The charges for Village water shall be established by the Village Board.
- B. The Board of Trustees may, by resolution, establish additional categories of charges or fees associated with the use of the Village water system. These charges or fees shall be deemed usage charges for purposes of this chapter.
- C. An owner of property will be held responsible for all arrears unpaid by tenants. All expenses, charges, fees, water rates, fines, forfeitures or penalties which may accrue from or be imposed upon owners, tenants or occupants for water use, service or otherwise shall be a lien on the real property to which said water service shall have been rendered, and the collection thereof may be enforced in the same manner and method as provided for the collection of the same in Article 11 of the Village Law.
- D. If the water rentals are in arrears for 30 days, the Village Board may order the water service shut off. Water service shall not be restored until water rentals and other charges in arrears have been paid, including a turn-on charge of not less than \$25. There may be a service charge of 10% added to all bills in arrears subject to approval of the Board of Trustees.
- E. When branches already exist and are not provided with stopcocks, in case of default in payment of water rent by anyone, the main service may be cut off until the back charges are paid, and the Department shall not be liable for damages from any other consumer who may thus be deprived of water.
- F. All costs, including but not limited to legal fees and expenses, incurred by the Village to collect delinquent water rents shall constitute added water rents and shall be paid by the owner of property in the same manner as usage charges.
- G. In the event water charges remain unpaid at such time as the Village levies real property taxes, the charges may be relieved on the tax bills, together with a handling charge of 20%, subject to approval of the Board of Trustees.

§ 151-8. Connection charges.

Connection fees to obtain water service shall be established by resolution of the Board of Trustees,

§ 151-9. Tapping.

- A. No one, except the Village Water Department, shall tap or cause to be tapped any water main, either private or Village-owned, through which Village water is to be delivered to the customers.

- B. No one shall connect to any other service line without the permission of and according to the requirements of the Village Water Department.
- C. No tap or connection to any house service shall be made until permission for said water connection or tap is obtained from the Village and the connection fee is paid.
- D. One tap and only one tap shall be made for each service line. Multiple taps shall not be made. Excavation for tapping mains shall be at least 48 inches by 72 inches. Notification will be made to the Water Department at least three workdays in advance prior to the start of any excavation to tap.

§ 151-10. Service lines.

- A. A service line is defined as serving any individual building, group of buildings or property.
- B. Service lines shall be laid at least four feet below the surface of the ground at all points, protected from frost or damage, at the owner's risk and expense. All lines shall be properly bedded with approved material and properly backfilled.
- C. Each service line shall supply water to one and only one residence or building.
- D. Unless otherwise approved in writing by the Water Superintendent, service lines from the main to the meter, up to and including 1 1/2 inches in diameter, shall be of pure, seamless soft-tempered copper tubing with bronze fittings. Tubing shall be Type K, not less than 3/4 of an inch and the following thickness:

Nominal Pipe Size (inches)	Outside Diameter (inches)
3/4	7/8
1	1 1/8
1 1/4	1 3/8
1 1/2	1 5/8

- E. Fire service lines must have a minimum inside diameter of six inches. Installation and maintenance of such lines must conform to the New York State Fire Prevention Code and the Village of Kiryas Joel's specifications. Installation and maintenance of fire lines and appurtenances shall be at the sole cost and expense of the owner.
- F. Owners of approved unmetered fire lines shall be charged an annual fee, which shall be established by the Village Board of Trustees.

§ 151-11. Corporation stops and service lines.

- A. Corporation stops shall be tapped on the side of the water main except in special circumstances. The service line shall be looped for settlement and movement.
- B. Service lines greater than two inches in diameter shall consist of ductile-iron, mechanical joint, cement-lined pipe connected to the main by a tapping sleeve and valve. The ductile-iron pipe must meet the same specifications as transmission-line piping.
- C. All service lines, curb boxes, curb stops and taps shall be installed by and at the expense of the property owner. The property owner will establish, by a survey, the location of the property line and the public right-of-way. The curb box and curb stop shall be installed within the public right-of-way, in the grass strip where available, approximately four feet from the paved portion of the street and behind any sidewalks. Any curb box projecting above grade or lower than grade shall be corrected to and maintained at grade level by the property owner.
- D. In the event that the property line is over 25 feet from the corporation stop, the Water Superintendent may require a curb stop and curb box to be installed immediately after the corporation stop in addition to the curb box and curb stop at the property line.
- E. No one shall tap a Village main without a permit and on-site inspection of the tap at the time of tapping.

§ 151-12. Trenching in public roadways.

- A. All materials from the trench excavation shall be loaded and removed from the site, and run-of-bank material, free from stone, 1/2 cubic foot in site shall be used for backfill for the excavation. The material shall be placed manually to one foot above the pipes, and the trench shall be mechanically tamped in two-foot layers.
- B. Excavated materials may be used to backfill the trench only upon approval of the Village Water Superintendent.
- C. No service line shall exceed 70 feet in length under a public street.
- D. Service lines under heavily traveled streets will be sleeved at the time of installation as determined by the Water Superintendent.

§ 151-13. Service line maintenance and repair.

- A. The owner of property shall maintain in perfect order, at his own cost and expense, the entire service line from the Village's water main to the building.
- B. All leaks in that portion of the service line which the property owner must maintain and repair shall be repaired by the owner of the property at the owner's sole expense. If the property owner fails to repair such leak within 24 hours after written notice from the Village, then the Village shall have the right and authority to enter upon the property and make the necessary repairs and charge the cost of such repairs to the owner of the property. In case of emergency, the Water Superintendent shall have the right and authority to enter upon the property and make the necessary repairs and charge the cost of such repairs to the owner of the property. Such costs, if unpaid, shall be collected, together with a handling charge of not less than 10%, in the manner set forth in § 151-7C.
- C. In the event that a water service line freezes, the Village shall, after notice, undertake thawing of said line. The cost of thawing the service line shall be borne by the property owner.

§ 151-14. Pressure-reducing devices.

Whenever the static pressure exceeds 75 pounds per square inch at the point of entry of the service line into the building, a pressure-reducing device shall be installed by the property owner so that the pressure in the building is a maximum of 55 pounds per square inch. This section shall be mandatory for all new service line installations or service line replacements.

§ 151-15. Construction of main lines and branch lines.

- A. No main lines or branch lines for water supply shall be constructed within the service area of the Village water system without complete plans being presented with an application to the Village Water Department for inspection and approval. No work shall proceed without this approval. The Water Superintendent may refer plans to a professional engineer for a recommendation prior to granting approval.
- B. Mains shall be constructed with proper blow-off valves and shall be so constructed as to eliminate dead ends. Mains shall be constructed of mechanical-joint, cement-lined, ductile iron pipe.
- C. Six-inch pipe will be the minimum size acceptable on runs up to 500 feet total length over 500 feet long. Lines will be a minimum of eight inches.

§ 151-16. Water main specifications.

- A. The transmission line shall be American Water Works Association Specification cement-lined with bituminous coat and bituminous outer coat or ASA-A-21.55 Class 52, Ductile Iron. Joints shall be rubber O-ring (Tyton or equal) or mechanical-joint type. Fittings shall be Class 250 cast-iron, cement-lined mechanical joint. Valves shall be Mueller 1222, or equal approved by the Water Superintendent, and shall open counterclockwise.

- B. The pipe shall be laid directly upon the trench bottom which has been hand trimmed to provide the pipe with a full-length bearing and fine earth or gravel compacted under the pipe. Where the bottom of the trench at subgrade is found to be unstable, the contractor shall remove unstable material to the width and depth ordered by the inspector. Before the pipe is laid, the subgrade shall be made by refilling with gravel or crushed stone in compacted layers and shall be thoroughly compacted so as to provide a uniform and continuous bearing and support for the pipe. Rock shall be excavated to a depth of six inches below subgrade and refilled with thoroughly compacted gravel. Concrete thrust blocking shall be provided at plugs, tees, bends and at other locations designated by the inspector.
- C. For the purpose of electrical bonding, the contractor shall install serrated bronze wedges between the barrel and the bell of the pipe.
- D. Pipe trenches shall be backfilled as soon as possible after inspection. Selected well-graded material shall be used for backfilling under, adjacent to and for a depth of one foot above the pipe. This shall be thoroughly compacted into place mechanically. If there is a deficiency of suitable material for backfilling, the contractor shall furnish such suitable material from an outside source. The remainder of the trench, to a depth of four feet above the pipe, shall be backfilled and mechanically tamped with suitable material from the excavation. No boulders or rock pieces larger than one cubic foot in volume shall be used in backfilling the remainder of the trench. If suitable material is not available from the trench excavation, the contractor shall furnish such material from an outside source. At the end of each day's work, the pipe shall be sealed with a suitable pipe cap to prevent the entrance of foreign material into the pipeline. Disinfection shall be accomplished in accordance with the methods prescribed by AWWA Standard C-600, latest revised edition.
- E. The line shall be tested for pressure and leakage, in accordance with the method prescribed by AWWA Standard C-601, latest revised edition.
- F. The contractor shall furnish a maintenance bond in the amount of 10% of the contract price. The maintenance bond shall have a term of one year and shall ensure the owner against the failure of the contractor to meet the requirements of a one-year guaranty included under his contract work.
- G. The contractor hereby guarantees all the work and equipment furnished under this contract against any defects in workmanship or material for a period of one year following the date of final acceptance of work by the Village. Under this guaranty, the contractor agrees to make good, without delay, at his own expense, any failure of such parts due to faulty materials, construction or installation or the failure of such equipment to successfully perform all the work put upon it within the limits of the specifications and further shall make good any damage to any part of the work caused by such failure.
- H. Where mechanical-type joints are indicated on plans, approved gaskets shall be installed.
- I. All materials shall be approved by the Water Superintendent.
 - (i) Meters:
 - (a) As specified and purchased from the Village of Kiryas Joel.
 - (b) Water will be furnished for testing purposes only and will be turned on for domestic use after the owner, or his agent, has complied with all the rules and regulations of the Water Department and after the waterline has been accepted by the Village and after a certificate of occupancy has been issued.
 - (c) Before any street or waterline will be accepted by the Village, a complete map showing all valves, hydrants, corporation stops, main lines, service lines and curb boxes must be furnished the Water Department. This map or plan must show accurate and complete measurements acceptable to the Water Department.

§ 151-17. Additional specifications for certain installations.

- A.

In all places where steam boilers, heating systems or hot water tanks are supplied with water from the water system, the owner or consumer must see that the plumber places a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when water is shut off.

- B. Where the chance of a health hazard contamination of the water supply exists through backflow or backsiphonage, an American Water Works Association approved reduced-pressure backflow preventer will be installed. All of the plumbing work necessary will be at the property owner's expense.
- C. The Village shall not be liable for any damage resulting from sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the water system.
- D. The Village reserves the right to limit the amount of water furnished to any consumer should circumstances warrant such action, or the Village may entirely shut off the water supply used for any manufacturing purpose, for furnishing power or for lawn sprinkling at any time by giving reasonable notice by publication, if possible, of such intended action; or in the case of making or constructing new work, or in making repairs or in an emergency, the right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary.
- E. The Village shall not be liable for any damage or loss of any kind to property or persons which may arise from or be caused by any change, diminution in or increase of the water pressure from any cause whatever, by the shutting off or restriction of water, or by water-main breaks or service leaks, repairs or tests.
- F. Any air conditioner or cooling device using water in its operation shall make use of a cooling tower or some means of reusing the water.

§ 151-18. Hydrants.

- A. Each hydrant shall have two two-and-one-half-inch hose connections and one four-and-one-half-inch steamer connection. Hydrants shall have flanged ends to which can be bolted a six-inch flanged and mechanical-joint valve or mechanical joint end.
- B. Each hydrant shall be installed so that the hydrant has a poured-concrete thrust block or is securely rodded to the water main. Rods will be five-eighths-inch threaded rod minimum.
- C. Hydrants shall be set so that the bury mark is at finished grade. In the event that extensions are needed, they will be of proper length to bring the hydrant to normal elevation.
- D. A valve will set so that the hydrant may be shut off for repairs without shutting off any water main(s) or line (s).
- E. Where curbing or sidewalks are going to be used at the edge of a roadway, the hydrant shall be set behind the sidewalk.
- F. Provisions will be made at the time of installation for the proper draining of the barrel when the hydrant is shut down.

§ 151-19. Reduced-pressure backflow preventer.

The reduced-pressure backflow preventer shall consist of two independently operated spring-loaded poppet-guided check valves with an automatically operating, mechanically independent, hydraulically dependent pressure-differential relief valve located between the two check valves. Further, there shall be two shutoff valves and four test cocks. If either check valve should leak, the pressure-differential relief valve shall open and discharge to the atmosphere, thus maintaining the zone pressure less than the supply pressure. The device shall be constructed so it can be disassembled and repaired without removing the body from the supply line. This device shall be equal in all respects to the Neptune Model 575 reduced-pressure backflow preventer, as marketed by the Neptune Water Meter Company, Atlanta, Georgia.

§ 151-20. Double check-valve assembly.

The double check-valve assembly shall consist of two independently operated spring-loaded poppet-guided check valves; each holding a minimum of one pound per square inch in the direction of flow, two shutoff valves and four test cocks. The device shall be constructed so that it can be disassembled and repaired without removing the main body from the line. This suit shall be equal in all aspects to the Neptune Model 550 double check valve assembly, as marketed by the Neptune Water Meter Company, Atlanta, Georgia.

§ 151-21. Consent to entry on premises.

All recipients of water service shall be deemed to have consented to the entry of Village personnel onto the premises receiving water service for purposes of reading or checking meters and of effecting a termination of water service by the physical disconnection of service lines in all cases where the service lines do not have individual shutoff valves or stopcocks.

§ 151-22. Enforcement; penalties for offenses.

- A. This chapter shall be enforced by the Water Superintendent, Code Enforcement Officer, and any other person so authorized by resolution of the Board of Trustees.
- B. Upon determination that a violation of this chapter exists, the enforcement officer shall serve a written notice of violation which orders the remedying of the violation. Such order shall state the nature of the violation and the provision or term violated, and shall set a date as may be reasonably necessary for achieving compliance before proceedings to compel compliance and/or assess penalties shall be instituted. Such order shall be served personally or by certified mail to the last known address of the property owner. If service is by certified mail, then a copy of the notice of violation shall be posted at the premises where the violation exists.
- C. In addition to any other remedies and enforcement provisions available to the Village set forth elsewhere herein:
 - (1) Any person who violates any provision of this chapter shall, upon conviction, be guilty of a violation, punishable by a fine not exceeding \$200 for each day or part thereof during which such violation continues. Said civil penalty shall be recoverable in an administrative proceeding held by and before the Board of Trustees pursuant to the following procedure:
 - (a) Whenever a violation has not been remedied within the time specified in a written notice served personally or by certified mail to the last known address of the property owner, an enforcement officer may issue an order to show cause before the Board of Trustees why such penalties should not be imposed.
 - (b) Service of order to show cause.
 - [1] Such order to show cause shall be served personally; or by mailing a copy of such order by certified mail to the property owner at his last known address as shown on the records of the Village and by posting a copy of such order on said premises.
 - [2] Where practical, a copy of such order may be served personally on the residents of the premises. Such personal service on the residents shall not be a substitute for the service otherwise required, nor shall the failure to provide such personal service invalidate any proceedings pursuant to this chapter.
 - [3] A copy of said order may be filed in the County Clerk's Office, which order shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided. An order so filed shall be effective for a period of one year from the date of filing. It may be terminated upon an order of a judge or justice of a court of record or upon the written consent of the Attorney for the Village. The County Clerk shall mark the order to show cause and any record or docket thereof as canceled of record upon the presentation and filing of a certified copy of said judicial order or of such consent.

- (c) Content of order. Said order to show cause shall state the nature of the violation; the provision or term violated; and the date, time and place for a hearing before the Board of Trustees. The hearing shall be set for a date not less than seven days after the date the order to show cause is mailed.
- (d) Conduct of hearing.
 - [1] The Board of Trustees shall conduct a hearing at the date, time and place specified in the order to show cause. The hearing may be adjourned from time to time and shall continue until interested persons subject to the order to show cause are heard. No formal rules of evidence shall apply nor shall a stenographic transcript be required.
 - [2] The property owner and any others subject to the order to show cause may be represented by an attorney and shall have the right to present evidence and examine witnesses to show why penalties should not be assessed.
 - [3] After the hearing is closed, the Board of Trustees shall make findings and make a determination. Such determination shall indicate the basis and reason for the decision, shall state the dollar amount of and fine(s) imposed and shall be supported by substantial evidence.
 - [4] Any fines imposed plus, if any fine is imposed, the costs to the Village of the proceeding, including but not limited to attorneys' fees and administrative costs, shall be immediately due and payable. Administrative costs shall be determined from time to time by resolution of the Board of Trustees.
 - [5] The determination of the Board of Trustees may be reviewed in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that such proceeding is commenced within 30 days of such determination. Judicial review shall not stay any stop-work order or stay payment of any fine and costs imposed.
- D. Assessment of fines and costs. All fines and all costs incurred by the Village in connection with the administrative proceeding, if unpaid, shall be a lien on the real property and shall be assessed against such property, together with nine-percent interest per annum, and shall be levied and collected in the same manner as real property taxes.
- E. Correction of violation by Village.
 - (1) Compliance with this chapter is required in the interest of the public safety, health and welfare. If the property owner fails to correct a violation after notice, the Village and its agent shall have the right to enter onto the property to perform the work necessary to correct the violation. The property owner shall be responsible and liable for all costs incurred by the Village in connection therewith. If not paid, said costs shall be assessed against such property, together with nine-percent interest per annum, and shall be levied and collected in the same manner as real property taxes.
 - (2) The abatement, removal or repair of any nuisance, hazard or other such condition by the Village of Kiryas Joel or its agents shall not operate to excuse the owner, tenant or occupant from properly maintaining any premises as required by this chapter, and such owner, tenant or occupant shall, notwithstanding such action, be subject to any penalties provided for herein.
- F. Alternatively or in addition to the remedies provided by Subsections C, D and E, the Board of Trustees or enforcement officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce, any provision of this chapter or any permission granted pursuant thereto.

Chapter 155. ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 9-4-2007 by L.L. No. 7-2007. *Editor's Note: This local law also superseded former Ch. 155, Zoning, adopted 7-19-1977 by L.L. No. 1-1977, as amended.* Amendments noted where applicable.]

GENERAL REFERENCES

Building code administration — See Ch. 53.

Flood damage prevention — See Ch. 77.

Property maintenance — See Ch. 104.

155a Zoning Map 

Article I. General Provisions

§ 155-1. Adoption of provisions.

There is hereby established and adopted, pursuant to Article 7 of the Village Law of the State of New York, and for the purposes set forth therein, a Zoning Law in accordance with a comprehensive plan for the development of the Village of Kiryas Joel in the Town of Monroe, Orange County, New York. This chapter embodies a comprehensive plan designed for the protection and promotion of the public health, safety and welfare.

§ 155-2. Findings and purposes.

A. Plan findings. The Village of Kiryas Joel is a densely populated and rapidly growing community with strong cultural ties and a heavy pedestrian orientation. The character of the community is one of strong neighborhoods. The Village Board of the Village of Kiryas Joel hereby finds as follows:

- (1) The character and quality of people are in a large measure the result of the home environment. The home and its intrinsic influences are the very foundation of good citizenship and any factor contributing to the establishment of homes and the fostering of home life doubtless tends to the enhancement, not only of community life, but of the life of the nation as a whole.
- (2) The zoning of the Village for mixed, but primarily residential, use ensures the development and strengthening of neighborhoods where residents can walk to shopping, worship and work. It also offers inducements not only to the wealthy, but also to those of moderate means to conduct their own businesses and own their own homes. With ownership comes stability, the welding together of family ties and better attention to the rearing of children. With ownership comes increased interest in the promotion of public agencies, such as houses of worship and schools, which have for their purpose a desired development of the moral and mental make-up of the citizenry of the country. With ownership of one's home comes recognition of the individual's responsibility for his share in the safeguarding of public welfare of the community. The pride in achievement that derives from personal participation in the activities of the neighborhood ensures continuous community betterment.
- (3) The implementation of this plan will serve to promote and perpetuate the community legacy in preserving a serene and tranquil life steeped in tradition and veneration of community heritage.

B. This chapter and plan have the following purposes:

- (1) Guide the future growth and development of the Village in accordance with a comprehensive plan that represents the most beneficial and convenient relationships among the areas within the Village, considering the suitability of the various uses in each area and the potential for such uses as indicated by existing conditions, having regard for conditions and trends both within the Village and in relation to adjoining areas.
- (2) Provide adequate light, air and privacy; secure safety from fire, flood and other danger and prevent overcrowding of the land and undue congestion of population.
- (3) Protect the character and the social and economic stability of all parts of the Village and ensure that all development shall be orderly and beneficial.
- (4) Protect and conserve the value of buildings in the various districts established by this chapter.
- (5) Bring about the gradual conformity of the uses of land and buildings throughout the Village to the comprehensive plan set forth in this chapter, and minimize conflicts among the uses of land and buildings.
- (6)

Promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Village, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient traffic access appropriate to the various uses of land and buildings throughout the Village.

- (7) Serve as a guide for public policy and action in the efficient provision of public facilities and services, and for private building development and other activity relating to uses of land and buildings throughout the Village.
- (8) Assure that public service providers will provide the necessary public facilities and service needed for anticipated and needed new development.
- (9) Prevent the pollution of waters, ponds and streams; safeguard water resources and encourage the wise use and sound management of natural resources throughout the Village in order to preserve the integrity, stability and beauty of the community and the value of the land.

Article II. Definitions and Word Usage

§ 155-3. General construction of language.

All words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the working indicates otherwise. The word "lot" includes the word "plot," the word "building" includes the word "structure" and the word "shall" is mandatory. The word "person" includes any legal entity, as well as an individual. The word "use" shall be deemed also to include "designed, intended or arranged to be used." Unless otherwise specified, all distances shall be measured horizontally. The word "Village" means the Incorporated Village of Kiryas Joel; the term "Village Board" means the duly elected Village Board of Trustees of said Village; the term "Board of Appeals" means the duly appointed Board of Appeals of said Village; the term "Planning Board" means the duly appointed Planning Board of said Village.

§ 155-4. Definitions.

For the purposes of this chapter, certain words and terms used herein are defined as follows:

ALTER

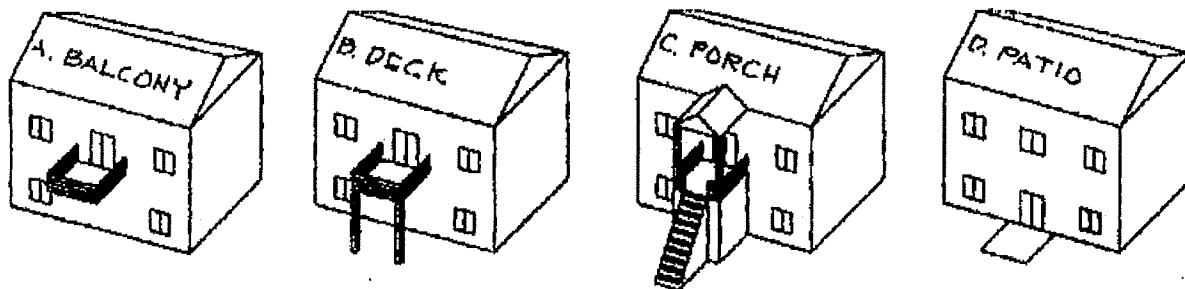
To change or rearrange the structural parts of the exit facilities or a building or structure, including extension on a side or increase in height, or the moving from one location or position to another.

AREA, FLOOR

All floor area within the exterior walls of a building, but not to include open porches or breezeways, garages, basements or uninhabitable attic space.

BALCONY

An exterior floor that projects from the wall of a building, supported by a structure that is without additional independent supports, and surrounded by a railing. (See also definitions for "deck" and "porch/stoop" and the illustration following).



BASEMENT

That portion of a building wholly or partly underground and extending no more than six feet above average finished grade adjacent to and surrounding the structure within 10 feet of such structure. Should any portion of this level of construction exceed 12 feet above grade, however, it shall be considered a separate story and not a basement.

BUILDING

Any fixed structure having a roof and intended for the shelter, housing or enclosure of persons or chattels.

BUILDING OR STRUCTURE, ACCESSORY

A subordinate building, the use of which is customarily incidental to that of a main building on the same lot.

BUILDING COVERAGE

That portion of a lot that is covered by permanent structures, including building extensions that project beyond the foundation, but excluding unenclosed patios; unenclosed stairways to decks, porches or stoops; and eaves.

BUILDING, MAIN

A building in which is conducted the main or principal use of the lot on which such building is situated.

DECK

An exterior roofless floored area adjoining a house, and supported on at least two opposing sides by an adjoining structure and/or posts, piers or other independent supports.

DWELLING

A building designed or used exclusively as living quarters for one or more families, and shall not be deemed to include a motel, hotel, rooming house or tourist home, manufactured (mobile) home, trailers, camping car, tent or other similar temporary or mobile structure.

A. ONE-FAMILY

— A detached building or manufactured home, designated for or occupied exclusively by one family and containing not more than one dwelling unit.

B. TWO-FAMILY

— A property used for not more than two individual attached or detached dwelling units entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

C. MULTIFAMILY

— A building or portion thereof used or designed as a residence for three or more apartment or dwelling units.

ESSENTIAL SERVICES

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies for the public health or safety or general welfare.

FAMILY

One or more persons occupying a dwelling unit and living as a housekeeping unit in a domestic relationship.

FRONTAGE

The extent of a parcel of land along a street.

FRONT YARD SETBACK LINE

A line parallel to the front lot line and at a distance therefor equal to the required minimum front yard for the district in which located.

GARAGE, PRIVATE

An accessory building or part of a main building used primarily for the storage of motor vehicles as an accessory use.

GRADE, FINISHED

The elevation, at any point along a wall of a building, of the completed surfaces of lawns, gardens, walls or roads adjoining such wall at that point.

HEIGHT OF BUILDING OR STRUCTURE

The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between the eaves and ridge for gable, hip and gambrel roofs.

HOME OCCUPATION

Any business, trade or profession, conducted in a dwelling and/or accessory building, that is carried on by members of the household residing on the property, with or without nonresident employees, and that is clearly an accessory use in relation to the residential use of the premises. Home occupations are divided into the following classes:

A. CLASS I (Minimal Impact)

— A home occupation whose base of operation is carried out within the residence, that does not involve the parking of any business vehicles on site and that will not generate customer traffic, use an accessory building, receive deliveries by other than letter or parcel carriers or pose an environmental, safety or health hazard. Class I Minimal Impact Home Occupations are permitted accessory uses in all zones, requiring a permit from the Zoning Officer.

B. CLASS II

— A home occupation whose base of operation is carried out within the residence and/or accessory building and which will generate customer traffic or receive deliveries, use an accessory building or outdoor storage or may have environmental, safety or health impacts. Class II home occupations shall require site plan review by the Planning Board.

IMPERVIOUS SURFACE COVERAGE

Impervious surface shall include any material, including buildings and pavement, that reduces or prevents absorption of stormwater into previously undeveloped land. Land that is replanted with grass, landscaping, trees or other vegetation shall not be considered impervious. The amount of impervious surface as a percentage of total lot area constitutes impervious surface coverage.

LOT

A parcel of land, not divided by or lying within a street or streets, occupied or to be occupied by a building or buildings and accessory buildings, together with such open spaces as are required under the provisions of this chapter, and having its principal frontage on a street or on such other means of access as may be deemed, in accordance with the provisions of law, to be adequate for purposes of issuing a building permit on such land.

LOT, AREA

The total area included within lot lines.

LOT, CORNER

A lot of which at least two adjacent sides abut on streets or public places.

LOT, DEPTH

The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR

A lot other than a corner lot.

LOT LINE, FRONT

The property or lines separating the lot from the street or streets. The front lot line shall, in the case of structures fronting on a private street, be measured from the edge of the right-of-way or, where there is no formal right-of-way, from the edge of pavement.

LOT LINES

The property lines bounding a lot as defined herein.

LOT WIDTH

The mean width of a lot measured at right angles to its depth, measured at the main building line.

MANUFACTURED (MOBILE) HOME

Any self-contained HUD-approved one-family dwelling unit designed for long-term occupancy; containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; designed to be transported, after fabrication, on its own wheels or on flatbed or other trailer; and arriving at the site where it is to be occupied as a dwelling complete. A sectional prefabricated house shall not be considered a "manufactured" or "mobile home."

NEIGHBORHOOD COMMERCIAL ENTERPRISE

A retail or service use that occupies less than 1,000 square feet of floor area and generates less than 100 trip-ends of traffic per day on average, not including auto-related enterprises, drive-in establishments, salvage yards, commercial recreational facilities, industrial uses, uses that involve the dispensing of gasoline or any other use that would generate significant noise, odor, fumes, light, glare, vibration or other similar impacts beyond the property line of the lot.

NONCONFORMING USE

A use of a building or of land that does not conform to the regulations as to the use in the district in which it is situated, which use was lawful at the time this chapter, or amendments thereto, became effective.

PARKING SPACE

An off-street space, available for the parking of one motor vehicle on a transient basis, having dimensions of not less than nine feet by 18 feet, exclusive of passageways and driveways appurtenant thereto, and giving access thereto, and having direct usable access to a street or right-of-way.

PATIO

An outdoor space for dining or recreation that adjoins a residence and is improved for that purpose by paving or the placement of bricks or stones on a sand, gravel or crushed stone.

PLAYGROUND

An improved recreation area containing facilities for young children to play upon, including but not limited to items such as slides, sandboxes and similar items.

PORCH or STOOP

A covered platform on a plane higher than the adjacent ground area, and typically having a separate roof at an entrance to a building.

PRIVATE DRIVE

A vehicular access serving a single principal structure of no more than four dwelling units in the case of residential properties.

SIGN

Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, and including any badge or insignia of the municipal agency or any civic, charitable, religious, patriotic or fraternal or similar organization.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above, then the space between the floor and the ceiling next above it. A basement shall be

counted as a "story" if its ceiling is more than five feet above the level from which the height of the building is measured.

STORY, HALF

A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

STREET

A public or private thoroughfare devoted to vehicular and pedestrian movement, including a road or right-of-way, over which abutting properties or dwellings have the rights of access, air and light.

STRUCTURE

Anything constructed or erected, the use of which requires located on the ground, or attachment to something having location on the ground, including but not limited to signs, swimming pools, tennis courts, docks, retaining or other types of walls and fences.

USE

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE, ACCESSORY

A use which is customarily incidental and subordinate to the principal uses of a lot or a building and located on the same lot therewith and limited to the uses specifically permitted for the zoning district in which it is located.

YARD

A required open space of uniform width or depth, as the case may be on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the appropriate lot line and is unoccupied and unobstructed from the group upward.

YARD, FRONT

A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

YARD, REAR

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, SIDE

A yard between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard.

Article III. Establishment of Districts

§ 155-5. District classification.

The Village of Kiryas Joel is hereby divided into the following districts:

- R Residential District
- C Commercial District

§ 155-6. Zoning Map.

Said districts are bounded and defined as shown on a map entitled "Zoning Map for the Village of Kiryas Joel, Orange County, New York,"

Editor's Note: The Zoning Map is included at the end of this chapter.

which, with all explanatory matter thereon, including the effective date of this chapter, is hereby adopted and made a part of the chapter.

§ 155-7. (Reserved)

§ 155-8. Location of boundaries.

Where uncertainty exists as to the location of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. District boundary lines are intended to follow streets, rights-of-way, watercourses or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions, as shown on the Zoning Map.
- B. Where district boundaries are indicated as following approximately streets or rights-of-way, the center lines thereof shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.

§ 155-9. (Reserved)

Article IV. District Regulations

§ 155-10. Application or regulations.

In interpreting and applying this chapter, the requirements contained herein are declared to be the minimum requirements for the protection of public health, morals, safety, comfort, convenience and general welfare of the community. This chapter shall not be deemed to affect, in any manner whatsoever, any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the erection, construction, establishment, moving, alteration or enlargement of buildings than are imposed by other ordinances, rules, regulation, license, certificates or other authorizations, by easements, covenants or agreements, the provisions of this chapter shall prevail. Except as hereinafter provided, the following general regulations shall apply.

§ 155-11. Conformance required for all land and buildings.

No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with this chapter and, particularly, with the specific regulations for the district in which such building or land is located. Any use not specifically permitted by this chapter is prohibited.

§ 155-12. Lot required for every building.

Every building hereafter erected shall be located on a lot as herein defined. There shall be not more than one main building and its accessory buildings on any such lot unless specifically approved by the planning board as a related building group.

§ 155-13. Yards and open space applicable to only one building.

No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

§ 155-14. Subdivision of lots.

- A. Should a lot hereafter be formed from the part of a lot already occupied by a building, such separation shall be affected in such a manner as not to impair conformity with any of the requirements of this chapter with respect to the existing building and all yards and other required spaces in connection therewith, and no permit shall be issued for the erections of a building on the new lot thus created unless it complies with all the provisions of this chapter and any rules and regulations which have been or may be adopted for the subdivision and platting of the land.
- B. The Village of Kiryas Joel Planning Board shall be authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Village of Kiryas Joel, pursuant to § 7-738 of the Village Law. It shall do so pursuant to the procedures of said Village Law and according to the standards contained herein. It shall be further authorized, for this purpose, to prepare and adopt additional regulations governing subdivisions for Village Board approval.
- C. The Planning Board shall also be authorized and empowered, pursuant to § 7-738 of the Village Law and simultaneously with the approval of a plat or plats, to modify applicable provisions of this Zoning Law, subject to the conditions set forth in § 7-738 of the Village Law.
- D. The Planning Board shall also be authorized and empowered to simultaneously grant preliminary and final approvals of those subdivisions not involving the construction of new improvements ("minor subdivisions"), provided that lots intended for zero lot line development shall not be granted final approval until such time as building foundations are installed and final lot line metes and boundaries are matched to such foundations.
- E. Lot improvements shall be exempt from the requirements contained herein, provided three copies of a plan prepared by a licensed land surveyor or professional engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below. To qualify as a lot improvement, the parcels shall:
- (1) Involve the addition of land to an existing parcel so as to:
 - (a) Improve ability of that parcel to comply with setback or other building standards; or
 - (b) Increase suitability of the parcel for building development; or
 - (c) Add to the availability of open space; or
 - (d) Resolve a boundary line dispute or produce a corrected deed.
 - (2) Not substantially reduce the ability of the lot, from which the lot improvement parcel is taken, to comply with the applicable standards of this law.
 - (3) Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added.
- F. The Planning Board shall, within 10 days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should it fail to act in the provided time or find the plans do not meet the criteria, such plans shall be processed as a minor or major subdivision. If it finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Village of Kiryas Joel, and for recording purposes only, to represent an exempt lot improvement in accord with § 155-14E of the Village of Kiryas Joel Zoning Law. No subdivision approval is required or given." No person shall record plans for any lot improvement without so first obtaining the Planning Board's clearance.

§ 155-15. Irregularly shaped lots.

Where a question exists as to the proper application of any of the regulations of this chapter to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Planning Board shall determine how such regulations shall be applied.

§ 155-16. Required width of street access.

No permit shall be issued for any structure unless the lot upon which the structure is to be built has a frontage of at least 1/2 the required minimum lot width on a street or highway, which street or highway shall have been suitably improved or a bond posted therefor.

§ 155-17. Lots under water or subject to periodic flooding.

No portion of the minimum area requirement of a lot may be achieved by including land under water, land with an elevation below mean high water or land subject to periodic flooding. All minimum front, side and rear yard requirements must be satisfied by measurement on dry land.

§ 155-18. Accessory buildings, structures and uses.

All accessory buildings, structures and uses shall be located on the same lot with the principal uses to which they are accessory. Such accessory buildings, structures or uses shall comply with all setbacks applicable to principal structures. No accessory building or structure shall be used for human occupation. No storage container or trailer or similar equipment shall be employed as an accessory building or structure.

§ 155-19. Residential district uses and requirements.

In any Residential District, no building or premises shall be used, and no building or group of buildings, or part of a building or structure, shall be erected, constructed, enlarged, altered, arranged or designed to be used, in whole or in part, except for one or more of the uses set forth below. Only those uses specifically listed as being permitted shall be permitted.

- A. Permitted principal uses, all of which shall be subject to site plan review by the Village Planning Board (see § 155-21), are as follows:
- (1) One-family and two-family dwellings.
 - (2) Multifamily dwellings.
 - (3) Class II home occupations.
 - (4) Neighborhood commercial enterprises.
 - (5) Village hall, Village fire station, Village police station or other Village use.
 - (6) Public libraries.
 - (7) Public parks and playgrounds and other recreation facilities intended for general public use.
 - (8) Public parking lots.
 - (9) Essential services.
 - (10) Synagogues, ritual baths, public schools, private schools, colleges and universities, cemeteries and other places of worship or religious observance and instruction.
- B. Permitted accessory uses shall be as follows:
- (1)

Private garden house, toolhouse, playhouse, greenhouse or similar private accessory use not used for commercial or public purposes.

- (2) Private garage or carport for housing private passenger cars of residents and their employees living on the premises.
- (3) Temporary storage of boat, house trailer, boat trailer, auto trailer, mobile house trailer or camper vehicle, provided that the same is enclosed within a building or is screened from view by evergreen planting.
- (4) Class I home occupations.
- (5) Signs used on the same lot in conjunction with a permitted principal or accessory use not exceeding two square feet, provided that such signs are not illuminated or painted with reflective or luminous-type paint.

C. Residential District requirements. There is hereby established, and declared to be a part of this chapter, the following schedule of development standards for the Residential District. The requirements are subject to all other provisions of this chapter and, unless otherwise indicated, shall be deemed to be the minimum requirements in every instance of their application.

Requirement	R District Standard
Minimum lot area (square feet)	2,000
Minimum front yard (feet)	30
Minimum side yard, main and accessory buildings (feet)	15
Minimum rear yard, main and accessory buildings (feet)	15
Maximum height:	
In stories	4
In feet	60
Minimum building separation (principal buildings)*	
Front to side or rear (feet)	45
Front to front (feet)	60

*Planning Board may authorize greater heights, subject to limits imposed by New York State Building Code where building separations are proportionally increased.

§ 155-20. General regulations for residential district.

The provisions of this chapter shall be subject to such expectations, additions or modifications as herein provided by the following general supplementary regulations:

- A. Yards and setbacks.
 - (1) Terraces, patios, decks, balconies and porches.
 - (a) A paved patio or terrace shall not be considered in determination of yard size; provided, however, that such terrace is unroofed and without walls, parapets or other forms of enclosure. Such terrace, however, may have an open guard railing not over three feet high, but shall not project into any yards more than 15 feet.
 - (b) Any balcony, deck or porch/stoop shall be considered a part of the building in the determination of the size of the yard, except that unenclosed stairways to such additions may extend into yards.
 - (2) Walls and fences. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall, including one used in conjunction with landscaping or terracing, nor to prohibit any fence or wall, provided that in any residence district such fence or wall shall not exceed four feet in height in any required yard.
 - (3)

Visibility at intersections. At any street intersection in any residential district, no fence, wall or other structure or planting more than three feet in height shall be erected, placed or maintained so as to impair sight distances or otherwise create an unsafe traffic condition.

- (4) Corner lots. On a corner lot in any residence district, there shall be provided a yard on each street equal in depth to the required front yard on such streets. A rear yard shall be provided on each corner lot, and the owner shall elect which yard is the rear yard.
 - (5) Zero lot line development. A dwelling unit may be placed on one interior side property lines (a zero setback), provided such property line also serves as the side lot line for the lot opposite and there exists an irrevocable written agreement between the parties, which shall be filed with the Village, assenting to such arrangement and jointly approving the site plan. Such agreement shall be placed on such site plan. There shall, to maintain privacy, be no windows, doors, air conditioning units, or any other type of openings in the wall along the zero lot line, except when such a wall abuts permanent open spaces or a public or private right-of-way, in which no case no written agreement shall be required. Any building wall located on the lot line shall be of a firewall construction.
- B. Height exceptions. The height limitation of this chapter shall not apply to spires, cupolas, domes, chimneys, ventilators, skylight, or similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve.

§ 155-21. Site plan review requirements.

All permitted principal uses shall be subject to site plan review by the Village Planning Board as set forth below.

- A. Application for site plan review. Application for site plan review shall be made to the Village Planning Board; and the Planning Board shall be authorized to undertake all necessary reviews and make all determinations, including approvals or disapprovals, of such applications. The Planning Board, shall, before approving a site plan hereunder, find that all of the following conditions and standards have been met, which shall be in addition to those applicable to the Commercial District as set forth in § 155-22 and such other requirements as are applicable to specific uses and set forth below:
- (1) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - (2) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - (3) Operations in connection with any special use will not be more objectionable to nearby properties than would be the operations of any permitted use not requiring a special permit.
 - (4) Parking areas will be of adequate size for the particular use, properly located and suitably screened from adjoining residential uses, and the entrance and exit will be laid out so to achieve maximum safety.
 - (a) Residential uses shall be provided with one off-street parking space and turnaround area per dwelling unit, which space shall be in addition to any garage area. Parking needs with respect to all other uses shall be determined in conjunction with site plan review. The amount of parking required shall be based on industry studies of parking needs for the type of use proposed or actual case-study comparisons for projects of similar character. The Planning Board shall consider the characteristics of projected customers, residents, occupants or visitors to a given facility; expected occupancy rates, traffic levels and numbers of employees; the impact of sharing parking with adjoining facilities; peak visitation periods; and hours of operation as compared to other neighborhood activities. Where industry

standards are inadequate for the particular use or site involved or such standards are unavailable, the following standards may be applied by the Planning Board, as the case may be:

Type	Parking Requirement
Home occupations	1 space per 350 square feet of floor area devoted to use
Hotels/motels/lodging uses	1 space per rental room
Hotels/motels/lodging uses	1 space per rental room
Commercial/industrial uses	1 space per 250 square feet floor area
Places of public assembly	1 space per 50 square feet public floor area
Restaurants	1 space per 50 square feet public floor area
Vehicle service establishments	1 space per 100 square feet floor area

- (b) Each parking space shall consist of not less than an average of 270 square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a street or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces.
 - (c) Any lighting used to illuminate any off-street parking shall be so shielded as to deflect the light away from adjoining premises and public rights-of-way and avoid light spillage onto adjacent properties.
 - (d) All parking areas which are designed to accommodate 12 or more vehicles shall be landscaped using materials of sufficient growth and height to aesthetically balance the impact of the open paved area and provide effective stormwater control.
 - (e) Parking areas should be designed such that no vehicle might directly back out onto a public highway or through road within the development. Traffic flows through a parking area should be minimized and limited to connections from one lot to another and to the public street or through road.
 - (f) Commercial parking areas, where possible, should generally be located in the rear yard of any use, with the principal building situated near the front lot line as permitted by the Schedule of District Regulations. This is for the purpose of maintaining the continuity of the building line along any highway and avoiding the effective merger of parking areas along a highway into one mass of pavement where entrances and exits become difficult to identify.
 - (g) Any building erected, converted or enlarged for commercial, office, manufacturing, wholesale, institutional or similar uses shall, in addition to the off-street parking space required above, provide adequate off-street areas for loading and unloading of vehicles. Public rights-of-way shall, under no circumstance, be used for loading or unloading of materials and no loading area shall be designed so as to require the backing of vehicles out over a sidewalk or into the street. The minimum size loading space shall be 60 feet in depth and 12 feet in width, with an overhead clearance of 14 feet.
 - (h) Access to and from all nonresidential off-street parking, loading and vehicle service areas shall comply with all permitting requirements and standards of the Village of Kiryas Joel, County of Orange or New York Department of Transportation standards, as the case may be. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits. All nonresidential parking and loading areas shall be separated from the paving edge of a street or adjoining property line by a planting strip at least 10 feet in depth.
- (5) Identification signs, not illuminated and with a maximum area of 10 square feet, including one visible to public view from the street giving access, will be permitted, subject to determination by the Planning Board that the design and location of said sign or signs will, to the maximum extent possible, not be objectionable to nearby residential properties.

B.

Required plan. A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all existing and proposed buildings, parking areas, traffic access and circulation drives, water supply lines, sanitary sewers, storm drainage facilities, streetlighting, open spaces, landscaping, topography, special features and any other pertinent information about neighboring properties that may be necessary to determine and provide for the enforcement of this chapter.

- C. Supplementary standards applicable to particular uses.
- (1) Home occupations. Home occupations, as defined herein, shall be subject to the following regulations and standards, whether permitted by accessory (Class I) or Special Use (Class II) permit:
 - (a) More than one Class I (Minimal Impact) home occupation may occur on a single residential premises. However, the cumulative impacts must fall within the limits of these standards.
 - (b) The home occupation activity, whether located within the dwelling or in a (customary) accessory structure, shall occupy an enclosed space of no more than 1,000 square feet of gross floor area or 50% of the gross floor area, whichever is less.
 - (c) There shall be no indication of the home occupation from the exterior of the building except for a single sign not exceeding four square feet. Modifications to a structure shall not alter its primary residential character.
 - (d) No outdoor display of goods or outdoor storage of equipment or materials used in the home occupation shall be permitted in the front yard of the premises. Such goods, equipment or materials may be displayed or stored elsewhere on the property if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that any such outdoor storage does not occur within 20 feet of an adjacent property line.
 - (e) Visitation to the dwelling for purposes of the home occupation by any persons other than members of the household shall be limited to the business hours of 8:00 a.m. to 6:00 p.m., Sunday through Friday. Only members of the household occupying such dwelling shall be employed on the premises in the conduct of a home occupation outside of these hours.
 - (f) Sufficient off-street parking, up to three spaces, in addition to those required for the principal residential use, shall be provided in the case of Class II home occupations. Such spaces shall be accessed from the residence driveway and designed so as to minimize disturbance to adjacent properties, including screening if necessary.
 - (g) The home occupation shall be fully consistent with all other provisions of this chapter. When the use exceeds the relevant home occupation standards, the use shall no longer be considered such a home occupation. Any home occupation that exceeds these requirements shall, upon notice from the Zoning Officer, cease and desist all activity related to such use until such time as a permit as provided hereunder for an allowed principal use has been obtained from the Village Zoning Officer or the operation has been made to again conform with the applicable limitations for a home occupation.
 - (h) All Class II home occupations are transferable upon reapplication to the Planning Board for Special Use Permit. Class I home occupations shall be transferable without Planning Board review.
 - (i) The home occupation shall not utilize substantially more water than a residential use. The home occupation shall comply with all necessary Health Department requirements in regards to the utilization of water or solid waste disposal.
 - (2) Neighborhood commercial enterprises.
 - (a) New buildings in which neighborhood commercial enterprises are located shall meet all yard and lot coverage requirements applicable to all permitted-use buildings in the zoning district in which the neighborhood store is to be located.
 - (b)

At least one off-street parking space shall be provided for each 300 square feet of net retail floor area. In a building containing residential and retail commercial uses (multiple-use building), one additional off-street parking space for each residential use must be provided.

- (c) If conducted in an existing residential building or within a R Residential District, the neighborhood commercial enterprise shall not alter the residential appearance of that building or neighborhood. Goods, equipment or materials may be displayed or stored on the property only if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that any such outdoor storage does not occur within 20 feet of an adjacent residential property line.
- (d) The Planning Board may require larger lot areas than the minimum required in the Zoning District in order to accommodate required spaces and access driveways. Landscape buffering shall be required where necessary to shield adjacent properties from the impacts of the commercial use.
- (e) No neighborhood commercial enterprise shall occupy more than 1,000 square feet of gross floor area or generate more than 100 trip-ends of traffic per day on average, applying as a guide the following daily rates:

Enterprise	Trip-ends
Restaurants	8 trip-ends per seat
Food market	175 trip-ends per 1,000 square feet gross floor area
Offices	6 trip-ends per employee
Other commercial uses	50.0 trip-ends per 1,000 square feet gross floor area
Other uses	See "Trip Generation," Institute of Transportation Engineers

- (3) Multifamily dwellings. The following design criteria shall apply to multifamily developments:
 - (a) Developments of 50 units or more shall provide 1/2 acre of playground area per 50 units unless restricted to adult occupancy only.
 - (b) There shall be no more than 18 dwellings in each multifamily building, provided that the Village Planning Board may allow up to 24 units where the purpose is to accommodate additional affordable housing or adapt to unusual site conditions.
 - (c) No structure shall be constructed within five feet of the edge of any parking area. All structures shall be fully subject to the yard, setback and other development standards of § 155-19C. Setbacks shall apply to both public and private streets and other accesses serving multiple dwelling units.
 - (d) Access roads through the development and other private streets shall comply with Village of Kiryas Joel street requirements (Chapter 124) and no parking space shall be designed such that a vehicle would be backing or driving out onto a through road. Instead, there shall be a defined entrance and exit to and from each parking area.
 - (e) No multifamily development shall be served by more than one entrance and one exit (combined) from any public highway, unless topography or other physical circumstances would preclude the use of a single entrance in a safe manner.
 - (f) No more than 10 parking spaces shall be provided in a continuous row without being interrupted by landscaping. All off-street parking shall be adequately lighted and so arranged as to direct lighting away from residences.
 - (g) The amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons, the Planning Board may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow that can be achieved under the circumstances.

- (h) Maintenance of a multifamily project shall be vested in:
 - [1] An association or other legal entity organized prior to the offering of the first unit for occupancy; or
 - [2] A manager, who may be the developer, or a person designated by the developer before the developer offers a unit for occupancy; or
 - [3] The owners or occupants of units themselves if the total number of owners or occupants within the development is not more than five.
- (i) The association or manager, as the case may be, shall be responsible for maintenance, repair and replacement of the common areas of the development including buildings and, if applicable, the furniture, fixtures and equipment within the units. The project instruments shall specify the expenses that the maintenance organization may incur and collect from purchasers as a maintenance fee and secure maintenance of the project and enforcement of applicable covenants and restrictions in perpetuity.
- (j) Conversions of motels, hotels or other existing structures to multifamily dwelling use, regardless of whether such conversions involve structural alterations, shall be subject to the provisions of this chapter. If the proposed project does involve structural alterations, the site plan shall include a certification of a registered architect or engineer to the effect that the existing building is structurally sound and that the proposed conversion will not impair structural soundness.

§ 155-22. Commercial District uses and requirements.

- A. Purpose. The Commercial District is intended to enable the development in a planned fashion of various residential and related retail uses, so as to result in a unified pattern of development for the area of the Village primarily west of Forest Road. Permitted uses, and the intensity of development of such use, shall be in accordance with site plan reviews and approvals. Existing lots not exceeding three acres in area and with frontage on an improved street as of the effective date of this chapter within the Commercial District which meet the requirements of the R District may be developed for use by one- or two-family dwellings without the requirement for submitting a site plan and securing a special permit, provided that all the yard, area and open space requirements of the R District are met and provided that no new streets will be created in order to enable such use. All other proposed principal or accessory uses shall be subject to the site plan and special permit procedures herein required.
- B. Permitted principal uses.
 - (1) Permitted principal uses, all of which shall be subject to site plan review by the Planning Board, shall be as follows:
 - (a) All uses permitted in the R District.
 - (b) Multifamily dwellings, subject to the provisions below.
 - (c) Local retail uses, subject to the provisions below.
 - (d) Hotels and motels, subject to the provisions below.
 - (2) Multifamily dwellings, hotels and motels. Such uses shall be permitted in the Commercial District, subject to the approval of a site plan in conjunction with an application for a special permit.
 - (3) Local retail uses. Such uses shall be permitted in the Commercial District, subject to having frontage on Forest Road and subject to approval of a site plan in conjunction with an application for a special permit.
- C. Site plan and special permit. An applicant developer shall submit a proposed site plan showing the general layout of roads, driveways, parking areas, buildings (including their general character, height, and proposed uses, means

of access and egress, and such other features as shall enable the evaluation of the plan, including its relationship to existing and proposed development in the vicinity of the site plan.)

- D. Site plan hearing. After review of the site plan, the Village shall set a public hearing in accordance with law. The hearing body shall thereafter render a report which approves, disapproves or approves subject to stated modification. An approval shall also constitute special permit approval, and the applicant developer may thereafter apply for all required building permits in accordance with such special permit and may be required to post performance bonds to assure the installation of all necessary roads, utilities and other required features.
- E. Standards for development. A proposed development in the Commercial District shall consist of at least two acres and shall demonstrate proper relationship of preliminary site plans for adjacent commercial lands under the same ownership and for which final plans have not yet been presented.
- (1) Planning intent. It is intended that the application of these regulations for the Commercial District shall result in a unified predominantly residential pattern of uses for such district, with the center of activity to be focused toward a single grouping of local retail uses along Forest Road and in the general vicinity of its intersection with Van Buren Drive. It is further intended that in that same vicinity there shall be the sole concentration of the highest density of residential development, including provision for housing designed for the elderly.
 - (2) Multiple dwellings, hotels and motels. All multiple dwellings, hotels and motels shall be at a density not to exceed that which can be served existing or planned public water supplies and sanitary sewage collection and treatment systems. Multiple dwellings, hotels and motels shall be arranged in a manner that will assure safe and convenient access, adequate off-street parking to serve the needs of residents and their visitors, privacy and light and air, open spaces and such other features as the Planning Board determines to be necessary to assure a stable residential environment. No building shall exceed three stores in height. All buildings shall be sited so as to enable convenient pedestrian access to community facilities and local shopping areas.
 - (3) Local retail. Local retail stores may be included in one grouping in the Commercial District. Such stores may include food stores and other similar local retail uses which serve predominantly the residents of the Village. There shall be adequate parking to serve the needs of residents not within easy walking distance, and suitable parking and loading areas shall be provided for tradesmen and suppliers. All refuse collection areas shall be screened from public view. Lighting shall be so limited as not to create any nuisance for nearby residence areas. Signs shall be nonilluminated and limited in size and no more than 10 square feet for each retail store. Such signs may not be freestanding or extend above the roof line of buildings. All local retail uses shall be sited no closer than 25 feet to Forest Road.

§ 155-23. Nonconforming uses.

Except as otherwise provided in this section, the lawfully permitted use of land or buildings existing at the time of the adoption of this chapter or any amendment thereto may be continued although such use does not conform to the regulations specified by this chapter for the district in which such land or building is located. Said uses shall be deemed nonconforming uses.

- A. Nonconforming use of buildings.
- (1) A building or structure, the use of which does not conform to the use regulations for the district in which it is situated, shall not be enlarged or extended unless such building or structure, including such enlargement or extension, is made to conform to all regulations, including use, for the district in which it is situated; provided, however, that where the public welfare, health or safety warrants a reasonable and necessary extension, such extensions may be temporary or permanent, and permission therefor shall be obtained by application to and approval by the Planning Board.
 - (2) Such nonconforming building shall not be structurally altered unless such alterations are required by law; provided, however, that such maintenance and repair work as is required to keep a nonconforming building or structure in sound condition shall be permitted; and provided further that any such nonconforming use

may be extended throughout any parts of the building which were lawfully and manifestly arranged or designed for such use at the time of the adoption of the provision of this chapter which made such use nonconforming.

- (3) A nonconforming use of a building may be changed only to a conforming use.
 - (4) If any nonconforming use of a building ceases for any reason for a continuous period of more than 120 days, or is changed to a conforming use, or if the building in or on which such uses is conducted or maintained is moved for any reason, then any further use of such building shall be only in conformity with regulations specified by this chapter for the district in which such building is located.
 - (5) If any building in or on which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the lot on which such building was located and the subsequent use of any building thereon shall be in conformity with the regulations specified by this chapter for the district in which such land or building is located.
- B. Nonconformity, other than use. A building that is conforming in use but does not conform to the height, yard or lot area requirements of this chapter shall not be considered to be nonconforming within the meaning of Subsection A. However, no permit shall be issued that will result in the increase of any such nonconformity.
- C. New buildings on nonconforming lots.
- (1) A permit may be issued for the erection of a building housing a permitted use on any lot which has been made nonconforming with respect to area, depth, width or frontage requirements, by the adoption of this chapter or the Zoning Map, or any amendment thereto, provided that a valid conveyance has been recorded or a bona fide contract of sale for said lot has been executed and delivered prior to the date of the adoption of the provision of this chapter that made the lot nonconforming.
 - (2) In the case of a lot have nonconforming dimensions in a particular district, the minimum required front and rear yards shall be those of the Residential District in which said lot's depth would meet the requirements of this chapter and the minimum required side yards shall be those of the Residential District in which said lot's width would meet the requirements of this chapter, but in no case shall such yards be less than would have been required prior to the date of adoption of this chapter.

§ 155-24. Affordable housing.

The affordable housing requirements of Chapter 47 of the Village of Kiryas Joel Code shall apply to new residential development within the Village of Kiryas Joel.

§ 155-25. Community rooms.

The Board of Trustees finds that there exists a compelling public purpose in requiring the provision of community rooms in conjunction with the development of residential units within the Village of Kiryas Joel. Such community rooms provide suitable indoor public assembly space as required for recreational, community, charitable, civic and other valuable, worthwhile, and necessary activities for the public health, safety and welfare of the residents of the Village. The development of new residential units directly creates the need for such community rooms to meet neighborhood requirements for such assembly space. Therefore, a proper case exists for the requiring of community rooms upon the terms and conditions hereinafter set forth in this chapter. The Board has evaluated the present and anticipated future needs for community rooms providing public assembly space and, based on such evaluation, has adopted this chapter. The dense population and demographics of the Village make for a greater public interest in the provision of community rooms than in the provision of parkland as otherwise required in Village Law.

- A. Requirements of community rooms on site plans and/or subdivision plats containing residential units.
- (i) Before the Planning Board may approve a site plan or subdivision plat containing residential units, such site plan or subdivision plat shall also show, as required by this chapter, a community room or rooms suitably located for public assembly purposes. In the event the Planning Board makes a finding that a suitable

community room of adequate size to meet the requirements cannot be properly located on such site plan or subdivision plat, the Planning Board, on approval of the Village Board, may require alternative arrangements for the provision of public assembly space. In making the determination that alternative arrangements be provided, the Planning Board shall assess the size and suitability of land shown on the site plan or subdivision plat that could be a possible location for community rooms, as well as practical factors including the need for additional facilities in the immediate neighborhood.

- (a) Any development of 30 or more units shall provide a community room or rooms in the development as approved by the Planning Board.
 - (b) If the development of 30 or more units in the immediate neighborhood is anticipated in the foreseeable future, the Planning Board shall require provision of a community room or alternative arrangements for provision of public assembly space.
 - (c) The Planning Board shall require alternative arrangements for the provision of public space in developments of less than 30 units.
 - (d) If the Planning Board so determines, on the basis of hardship, or in the event the development is less than 30 units, in lieu of the provision of community rooms, the developer shall pay a fee not less than \$5,000 per unit, as determined from time to time by resolution of the Board of Trustees.
- (2) A community room shall meet the following minimum standards:
- (a) A community room shall meet the public assembly standards found in the New York State Building Code.
 - (b) A community room shall contain a minimum of 25 square feet of public assembly space per residential unit in the development. Except as determined by the Planning Board, the maximum size of a community room shall be limited to 3,000 square feet of public assembly space. Therefore, in larger developments, multiple community rooms shall be provided to meet the needs of the neighborhood.
 - (c) Community rooms shall be centrally located at ground level and shall be handicapped accessible as determined by the Planning Board. The community room may be located in a residential or mixed use building, if all building code requirements are met.
 - (d) Community rooms shall have separate male and female rest rooms and shall have sinks and suitable plumbing to provide both potable water and cleaning facilities.
 - (e) Community rooms shall provide adequate heat, light (including adequate windows) and public utilities, shall have nine feet (minimum) high ceilings and shall be appropriately finished in a manner conducive to use.
 - (f) Community rooms shall have additional parking spaces to meet the requirements for community events if the Planning Board determines such additional parking is necessary or advisable.
 - (g) Community rooms shall have exterior ground level, handicapped accessible entrances.
- (3) The developer shall provide for the continuing ownership and operation of the community room or rooms in accordance with the requirements of this chapter. The developer shall develop and submit an operational plan providing for the proper legal structure to assure the perpetual continuing availability and use of the community room or rooms for recreational, community, charitable, civic or other uses. The operational plan shall be subject to the determination of the Village Attorney that the form and substance of the operational plan is adequate to implement the intent and purpose of this chapter. Such determination shall be a general duty of the Village pursuant to its zoning authority. No special duty or liability may be created by any act or omission related to such determination. The developer, its successors, and/or assigns shall remain liable for compliance with all legal requirements. An operational plan shall contain the following elements:
- (a) The operational plan shall provide for the form of ownership of the community room. The ownership shall be of a type and nature that can reasonably be anticipated to provide for the continuing care, use,

and operation of the community room on a daily basis, at such hours convenient to use by the community. In the event the property is transferred to an entity qualified for real property tax exemption pursuant to RPTL §§ 420-a or 420-b, the use of the community room premises in accordance with the requirements of this chapter shall be deemed a qualifying use. The operational plan shall provide that Village consent is required for the transfer of ownership, which consent shall not be unreasonably withheld if it is shown that the new owner can comply with the requirements of this chapter. The Village shall have a right of first refusal so that it can assure that the purposes of this chapter be fulfilled.

- (b) The operational plan shall require and implement legally recorded restrictions prohibiting the change of use of the community room to any other purpose.
 - (c) The operational plan shall provide for enforcement of the requirements of this chapter by the Village and payment of the Village's costs and legal fees in the event the Village prevails in any action or proceeding to enforce such requirements.
 - (d) The operational plan shall provide a schedule of maintenance for the community room.
 - (e) The operational plan shall be self-executing. All legal documents for the execution of the operational plan shall be executed in final form and shall be recorded or placed in escrow prior to final approval of the site plan or subdivision plat by the Planning Board. The completion of the operational plan may be a condition of a final approval.
 - (f) The operational plan shall include any other elements which the Planning Board determines to be necessary and proper for the implementation of the requirements of this chapter.
- B. Community room fund. The Village shall establish a fund to receive any fees paid in lieu of the provision of community rooms. The fund shall be properly accounted for and any monies deposited therein shall be used solely for the provision of community rooms or improvements thereto or other recreational facilities or improvements approved by the Board of Trustees.

§ 155-25.1. Walkways and walkway easements.

[Added 9-4-2007 by L.L. No. 3-2007]

- A. Findings of fact; word usage. The Board of Trustees finds that environmentally friendly pedestrian travel, which produces healthful benefits for the residents, is a predominant form of transportation in the Village. Safe, properly designed and located pedestrian walkways are required to support residential development in the Village. The failure to provide and make available walkways and walkway easements is an adequate reason to deny development until such time as such walkways and walkway easements are provided. Walkways shall be integrated in an organized system to meet the pedestrian needs of the public. The terms "walkways" and "sidewalks" may be used interchangeably, but shall not be limited in location to the sides of streets.
- B. Requirement of walkways and walkway easements on site plans and/or subdivision plats containing residential units.
- (1) Before the Planning Board may approve a site plan or subdivision plat containing residential units, such a site plan or subdivision plat shall also show, when required by this chapter, walkways and walkway easements for public pedestrian use. Such walkways and walkway easements shall, in the discretion of the Planning Board, be classified in two classes. Class A walkways and walkway easements shall be those determined by the Planning Board to be immediately necessary. Class A walkways shall be suitably constructed prior to the issuance of certificates of occupancy for any of the residential units shown on the site plan or subdivision plat. Class B walkways shall be those which may be constructed at a later time and may be constructed in conjunction with and for the benefit of later development. All walkways and walkway easements shown on a site plan or subdivision plat shall be clearly designated as Class A or Class B, in accordance with this chapter, but the failure to so designate such walkways shall not stop the Village from requiring their construction.

- (2) Prior to final approval, the developer shall deliver to the Village all offers of dedication, deeds, and/or easements, in fully executed final form for recording, together with executed recording documents and such other instruments which may be required. The Village Attorney shall approve such documents as to form.
- (3) Walkways shall be considered the same as sidewalks and are public improvements for the purposes of Article 7 of the Village Law.
- (4) All walkways shall be:
 - (a) A minimum of six feet wide and properly paved;
 - (b) Properly laid out to ensure safe usage and handicapped accessibility. The grades shall be designed to be safely used by wheel chairs and carriages and shall conform to ADA standards;
 - (c) In compliance with street specifications for sidewalks; and
 - (d) Properly illuminated in accordance with the street specifications having a minimum of one street light, or equivalent, located on the premises.
- (5) The Village may from time to time adopt, by resolution, design and construction standards.

§ 155-26. Synagogues, schools and institutions.

All synagogues, ritual baths, public schools, private schools, colleges and universities, cemeteries and other places of worship or religious observance and instruction shall meet the following standards:

- A. All such uses shall include adequate provision for parking at times of maximum attendance or use of the premises, with landscaping and controls over lighting as may be required so as to protect and not adversely affect adjoining residential properties, and with means of ingress and egress which are properly related to the street system.
- B. Off-street loading and unloading areas for delivery of materials and supplies as well as arriving buses or other forms of public transportation shall be provided. Such facilities shall be sufficient in size to accommodate the volume of activity anticipated, be located away from adjoining residences and include minimal use of lighting and other features that will interfere with the quiet enjoyment of adjacent residential properties.
- C. The secondary use of such facilities for catering hall purposes shall require additional parking as may be required to accommodate the added activity. Structures used for this purpose shall be subject to side and rear yard requirements of 50 feet wherever the adjoining property is in residential use. Such secondary uses shall be subject to site plan review by the Village Planning Board, which may impose additional limits with respect to place, time and nature of the operation.

§ 155-27. Planned unit development.

- A. The Village Board may establish new Planned Unit Development (PUD) districts to encourage development of functionally integrated residential neighborhoods and commercial areas. The Village Board shall establish PUD Districts in the following manner:
 - (1) The owner(s) of the land in a proposed PUD District shall initially apply to the Village Planning Board for the establishment of a PUD Planned Unit Development District. The application shall be in writing and include a detailed sketch plan describing the proposed development's principal features and proposed phasing.
 - (2) The Planning Board shall review the sketch plan and related documents and render a report to the applicant on the acceptability of the proposal along with recommendations for changes or improvements, if any. An unfavorable report shall state clearly the reasons therefor and, if appropriate, advise the applicant what revisions are necessary to receive acceptance.
 - (3)

Upon receipt of the Planning Board's report, which shall be made within 62 days of the meeting at which the sketch plan is initially presented, the applicant shall submit a preliminary site plan for the project to the Planning Board.

- (4) Within 62 days of the receipt of a completed preliminary development plan, the Planning Board shall review such submission, act upon the SEQRA submission, conduct a public hearing on the development plan and recommend action to the Village Board regarding establishment of a PUD District to accommodate the proposed project. It shall concurrently approve, disapprove or approve with the modifications the preliminary development plan, conditioning any approval on action of the Village Board with respect to the PUD District.
- (5) When the Planning Board has approved a development plan for a proposed district, the Village Board shall proceed to consider amendment of this Zoning Law in accord with the Village Law, conducting a hearing and acting upon the same within 90 days of the meeting at which the Planning Board's recommendation is received. The Village Board shall provide for County Planning Department review of the proposal as required by law and may attach conditions to its approval.
- (6) When any PUD district is not substantially developed in accordance with the approved preliminary development plan for a period of three years from the effective date of its establishment, and provided that it shall then appear that rights vested in persons acting in good faith in reliance on such zoning classification will not be prejudiced thereby, the Village Board, upon resolution and no earlier than 62 days following written notice to the applicant, may declare the change in classification to a PUD District voided. The Village hereby exercises its authority under § 10 of the Municipal Home Rule to supersede the New York State Village Law so as to permit voiding of a zoning change without resorting to further rezoning procedures.
- (7) After the Planning Board has approved the preliminary development plan, and provided the Village Board has approved the establishment of the PRD District, the applicant shall prepare a final development plan and submit it to the Planning Board for final approval. The final development plan shall conform substantially to the preliminary development plan approved by the Planning Board, incorporating any revisions or other features that may have been recommended by the Planning Board and/or the Village Board at the time of preliminary review. Within 62 days of the receipt of a completed application for final development plan approval, the Planning Board shall review and act on such submissions and so notify the Village Board. A copy of the approved final development plan shall be filed in the Orange County Clerk's office.

B. General requirements.

- (1) Location. A PUD District may be permitted anywhere within the Village of Kiryas Joel.
- (2) Minimum site area. A PUD District should comprise at least 10 contiguous acres of land.
- (3) Permitted uses. All permitted principal and accessory uses shall be permitted in PUD Districts.
- (4) Other zoning regulations. Setback and height requirements within a PUD District may be waived or modified by the Planning Board to accommodate innovative functionally integrated designs and site plans. Notwithstanding this, no structure shall be located within 75 feet of any rear or side lot line or 50 feet of any front lot line for the project as a whole and no structure shall exceed six stories or 75 feet in height. Such project shall also otherwise comply with all other provisions of this chapter.

§ 155-28. Landmark designations.

The Village of Kiryas Joel Village Board shall be authorized to designate historic districts and landmark sites, the improvement or modification of which shall be subject to site plan review for the purpose of ensuring that the historic integrity of the structure or site is maintained.

§ 155-29. (Reserved)

§ 155-30. (Reserved)

Article V. Enforcement and Administration

§ 155-31. Enforcement; penalties for offenses; other remedies.

- A. Enforcement. The provisions of this chapter shall be carried out and shall be enforced by the Village in accordance with the provisions of the Village Law of the State of New York.
- B. Penalties for offenses. Any owner, lessee, tenant, occupant, architect or builder, or the agent of any of them, who violates or is accessory to the violation of any provisions of this chapter or who fails to comply with any of the requirements thereof or who erects, constructs, alters, enlarges, converts, moves or uses any building or land in violation of any detailed statement or plans submitted by him and approved under the provisions of this chapter, on conviction, shall be subject to a fine of not more than \$500 for each such violation. If any person fails to abate any violation within five calendar days after written notice has been served personally upon him, or within 10 days after written notice has been sent to him by registered mail at his home or business address, or by posting such notice in a conspicuous place on any building or structure at any premises which are in violation of any of the provisions of this chapter, the Zoning Officer may revoke any building permit or certificate of occupancy for any building or structure on the premises on which such violation occurs, and such person shall be subject to a civil penalty of not more than \$500 each and every day that said violation continues, recoverable by suit brought by the Village and retained by it.
- C. Other remedies. Any building which is erected, constructed, altered, enlarged, converted, demolished, moved or removed or which is used contrary to any of the provisions of this chapter shall be deemed to be an unlawful use, and the same are hereby declared to be violations of this chapter. The proper Village authorities may institute an injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove any such erection, construction, alteration, enlargement, conversion or use which is in violation of any of the provisions of this chapter.
- D. Compliance with chapter. No board, agency, officer or employee of the Village shall grant or approve any permit, license, certificate or other authorization, including special permits by the Village Board, for any construction, reconstruction, alteration, enlargement or moving any building, or for any use of land or building that would not be in full compliance with the provisions of this chapter.
- E. Void permits. Any permit, license, certificate or other authorization, issued granted or approved in violation of the provisions of this chapter shall be null and void and of no effect without the necessity of any proceedings for revocation or nullification thereof, and any work undertaken or use established pursuant to any such permit, license or certificate or authorization shall be unlawful.

§ 155-32. Building permits.

The provisions of this section shall apply to the issuance of building permits.

- A. When required. No building or structure shall be erected, enlarged, structurally altered to create additional usable space or dwellings, demolished, moved or removed, wholly or partly, and no excavation for any building structure or use shall be made until a permit therefor has been issued.
- B. Accessory buildings. No building permit shall be issued for the construction of any detached accessory building or structure, inclusive of garages, utility sheds, storage sheds or any other outbuildings, until such time as the principal building of approved bulk, size and arrangement has been substantially completed on a lot in all respects conforming with all applicable provisions of this chapter.
- C. Duration. A building permit shall expire and become void if construction is not started within a period of one year of the date of issuance of said permit.
- D.

Permits prior to adoption of provisions. All permits for buildings or structures issued prior to the effective date of this chapter, or prior to the effective date of an amendment to this chapter shall be null and void unless substantial work has been done toward the completion of said building or structure within one year of the date of issuance of such permit.

§ 155-33. Fees.

Fees and charges shall be paid in connection with permit applications, as may be authorized by the Village Board.

§ 155-34. Board of Appeals.

A Board of Appeals consisting of five persons is hereby established by the Village Board. The Board of Appeals shall have such powers, duties and authority vested in it by the New York State Village Law.

Article VI. Miscellaneous Provisions

§ 155-35. Amendment of provisions.

This chapter may be amended from time to time in accordance with the provisions of the New York State Village Law.


§ 155-36. Short title.

This chapter shall be known as any be cited as the "Zoning Law of the Village of Kiryas Joel, New York."

APPENDIX

Chapter A164. ANNEXATION OF TERRITORY

[HISTORY: Adopted by the Board of Trustees of the Village of Kiryas Joel 9-12-1983 as L.L. No. 1-1983. Amendments noted where applicable.]

164a Exhibit A 

§ A164-1. Description of territory.

The Village of Kiryas Joel shall contain on and after the effective date of this local law, in addition to the territory presently contained within its boundaries, the following described territory: All that territory described in the attached Exhibit A, attached to this local law and made a part hereof.

§ A164-2. Annexation of territory.

The territory described in § A164-1 of this local law is hereby annexed to the Village of Kiryas Joel pursuant to the provisions of § 714 of the General Municipal Law.

§ A164-3. When effective.

This act and the annexation of the above territory described in § A164-1 of this local law shall become effective upon the filing of this local law in the office of the Secretary of State.

Chapter A168. FEES

§ A168-1. Enumeration of fees.

The following is a listing of fees charged by the Village of Kiryas Joel for various licenses, registrations and services. These fees may be amended from time to time by resolution of the Board of Trustees.

Type	Code Chapter/ Section (if applicable)	Fee
Building permit	Ch. 53, § 53-10	\$5 per \$1,000 cost of construction
Business registration	Ch. 56, § 56-2	\$25
Certificate of occupancy	Ch. 53, § 53-13	\$25
Parade license	Ch. 107, § 107-12	\$25
Taxicab driver's license, annually	Ch. 134, § 134-8	\$25
Taxicab owner's license, annually	Ch. 134, § 134-8	
First vehicle		
Each additional vehicle		
Taxicab owner's license, annually		
First vehicle	Ch. 134, § 134-8	\$25
Each additional vehicle		\$5
Water hookup	Ch. 151, § 151-8	\$500

DISPOSITION LIST

Chapter DL. DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Kiryas Joel, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Village Clerk.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1977	7-19-1977	Zoning	Superseded by L.L. No. 7-2007
L.L. No. 1-1978	7-11-1978	Zoning amendment	Superseded by L.L. No. 7-2007
L.L. No. 2-1978	11-20-1978	Furnishing of utility services tax	Ch. 129, Art. I
L.L. No. 3-1978	11-20-1978	Building permit fees	Superseded by L.L. No. 2-1993
L.L. No. 1-1979	--	Winter parking regulations	Superseded by L.L. No. 2-1992
L.L. No. 2-1979	2-15-1979	Environmental quality review	Ch. 69
L.L. No. 1-1981	7-30-1981	Constable	Ch. 13
L.L. No. 2-1981	--	Speed limits	Superseded by L.L. No. 2-1992
L.L. No. 1-1983	9-12-1983	Annexation of territory	Ch. A164

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1984	3-14-1984	Zoning amendment	Superseded by L.L. No. 7-2007
L.L. No. 1-1985	8-14-1985	Taxicabs	Ch. 134
L.L. No. 2-1985	8-14-1985	Appearance tickets	Ch. 3
L.L. No. 3-1985	10-30-1985	Flood damage prevention	Superseded by L.L. No. 10-1993
L.L. No. 1-1991	3-18-1991	Deputy Mayor	Ch. 33
L.L. No. 2-1991	11-11-1991	Terms of office of Mayor and Board of Trustees	Ch. 37 , Art. I
Res.	1-7-1992	Procurement policy	Ch. 41
L.L. No. 1-1992	5-12-1992	Solid waste	Ch. 121
L.L. No. 2-1992	5-12-1992	Vehicles and traffic	Ch. 140
L.L. No. 3-1992	11-30-1992	Installment sale of real property	NCM
L.L. No. 1-1993	5-21-1993	Property maintenance	Ch. 104
L.L. No. 2-1993	5-21-1993	Building construction	Ch. 53
L.L. No. 3-1993	5-21-1993	Sewers	Ch. 114
L.L. No. 4-1993	5-21-1993	Noise	Ch. 92
L.L. No. 5-1993	5-21-1993	Water	Ch. 151
L.L. No. 6-1993	5-21-1993	Vehicles and traffic amendment	Ch. 140
L.L. No. 7-1993	7-29-1993	Planning Board	Ch. 39
L.L. No. 8-1993	7-29-1993	Assessment for fire protection and ambulance services	Ch. 6 , Art. I
L.L. No. 9-1993	7-29-1993	Business regulation	Ch. 56
L.L. No. 10-1993	7-29-1993	Flood damage prevention	Ch. 77
L.L. No. 11-1993	7-29-1993	Swimming pools	Ch. 127
Res.	11-5-1993	Code of Ethics	Ch. 25
L.L. No. 1-1995	4-28-1995	Residents Assistance	Ch. 43
L.L. No. 2-1995	4-28-1995	Defense and indemnification	Ch. 37 , Art. II
L.L. No. 3-1995	4-28-1995	Littering	Ch. 85
L.L. No. 4-1995	4-28-1995	Assessments amendment	Ch. 6 , Art. I

Enactment	Adoption Date	Subject	Disposition
L.L. No. 5-1995	4-28-1995	Noise amendment	Ch. 92
L.L. No. 6-1995	4-28-1995	Adoption of Code	Ch. 1, Art. I
L.L. No. 7-1995	4-28-1995	Zoning amendment	Superseded by L.L. No. 7-2007
L.L. No. 1-1998	12-4-1998	Public order, peace and tranquillity	Ch. 107
L.L. No. 2-1998	12-4-1998	Sewers	Ch. 114
L.L. No. 3-1998	12-4-1998	Building construction amendment	Ch. 53
L.L. No. 1-1999	4-27-1999	Taxation: exemption for cooperative, condominium, homesteading and rental projects	Ch. 129, Art. II
L.L. No. 1-2002	6-4-2002	Flood damage prevention amendment	Ch. 77
L.L. No. 2-2002	12-5-2002	Streets	Ch. 124
L.L. No. 3-2002	12-5-2002	Bonds	Ch. 50
L.L. No. 4-2002	12-5-2002	Fees: reimbursement of planning and zoning fees and expenses	Ch. 74, Art. I
L.L. No. 1-2003	1-14-2003	Assessments: removal of obstructions and moving and resetting poles and wires	Ch. 6, Art. II
L.L. No. 2-2003	1-14-2003	Sidewalks; notice of defects	Ch. 117
L.L. No. 1-2004	1-6-2004	Library	Ch. 83
L.L. No. 2-2004	1-6-2004	Records management program	Ch. 42
L.L. No. 3-2004	3-2-2004	Water amendment	Ch. 151
L.L. No. 4-2004	3-2-2004	Administrator	Ch. 2
L.L. No. 1-2007	9-4-2007	Affordable housing	Ch. 47
L.L. No. 2-2007	9-4-2007	Zoning amendment	Superseded by L.L. No. 7-2007
L.L. No. 3-2007	9-4-2007	Zoning amendment	Ch. 155
L.L. No. 4-2007	9-4-2007	Streets	Ch. 124
L.L. No. 5-2007	9-4-2007	Taxicabs amendment	Ch. 134
L.L. No. 6-2007	9-4-2007	Stormwater management	Ch. 125
L.L. No. 7-2007	9-4-2007	Zoning	Ch. 155
	9-4-2007	Building code administration	Ch. 53

Enactment	Adoption Date	Subject	Disposition
L.L. No. 8- 2007			