

The Code
of the
Village of Malone

COUNTY OF FRANKLIN

STATE OF NEW YORK

SERIAL No.....

GENERAL CODE PUBLISHERS CORP.
Spencerport, New York

The Code
of the
Village of Malone

COUNTY OF FRANKLIN
STATE OF NEW YORK

THE GENERAL ORDINANCES OF THE VILLAGE
Published by Order of the Village Board

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GENERAL CODE PUBLISHERS CORP.
Spencerport, New York

1965

**OFFICIALS
OF THE
VILLAGE OF
MALONE**

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1994

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PREFACE

The Village of Malone, New York, is the county seat of Franklin County. It sits somewhat north of the geographical center of the county on the Salmon River in the St. Lawrence Power and Seaway Development Area. The population of Malone is in excess of 10,000. Near the mountain lakes and streams of the Adirondack Mountains, the Malone area is well known for hunting and fishing.

The Village was formed as "Harrison" in 1805 which name was changed to "Ezrville" in 1808 and to Malone in 1812. As a result of an election held on May 14, 1853, the Village was incorporated.

While only a few simple laws were necessary in the early days, the complexity of modern life has created the need for detailed laws or ordinances for the government of a village. The collection of local laws is an aspect of municipal history and, as the orderly development of the community progresses, this collection must keep pace. Modernization and orderly development apply to all phases of local affairs and most particularly to the ordinances and laws which govern.

This codification of the ordinances of the Village of Malone represents a deep appreciation of the needs of a progressive and expanding community. The Village of Malone, like many other municipalities, finds itself faced with fundamental changes involving every aspect of community life. Its elected and appointed officials must solve problems that daily increase in number and complexity, involving everything from petty details to broad aspects of orderly community planning.

More people means more homes, more business, more problems and the need for more controls - to wit: more ordinances. These ordinances must be more than mere chronological enactments lost in history in the pages of old minute books. They must be available. They must be logically arranged for easy finding. They must be reviewed from time to time in light of current trends and changes. They must be kept current and up-to-date.

It is essential that the full powers of the municipality be represented and exercised so that no phase of the local franchise be lost. All rightful areas of administration not specifically recognized or defined become the subject of new ordinances. It should be noted that the powers of a Village Board are only those which are expressly conferred by statute and consequently, in the area of legislation, many times the Board is not empowered to act.

By this codification, the village is establishing a system which provides for the orderly arrangement of its laws. This will permit the inclusion of new material in a logical order

and allow changes and amendments to be made in existing ordinances in such a way that their current adoption is included within the original ordinance. The user of this Code will be able to quickly and easily locate the ordinance under consideration, with its current status made evident.

The Code itself is divided into Chapters, their order being a logical progression from one general subject to another. Thus, all ordinances relating to Animals will be found in the Chapter on Animals; all ordinances relating to Zoning will be found in the Chapter on Zoning, etc. Any interrelated material located in various chapters will be cross-referenced by footnotes.

The Table of Contents outlines the arrangement of material by chapter and subject matter as an aid in locating the major areas of the law.

A unique page-numbering system has been used making it possible to add or change pages in any part of the volume at any time without upsetting the sequence of subsequent pages or index entries. The page order follows the sequence of chapters. Thus, Chapter 1 begins on page 101; Chapter 2 on page 201, etc.

The Index at the end of the Code constitutes both a key to the whereabouts of information as well as a perpetual inventory of all ordinances. Since it is expected that this Code will be used extensively by persons without legal training, the Index has deliberately been formulated to enable lay persons to find quickly a particular ordinance section. Each section of each ordinance has been indexed in detail and, as new ordinances are added and changes effected, index lines on them will be included with the supplement.

The Appendix contains a generality of information relative to village affairs such as rules and regulations of the Police Department.

Supplementation of this Code will be periodic, the main endeavor being to include new ordinances, changes and repeals as they are passed.

This codification will prove to be invaluable to the people of the Village of Malone who may have questions relating to the ordinances of the village and will greatly facilitate the orderly administration and enforcement of ordinances.

The research problems which develop during the compilation of any Code such as this are resolved by having the municipal attorney provide final decisions or questions regarding clarity and correctness. Robert E. Walsh, Esq., Village Attorney, has been most cooperative and effective in his efforts to help provide this efficient codification for the people of the Village of Malone.

We of General Code Publishers Corp. are proud to be taking a part in this most desirable project.

TABLE OF CONTENTS

CHAPTER	PAGE
1. General Provisions	101
Article I Adoption of Code	
2. Adoption of Local Laws	201
3. Alcoholic Beverages	301
Article I Possesion and Consumption in Public	
4. Animals.....	401
5. Auctioneers, Hawkers and Peddlers	501
6. (Reserved)	601
7. Assessments.....	701
8. (Reserved)	801
9. Bicycles.....	901
10. Bingo.....	1001
11. Bowling.....	1101
12. Community Development Program	1201
Article I Cilizen Participation Plan	
13. Compensation of Village Officials	1301
14. (Reserved)	1401
15. (Reserved)	1601
16. Curfew	1601
17. (Reserved)	1701
18. (Reserved)	1801
19. Fences.....	1901
20. Electrical Code	2001
21. Environmental Quality Review	2101
Fences-See Ch. 19	
22. Fire Prevention and Building Code	2201
23. Fireworks.....	2301
24. Flood Damage Prevention	2401
25. Garbage and Rubbish Collection	2501
26. (Reserved)	2601
27. (Reserved)	2701
28. House Trailers and Trailer Camps	2801
29. Housing	2901
Article I Fair Housing Code	
30. (Reserved)	3001
31. Junk Dealers	3101

MALONE CODE

CHAPTER	PAGE
31A. Littering.....	31A01
32. Meetings.....	3201
Article I Special Board Meetings	
Article II Meeting Procedures	
33. Minibikes.....	3301
34. Officers and Employees	3401
Article I Village Justice	
Article II Convention, Conference and School Attendance	
Article III Smoking Policy	
Planning Board-See Ch. 69	
35. Poles and Wires	3501
36. (Reserved)	3601
37. Pollution.....	3701
37A. Protest Policy	37A01
38. Public Hearing	3801
39. (Reserved)	3901
40. Public Health	4001
41. (Reserved)	4101
42. Railroads	4201
42A. Records.....	42A01
43. Recreation Commission	4301
44. Recreation Park Regulations	4401
45. Sewer Use	4501
46. Sewer Rents	4601
47. Sidewalks and Streets	4701
48. Signs	4801
49. Slaughterhouses.....	4901
Subdivision of Land-See Ch. 66A	
50. Sunday Sports	5001
51. Swimming Pools	5101
52. Tax on Utility Services	5201
53. Taxicabs	5301
54. Theatres and Shows	5401
54A. Traffic Violations Bureau	54A01
55. Trees	5501
Article I Care of Trees	
Article II Elm Trees	
56. (Reserved)	5601
57. Unsafe Buildings and Structures	5701
58. (Reserved)	5801

TABLE OF CONTENTS

CHAPTER	PAGE
59. Vehicle and Traffic	5901
Article I Traffic Ordinance	
Article II Driving Regulations	
Article III Parking Restrictions	
Article IV Parking Meters	
Article V Parking Lots	
Article VI Traffic Bureau	
Article VII General Penalty Clause	
Vehicles, Inoperable, Unregistered and Junk-See Ch. 70.	
60. (Reserved)	6001
61. Village Liability	6101
62. (Reserved)	6201
63. Water.....	6301
64. (Reserved)	6401
65. (Reserved)	6501
66. Zoning.....	6601
66A. Subdivision of Land	66A01
67. (Reserved)	6701
68. Zoning Board of Appeals: Establishment and Procedural Rules	6801
69. Planning Board	6901
70. Inoperable, Unregistered and Junk Vehicles.....	7001

INDEX
APPENDIX

	Part I		
Grievance Procedure		7501	
	Part II		
Police Regulations		7601	
	Part III		
Village Employee Vacation Rules		7701	
	Part IV		
Code of Ethics		7801	
	Part V		
Procurement Policy		7901	
	Part VI		
Sexual Harassment Policy		8001	

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Adoption of Code
Local Law
No. 3
1965

LOCAL LAW NO. 3 FOR THE YEAR 1965 OF THE VILLAGE OF MALONE, NEW YORK.

§ 1-1. Code adoption.

§ 1-2. Effective date.

[HISTORY: Adopted Malone Village Board 6-28-65]

Be it enacted by the Board of Trustees of the Village of Malone, New York as follows:

ARTICLE I
Adoption of Code

§ 1-1. Code adoption.

The Village Board of the Village of Malone adopts and enacts a Code of said village being a recodification of the existing body of law to be a new and original comprehensive ordinance superseding all other general and permanent ordinances of the Village of Malone passed prior to the enactment of this Code, except such as by reference thereto are expressly saved from repeal or continued in force and effect and covering the following categories: (1) General Provisions; (2) Animals; (3) Auctioneers, Hawkers and Peddlers; (4) Barber Shops; (5) Bicycles; (6) Bingo; (7) Bowling; (8) Curfew; (9) Electrical Code; (10) Fire Prevention; (11) Fireworks; (12) Garbage and Rubbish Collection; (13) House Trailers and Trailer Camps; 14) Junk Dealers; (15) Milk Inspection; (16) Playgrounds; (17) Poles and Wires; (18) Pollution; (19) Public Hearings, L. L. No. 1, 1947; (20) Public Safety and Good Order; (21) Public Health; (22) Sewers; (23) Sidewalks and Streets; (24) Signs and Posters; (25) Slaughterhouses; (26) Sunday Sports; (27) Taxicabs; (28) Theatres and Shows; (29) Trees; (30) Unsafe Buildings and Structures; (31) Vehicle and Traffic; (32) Village Liability, L. L. No. 1, 1953; (33) Zoning.

§ 1-2. Effective date.

This local law to take effect immediately.

Chapter 2

ADOPTION OF LOCAL LAWS

Local Law

No. 5

1982

A LOCAL LAW ENTITLED "ADOPTION OF LOCAL LAWS" AS CHAPTER 2 OF THE CODE OF THE VILLAGE OF MALONE

- § 2-1. Public hearing; time limitation for adoption.
- § 2-2. Posting and availability of copies prior to hearing.
- § 2-3. Proof of publication of notice.
- § 2-4. Posting and publication after adoption.
- § 2-5. Proof of posting and publication.
- § 2-6. Numbering of local laws; filing.
- § 2-7. When effective.

[HISTORY: Adopted Malone Village Board 8-9-82 as Local Law No. 5, 1982.¹ Amendments noted where applicable.]

§ 2-1. Public hearing; time limitation for adoption.

- A. No local law shall be adopted by the Board of Trustees of the Village of Malone until a public hearing has been held thereon in its final form before such Board of Trustees not less than three (3) nor more than thirty (30) days after public notice has been given of the time and the place of the holding of such public hearing. Such notice shall be given by the Village Clerk by causing the same to be published once in the official newspaper of the village. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.
- B. The Board of Trustees, after closing the public hearing, may adopt the proposed local law in its original form or as amended at its next regular or special meeting. The Board of Trustees may also postpone adoption of the local law to a later date or dates. It shall not be necessary to hold subsequent public hearings as long as the proposed local law is adopted within one (1) year from the date of the public hearing.

¹ Editors Note: Section 1, Legislative intent, of this local law read as follows: "In the past some confusion has existed with respect to the local requirements for the adoption of a local law. This local law is intended to alleviate that confusion. These local requirements shall not eliminate any of the requirements established by the Village Law, the General Municipal Law, or the Municipal Home Rule Law of the State of New York or any acts amendatory thereto or supplementary thereof."

Any proposed local law not adopted within one (1) year from the date of the public hearing shall be deemed to have been defeated, but may be reintroduced at any time as a new proposed local law.

§ 2-2. Posting and availability of copies prior to hearing.

The Village Clerk shall cause to be printed or other wise reproduced copies of such proposed local law and shallow not later than the day such notice is published in the official newspaper of the village, post one (1) such copy, together with the notice of the hearing, in a conspicuous place in the Village Office. The Village Clerk shall also make copies of such proposed local law available at the Village Office for inspection by and distribution to any interested person during regular business hours.

§ 2-3. Proof of publication of notice.

Proof of publication of the notice of public hearing required by § 2-1 hereof shall be filed in the office of the Village Clerk.

§ 2-4. Posting and Publication after adoption.

The Village Clerk shall forthwith, upon the adoption of a local law by the Board of Trustees, post a copy thereof in a conspicuous place in the Village Clerk's Office and shall, within ten (10) days after such adoption, cause the local law or an abstract thereof describing the same in general terms to be published in the official newspaper of the visage.

§ 2-5. Proof of posting and Publication.

Proof of the posting of the copy of an adopted local law and the publication of the local law or an abstract thereof required by § 2-4 hereof shad be filed in the office of the Visage Clerk.

§ 2-6. Numbering of local laws; filing.

Each local law shall be numbered consecutively, beginning with the number one (1X, for each calendar year. When a local law has been finally adopted, certified copies thereof, as required by § 27 of the Municipal Home Rule Law of the State of New York, shad be filed in the offices of the Village Clerk of the Village of Malone, the Comptroller of the State of New York and the Secretary of State of the State of New York. The Village Clerk shall accordingly assign to such local law its appropriate number.

§ 2-7. When effective.

This local law shall take effect immediately.

Chapter 3

ALCOHOLIC BEVERAGES

ARTICLE I

Possession and Consumption in Public

§ 3-1. Legislative intent.

§ 3-2. Possession or consumption in public places prohibited.

§ 3-3. Exceptions; permit required; issuance.

§ 3-4. Discarding containers.

§ 3-5. Penalties for offenses.

§ 3-6. Severability.

§ 3-7. When effective.

[HISTORY: Adopted Malone Village Board: Art. I, 12-10-79 as Local Law No. 8, 1979. Amendments noted where applicable.]

GENERAL REFERENCES

Recreation Park regulations - See Ch. 44, § 4410.

ARTICLE I

Possession and Consumption in Public

[Adopted 12-10-79 as Local Law No. 8, 1979]

§ 3-1. Legislative intent.

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

§ 3-2. Possession or consumption in public places prohibited.

No person shall have, possess, carry or transport any liquor, wine, beer or other alcoholic beverage in an open bottle or other open container in or upon any public sidewalk, street, lane, highway, building, parking lot, park or recreation area, or other public property, or in any vehicle upon such area, within the Village of Malone. No person shall drink or otherwise consume any liquor, wine, beer or other alcoholic beverage in or upon any of the aforesaid public areas or property within the Village of Malone.

§ 3-3. Exceptions; permit required; issuance.

- A. If any individual or organization desires to have, distribute or consume alcoholic beverages on public property in the Village of Malone, said individual or organization must apply to the Chief of Police of the Village of Malone, or to his duly authorized representative, for a permit therefore at least three (3) days prior to the date scheduled for using such beverages. No fee shall be charged for the granting of said permit.
- B. A permit shall be issued only upon the following conditions:
- (1) Such individual or organization by its duly authorized officer must agree, in writing, to assume full responsibility for supervising the conduct of the group or individuals benefiting from such permit and to properly and promptly clean up and restore the premises, after use, to its prior condition.
 - (2) Such individual or organization must further agree, in writing, that adequate precautions shall be taken to ensure that minors will not be served, or allowed to consume, alcoholic beverages at the permitted event or gathering.
 - (3) No alcoholic beverages shall be distributed or consumed other than on the specific premises described in the permit or at the time stated therein.
 - (4) No permit shall be issued to any individual or organization which has previously been issued a permit and has failed to comply with the provisions of this local law.
- C. The provisions of this local law shall not apply to those portions of the recreation park operated by the Malone Joint Recreation Commission which may be specifically designated by said Commission as suitable for the consumption of alcoholic beverages and/or the possession of open containers of alcoholic beverages.

§ 3-4. Discarding containers.

No person shall discard alcoholic or other beverage containers upon any public sidewalk, lane, highway, parking lot, park or recreation area or other public property within the Village of Malone, without the express written permission of the village.

§ 3-5. Penalties for offenses.

The violation of any of the provisions of this local law shall be punishable by a maximum fine of two hundred fifty dollars (\$250.) or by imprisonment for fifteen (15) days, or by both such fine and imprisonment. Each day any violation shall continue shall constitute a separate violation.

§ 3-6. Severability.

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

§ 3-7. When effective.

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

ANIMALS

Chapter 4

ANIMALS

ARTICLE I

Purpose

§ 4-1. Legislative intent.

ARTICLE II

(Reserved)

§§ 4-2 and 4-3. (Reserved)

ARTICLE III

Other Animals

§ 4-4. Keeping of fowl, rabbits and pigeons.

§ 4-6. Certain animals prohibited.

§ 4-6.1. Fishing prohibited.

ARTICLE IV

Impoundment

§ 4-6. Impounding of running animals.

ARTICLE V

Treatment

§ 4-7. Humane treatment of animals.

ARTICLE VI

Penalties

§ 4-8. Penalties for offenses.

ARTICLE VII

When Effective

§ 4-9. When effective.

[**HISTORY:** Adopted Malone Village Board 5-12-1980 as L. L. No. 2, 1980.¹
Amendments noted where applicable.]

ARTICLE I

Purpose

§ 4-1. Legislative intent.

- A The purpose of this local law shall be to preserve the public peace and good order in the Village of Malone and to contribute to the public welfare and good order of its people by enforcing certain regulations and restrictions on the activities of animals that are consistent with the rights and privileges of the owners of animals and the rights and privileges of other citizens in the Village of Malone.
- B. This local law is adopted pursuant to the authority of §§ 1 to 6 of the Agriculture and Markets Law of the State of New York.

ARTICLE II²

(Reserved)

§§ 4-2 and 4-3. (Reserved)

ARTICLE III

Other Animals

§ 4-4. Keeping of fowl, rabbits and pigeons.

No person shall raise, keep, harbor or maintain any chickens, roosters, turkeys; pigeons or any other type of fowl or birds, hereinafter referred to as "fowl or birds", or rabbits, for commercial purposes within the limits of the Village of Malone. Such fowl or birds shall not be kept within one hundred (100) feet of any residence or place of business, except by the consent of all of the owners of adjoining property.

§ 4-5. Certain animals prohibited.

No person shall raise, keep, harbor or maintain any cattle or calves, foxes, minks, sheep, skunks or swine within the limits of the Village of Malone.

¹ Editor's Note: This local law superseded former Ch. 4, Animals, adopted 2-14-1947

² Editor's Note: Former Art. II, Dogs, as amended, was repealed 8-8-1994 by L.L. No. 8, 1994.

§ 4-5.1. Fishing prohibited. [Added 8-18-1984 by LL. No. 8, 1984]

It shall be illegal for any person to remove fish or to attempt to remove fish, by any means whatsoever, from the village fish pond, located adjacent to the Department of Public Works garage off College Avenue, without the prior consent of the Board of Trustees of the Village of Malone, New York, unless such person shall be less than sixteen (16) years of age or more than sixty-two (62) years of age.

**ARTICLE IV
Impoundment****§ 4-6. Impounding of running animals.**

It shall be lawful for any police officer or other individual designated by the Village of Malone to restrain and seize any dog, calves or other cattle, swine, fowl or birds or rabbits found running at large contrary to the provisions of this local law within the limits of the Village of Malone. Any animal so restrained or seized shall be turned over for impounding to the Village of Malone or any other person or agency designated by village officials or authorized by law to impound animals pursuant to Article 7, §120, of the Agriculture and Markets Law of the State of New York, as amended.³

**ARTICLE V
Treatment****§ 4-7. Humane treatment of animals.**

It shall be unlawful for any person within the Village of Malone to torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature. Any animal so treated shall be impounded by the Police Department of the Village of Malone, pursuant to the provisions of § 46 of this local law. The owner thereof shall be notified, in writing and by personal service or by regular mail, of the alleged violation, and the matter shall be referred to the Village Justice for hearing and determination.

**ARTICLE VI
Penalties****§ 4-8. Penalties for offenses.**

- A. The Police Department of the Village of Malone, New York, and the officers of the Department are hereby instructed to issue a warning citation to any person they believe would be guilty of violating any of the provisions of this local law as a first offense. Any person subsequently found guilty of violating any of the provisions of this local law shall be guilty of an offense against this local law and shall, upon conviction thereof as a first offense, be punished by a fine of not less than twenty-five

dollars (\$25.) nor more than fifty dollars (\$50). Upon any subsequent-convictions within a three month period from the date of the first conviction under this chapter, a person shall be punished by a fine of not less than fifty dollars (\$60.) nor more than seventy-five dollars (\$75.). Upon the third such conviction within a six-month period from the date of the first conviction under this chapter, a person shall be punished by a fine of not less than seventy-five dollars (\$75.) nor more than one hundred dollars (\$100.). Upon the fourth such conviction within one (1) year from the date of the first conviction under this chapter, a person shall be punished by a mandatory fine of two hundred fifty dollars (\$250.). [Amended 1-28-1984 by L.L. No. 1, 1984]

- B. In addition to the fine imposed by Subsection A of this section of this local law, the Village Justice before whom any violator of this local law is convicted shall have the power and the authority to order such person to compensate the owner of any private property for the damage done to such property by the animal of the violator.

ARTICLE VII When Effective

§ 4-9. When effective.

This local law shall take effect immediately upon adoption, publication and filing with the Secretary of State as required by law.

Chapter 5

AUCTIONEERS, HAWKERS AND PEDDLERS

ARTICLE I

Auctioneers

- § 5-1. Certain sales prohibited.
- § 5.2. License required for auctions; application; fees.
- § 5-3. Bond required.
- § 5-4. Records to be maintained.
- § 5-5. Records open to inspection.
- § 5-6. Limitations upon articles to be sold.
- § 5-7. Time limits.
- § 5-8. Nighttime sales prohibited.
- § 5-9. Misrepresentation of goods not allowed.
- § 5-10. Misrepresentation of type of sale prohibited.
- § 5-11. Bidding practices.
- § 5-12. Labeling.
- § 5-13. Violation and penalty.
- § 5-14. Exceptions.

ARTICLE II

Hawkers and Peddlers

- § 5-15. License required; fee.
- § 5-16. Restrictions.
- § 5-17. Violations and penalties.

ARTICLE III

Validity, Effective Date

- § 5-18. Validity.
- § 5-19. Effective date.

[HISTORY: Adopted Malone Village Board 2-8-54; effective 2-22-54.
Amendments noted where applicable.]

ARTICLE I

Auctioneers

§ 5-1. Certain sales prohibited.

No person shall offer for sale on any of the public streets, lanes, byways, public park or ground of the Village of Malone, or in any building therein, any article within which is concealed money or jewelry or other article or device, the purpose of which is to make more ready the sale or disposal of goods, wares or merchandise to be disposed of.

§ 5-2. License required for auctions; application; fees.

No person shall act as an auctioneer of personal property nor shall any person hold or cause to be held any public auction or public vendue of personal property within the Village of Malone without first obtaining a license from the Mayor of the said Village of Malone. The said Mayor shall issue licenses, specifying the fees to be paid therefore to such applicants as he shall deem fit and proper for such purposes. Every such license shall be countersigned by the Clerk of the village, who shall keep a record thereof and of the amount of the fee to be paid therefore and upon presentation of such license to the Treasurer of the village, so signed and countersigned, and the payment to the Treasurer of such fee, the Treasurer shall endorse thereon his receipt of the license fee. The license shall not take effect until the receipt of the Treasurer shall have been endorsed thereon. The fee for each such license is hereby fixed at one hundred dollars (\$100.). Every license issued shall expire on the 31st day of December next succeeding the day on which it is granted. Every Such license shall contain the name and residence address of the person to whom it is issued and no other person than the one named therein shall act as auctioneer or hold or cause to be held any public auction or vendue of personal property under such license. Any applicant who shall have been refused spell license by the Mayor may apply to the Board of Trustees therefor at a meeting thereof and the same may be granted or refused by such Board. The Mayor may suspend any license granted under this article until the next meeting of the Board of Trustees, and thereupon the said license may be revoked or continued by the Board of Trustees. The holder of the license so suspended may appear before the said Board and be heard with reference to the matter.

§ 5-3. Bond required.

No person shall be entitled to an auctioneer's license hereunder, or act as auctioneer on the sale at public auction of personal property in the Village of Malone, where a license is required hereunder until he has entered into a joint and several bond to the Village of Malone with two (2) sufficient sureties, to be approved by the Mayor, or with a surety company authorized to issue surety bonds in the State of New York, under the penalty of five thousand dollars (\$5,000.), conditioned that he will faithfully perform his duties as such auctioneer and render such accounts and pay such duties and monies as such auctioneer as may be required of him by law to the Village of Malone, or to any person.

§ 5-4. Records to be maintained.

Every auctioneer or person engaged in the business of selling personal property at auction, whether acting in his own behalf or as officer, agent or representative of another shall, upon the receipt or acceptance by him of any personal property for the purpose of sale at auction and before offering the same for sale at auction, write or cause to be written in a book to be kept by him for the purpose, the name and address of the person who employed him to sell such personal property at auction; the name and address of the person for whose benefit, behalf or account such personal property is to be sold at auction; the name and address of the person from whom such auctioneer received or accepted such personal property; the name and address of the person who was the owner, the authorized agent of owner or the consignor of such personal property immediately prior to the receipt or acceptance for the purpose of sale at auction of the same by such auctioneer; the location with street and number of any such personal property immediately prior to the receipt or acceptance of the same by such auctioneer for the purpose of sales at auction; the date of the receipt or acceptance by such auctioneer of such personal property for the purpose of sale at auction; the place and street and number, if any, in which such personal property is to be held, kept or stored until sold or offered for sale at auction; the place with street and number, if any, in which such personal property is to be sold or offered for sale at auction; a description of such personal property and the distinctive marks thereon, if any, and the terms and conditions upon which such auctioneer received or accepted such personal property for sale at auction. The word "person" as used in this section includes a corporation, joint stock association or copartnership. The said book when written as hereinbefore required shall be the "inventory" to be sold at auction.

§ 5-5. Records open to inspection.

The said book and the entries therein made, as provided by the preceding section, shall at all reasonable times be open to the inspection of the Mayor and the Chief of the Police Department of the village, the District Attorney of Franklin County and any person who shall be duly authorized in writing for that purpose by any or either of them, and shall exhibit such authorization to such auctioneer and/or person licensed hereunder. In addition to inspection of said book, the same authorities may at any time during the auction sale examine all records of the establishment pertaining to the receipt of merchandise after the commencement of the auction sale.

§ 5-6. Limitations upon articles to be sold.

During any sale by auction no additions whatever shall be made to the stock of merchandise set forth in the inventory as written in said book unless such additions shall be recorded and appropriately labeled as merchandise so added. Upon the offering for sale any such merchandise so added the auctioneer shall announce that such articles have been added to the stock of merchandise since the auction started.

§ 5-7. Time limits.

No sale at a public auction shall continue for more than thirty (30) days, Sundays and legal holidays excepted, from the day of the beginning of the sale. Such sale may continue for thirty (30) additional days upon written permission of the Mayor, which permission shall be granted by the Mayor in his discretion for good cause.

§ 5-8. Nighttime sales prohibited.

It shall be unlawful for any person, firm or corporation to sell, dispose of or offer for sale in the Village of Malone at public auction, or to cause or permit to be sold, disposed of or offered for sale in said Village of Malone at public auction, between the hours of 6 :00 P.M. and 8 :00 A.M. the following morning, articles of personal property, whether the same shall be their own property or whether they shall sell the same as agents or employees, or otherwise.

§ 5-9. Misrepresentation of goods not allowed.

No auctioneer of personal property shall misrepresent the quality, kind or value of any article at any auction sale.

§ 5-10. Misrepresentation of type of sale prohibited.

No person, firm or corporation shall sell or offer for sale any goods, wares and merchandise by auction or advertise for sale any goods, wares or merchandise, falsely representing or pretending that such goods, wares or merchandise, in whole or in part, are a part of a bankrupt or insolvent stock or damaged goods, or goods saved by fire, or make any false statement as to the purchase, history or character of such goods, wares or merchandise.

§ 5-11. Bidding practices.

No person shall act as a by-bidder or what is commonly known as a "capper," "booster"- or "shiller" at any public auction or place or offer or make any false bid to buy or to pretend to buy any such article sold or offered for sale at any public auction sales.

§ 5-12. Labeling.

It shall be unlawful for any person licensed hereunder to offer for sale by auction any article to which there is not attached a card or ticket or label containing a true and correct statement plainly written or printed in English specifying the kind and quality of the metal of which such article is made or composed, or the percentage of karat or purity of such metals. If such articles are plated or overlaid, then such tag or label shall contain a true statement of the kind of plate. When precious stones are for sale or sold by auction as such or as part of an article of jewelry, such written statement shall set forth the true name, weight and quality of such stone or stones. When semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, such written

statement shall set forth the true name of said stones. When imitations of precious or semiprecious stones are offered for sale or sold by auction as such or as part of an article of jewelry, said imitations shall be described or defined as synthetic or imitations of such stones as they purport to represent. When watches, clocks and electrical appliances are sold, the true names of the manufacturers shall be stated in writing and no parts of the movements or mechanism thereof shall be substituted or contain false and misleading names or trade marks; neither shall secondhand or old movements be offered for sale in new cases without a true statement to that effect. Used and rebuilt watches should be so indicated in accordance with the New York State law. Such tag or label shall remain securely attached to any such article or merchandise and shall be delivered to the purchaser as a true and correct description and representation of the article sold, and it shall be deemed prima facie evidence of intent to defraud in case such written statements are not a true and correct description and representation of such articles sold.

§ 5-13. Violation and penalty.

Any person, firm or corporation who shall violate or fail or refuse to comply in any way with any of the preceding provisions of this Article shall be liable to a penalty of not more than one hundred dollars (\$100.) for each offense. In addition, such violation shall constitute disorderly conduct and the person violating the same shall be a disorderly person to be punished according to law. The Board of Trustees may enforce obedience to the provisions of this Article by injunction.

§ 5-14. Exceptions. [Amended 1-8-79 by L.L. No. I, 1979]

Notwithstanding any provision herein to the contrary, the Village Board may, upon the application of an interested party, permit fund-raising auctions held for the benefit of schools, churches, social or service organizations or other nonprofit and charitable groups, and items to be auctioned are those consigned or donated by local residents or businessmen, upon such terms or conditions and at such times as the Board of Trustees may prescribe.

**ARTICLE II
Hawkers and Peddlers**

§ 5-15. License required; fee. [Amended 7-22-63]

No person shall hawk, vend, peddle or sell goods, wares or merchandise or solicit trade upon the streets and public parks of the Village of Malone without first obtaining a license therefor from the Mayor of said Village of Malone. The fee for such license shall be twenty-five dollars (\$25.) per six-month period, and, except as to the amount of the fee, the provisions of § 5-2 of Article I, with reference to the procedure for obtaining a license,

its suspension and revocation, shall apply. This section shall not apply to the holder of a license granted under the provisions of § 32 of the General Business Law or to the peddling of meats, fish, fruit and baron produce by farmers and persons who produce such commodities, or to hawking or peddling by an honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military service of the United States.

§ 5-16. Restrictions. [Added 7-22-63]

All hawking, vending, peddling or selling of goods, wares or merchandise or soliciting of trade upon the streets of the Village of Malone shall be subject to the following terms and conditions:

- A. No vehicle shall remain standing in one (1) place in excess of ten (10) minutes.
- B. No such hawking, vending, peddling, selling or solicitation of trade shall take place within two hundred fifty (250) feet of any school in said village between the hours of 8:00 am. and 4:00 p.m. on any school day.
- C. No such hawking, vending, peddling, selling or solicitation of trade shall take place within two hundred fifty (250) feet of any public park in said village unless authorized by resolution of the Village Board. [Amended 5-11-1992 by L.L. No. 3, 1992]
- D. No hawking, vending, peddling, selling or solicitation of trade shall take place on East and West Main Street, Elm Street, Finney Boulevard, Ft. Covington Street, Catherine Street and Pearl Street between the hours of 8:00 am. and 9:30 am., 12:00 noon and 1:30 p.m., and 5:00 p.m. and 6:30 p.m. on any weekday, unless authorized by resolution of the Village Board. [Amended 5-11-1992 by L.L. No. 3, 1992]
- E. No sale shall be made to any person while such person is standing in any street in said village.

§ 5-17. Violations and penalties [Added 7-22-1963]

Any person violating the preceding sections shall be liable to a penalty of not more than one hundred dollars (\$100.) for each offense. In addition, such violation shall constitute disorderly conduct and the person violating the same shall be a disorderly person.

§ 5-18. Validity.

In the event that any of the provisions of this ordinance shall be held unconstitutional, the remaining provisions not affected by such decision shall remain in full force and effect.

§ 5-19. Effective date.

Except as to persons duly served with a certified copy of this ordinance pursuant to the provisions of § 95 of the Village Law,¹ this ordinance shall take effect on February 22, 1954.

¹ Editor's Note: See now Village Law § 20-2002.

Chapter 6

(Reserved)

Editor's Note: Former Ch. 6, Going Out-Of-Business Sales, adopted 8-25-1965, was repealed 7-25-1994 by L.L. No 1, 1994

Chapter 7¹

ASSESSMENTS

Local Law
No. 9
1985TERMINATION OF THE STATUS OF THE VILLAGE OF MALONE AS AN
ASSESSING UNIT FOR VILLAGE REAL PROPERTY TAX PURPOSES**§ 7-1. Termination of assessing function.****§ 7-2. Abolition of position of Assessor.****§ 7-3. Abolition of Grievance Board.****§ 7-4. Adoption of town assessment roll.****§ 7-5. Filing of local law.**

**[HISTORY: Adopted Malone Village Board 11-4-85 as Local Law No. 9, 1985.²
Amendments noted where applicable.**

§ 7-1. Termination of assessing function.

On or after the effective date of this local law, the Village of Malone, New York, shall cease to be an assessing unit.

§ 7-2. Abolition of position of Assessor.

The position of Assessor in the Village of Malone, New York, is hereby abolished.

§ 7-3. Abolition of Grievance Board.

The Grievance Board of the Village of Malone, New York, is hereby abolished.

§ 7-4. Adoption of town assessment roll.

On or after the effective date of this local law, taxes in the Village of Malone, New York, shall be levied upon a copy of the applicable part of the assessment roll of the Town of Malone, with the taxable status date of such town controlling for village purposes.

¹ Editor's Note: Former Ch. 7, Barbershops, adopted 2-14-47, was repealed 2-25-85 by L.L. No. 1, 1985.

² Editor's Note: This local law was subject to permissive referendum but no petition requesting such referendum was filed.

Chapter 8

(RESERVED)

801 - 899

BICYCLES

Chapter 9

BICYCLES

**Local Law
No. 3
1982**

A LOCAL LAW ENTITLED BICYCLES

- § 9-1. Definitions.**
- § 9-2. License plate and registration required.**
- § 9-3. Application procedures; issuance.**
- § 9-4. Term of license.**
- § 9-5. Surrender or transfer of license.**
- § 9-6. Loss or destruction of license plate.**
- § 9-7. Compliance with applicable traffic rules and regulations required.**
- § 9-8. Bicycles without serial numbers.**
- § 9-9. Enforcement.**
- § 9-10. Removal or alteration of serial numbers or license plates prohibited.**
- § 9-11. Fees.**
- § 9-12. Penalties for offenses.**
- § 9-13. Suspension and/or revocation of license; impoundment.**
- § 9-14. Sale of impounded, lost or stolen bicycles.**
- § 9-15. When effective.**

**[HISTORY: Adopted Malone Village Board 3-22-82 as Local Law No. 3, 1982.¹
Amendments noted where applicable.]**

GENERAL REFERENCES

Minibikes - See Ch. 33.
Vehicle end traffic - See Ch 59.

¹ Edltor's Note: This local law also provided for the repeal of former Ch. 9, Bicycles, adopted 3-8-48.

§ 9-1. Definitions.

A. For the purposes of this local law, the terms used herein are defined as follows:

BICYCLE-Any vehicle consisting of an arrangement of two (2) or three (3) wheels, at least one following another, supported by a frame, with solid or pneumatic tires, having a steering bar or wheel and a saddle seat and propelled by human power.

CHIEF OF POLICE-The Chief of the Police Department of the Village of Malone, New York, or his duly appointed designee.

DEALER IN BICYCLES-Any person engaged in the sale of bicycles at retail or wholesale.

LICENSEE-Any person who procures from the Chief of Police a license plate for a bicycle, together with a registration card accompanying same.

LICENSE PLATE-A plate, tag or decal issued by the Chief of Police.

OPERATE-The use, putting into action or causing to function of a bicycle by a person mounted thereon.

VILLAGE-The Village of Malone, New York.

B. In addition to the above definitions, any applicable definitions of Chapter 59, Vehicle and Traffic, hereof shall be deemed to be included herein.

§ 9-2. License plate and registration required.

A. It shall be unlawful for any person to operate a bicycle upon any street of the village without first having registered such bicycle according to the provisions of this local law and having secured a license plate therefor.

B. It shall be unlawful for any person to operate a bicycle upon any public sidewalk of the village.

§ 9-3. Application procedures; issuance.

A. Applications for the registration of bicycles and for the issuance of license plates for a bicycle shall be made by the owner, in writing, upon blank forms furnished by the Chief of Police.

B. Such applications shall be signed by the owner. If the owner is a person under eighteen (18) years of age, then the signature shall be witnessed by a parent of the owner or, if no parent is living or available, by the legal guardian of the owner. The application shall state the full name and address of the owner of the bicycle, the name of the manufacturer thereof, the serial number of the frame thereof, the approximate date when the owner obtained title thereto and the name and address of the person or dealer in bicycles from whom it was obtained.

C. Such applications shall be presented to the Chief of Police, together with the fee prescribed by this local law. The bicycle to be registered and licensed shall be brought to the police station or such other place as the Chief of Police may designate at the time of presenting the application for the purpose of examination.

D. The Chief of Police shall examine the bicycle, and if he finds the mechanical condition thereof such that it can be safely operated, that it is equipped with the lights and attachments as herein provided and that the statements made in the application are true, he shall mark the application and duplicate "approved," attach his signature and return the duplicate of the application to the applicant as a registration card.

E. The Chief of Police will then issue to the owner a license plate, which shall contain the words "Village of Malone," the year of issuance and the number of the license.

F. The original application shall be kept on file in the office of the Chief of Police.

§ 9-4. Term of license.

The registration and license plate so issued pursuant to this local law shall be effective for a one-year period commencing on April 1 and ending on March 31.

§ 9-5. Surrender or transfer of license.

A. When any bicycle which has been registered and licensed, as herein provided, is sold or is otherwise disposed of or destroyed, the licensee shall, within five (5) business days, surrender to the Chief of Police the registration card and the license plate issued therefore together with the name and address of the new owner, if any, which shall be written upon the face of the registration card. The Chief of Police shall immediately make proper endorsements thereof on his records.

B. The number of any license surrendered as provided in this section shall not be reissued during the remainder of the year.

C. It shall be the duty of the purchaser or transferee of such bicycle, if not disposed of or destroyed, to apply for a transfer of registration therefor within five (5) business days of the purchase or transfer.

§ 9-6. Loss or destruction of license plate.

The licensee shall report immediately to the Chief of Police the loss or destruction of any license plate of the licensee and the circumstances surrounding the loss or destruction thereof. The Chief of Police shall issue a duplicate license plate upon the payment of a fee equal to one half (1/2) of the annual license fee.

§ 9-7. Compliance with applicable traffic rules and regulations required.

Every licensee shall comply with the rules of the road as set forth by the Vehicle and Traffic Law of the State of New York and any other laws amendatory thereof or supplementary thereto.

§ 9-8. Bicycles without serial numbers.

It shall be unlawful for any person residing in the Village of Malone or any dealer in bicycles operating in the visage to purchase, receive in trade or otherwise acquire any bicycle from which the serial number on the frame has been removed, destroyed, mutilated or altered, without first reporting the same to the Chief of Police.

§ 9-9. Enforcement.

The Chief of Police shall enforce the provisions of this local law.

§ 9-10. Removal or alteration of serial numbers or license plates prohibited.

It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the number of any bicycle frame licensed pursuant to this local law. It shall also be unlawful for any person to remove, destroy, mutilate or alter any license plate during the time in which such license plate is operative. However, nothing in this local law shall prohibit the Chief of Police from stamping numbers on the frames of bicycles on which no serial number can be found or on which said number is illegible or insufficient for identification purposes.

§ 9-11. Fees.

The annual fee to be paid for the registration and licensing of each bicycle shall be set, from time to time, by the Board of Trustees of the village by resolution.

§ 9-12. Penalties for offenses.

- A. Every person violating any of the provisions of this local law shall be deemed guilty of an offense and, upon conviction, shall be punishable by a fine of not more than fifty dollars (\$50.) or by imprisonment for a period of not more than fifteen (15) days, or both such fine and imprisonment.
- B. In the event that the individual charged with a violation of any of the provisions of this local law is under the age of sixteen (16) years, then the Chief of Police of the Village of Malone or an officer of the Police Department of the Village of Malone is authorized to file with the Family Court of the State of New York, for the County of Franklin, a petition alleging that the alleged violator is a person in need of supervision as defined by Article 7 of the Family Court Act of the State of New York.

§ 9-13. Suspension and/or revocation of license; impoundment.

- A. The Chief of Police may revoke or suspend, for a period of thirty (30) days, any bicycle license upon any conviction of a violation of the provisions of this local law.
- B. In addition to the revocation or suspension of any bicycle license, the Chief of Police may impound the bicycle of any licensee found to have violated the provisions of this local law for a period not exceeding ten (10) days.
- C. The Chief of Police is hereby authorized to impound any bicycle being operated on the streets of this village which is not properly licensed as prescribed by this local law. Such bicycle shall be returned to the owner thereof upon its proper registration and licensing and upon payment of an impounding fee, which shall be set, from time to time, by the Board of Trustees of the village by resolution.

§ 9-14. Sale of impounded, lost or stolen bicycles.

Any bicycle that has been impounded pursuant to the provisions of this local law or has been lost or stolen and has been in the possession of the Police Department of the village for more than one (1) year may be sold at public sale under the direction of the Chief of Police. Notice of such public sale shall be given at least once a week for three (3) weeks prior to the date of such sale in the official newspaper of the village. Such notice shall state the number of bicycles to be sold and shall set forth the time and place of the sale and the terms thereof. The Chief of Police shall report the results of the sale to the Board of Trustees of the village at its next meeting. All funds arising from the sale of said bicycles shall be deposited in the general fund of the village.

§ 9-15. When effective.

This local law shall take effect immediately.

Chapter 10

BINGO

§ 10-1. Purpose.

§ 10-2. License authority.

§ 10-3. Referendum.

§ 10-4. Conduct of games on Sunday.

[HISTORY: Adopted Malone Village Board 2-1668. Referendum held approving 3-1848. Amendments noted where applicable.]

§10-1. Purpose. [Amended 7-22-63]

The purpose of this ordinance is to amend an ordinance adopted by the Village of Malone, New York, on March 18, 1958, authorizing the conduct of bingo in such village to change the reference in such ordinance from Article 14-G of the General Municipal Law to Article 14-H of the General Municipal Law, as so renumbered by Chapter 438 of the Laws of 1962, and to set forth therein the following additional amended and renumbered restrictions concerning the conduct of the game of bingo by an authorized organization in such village, as required by Section 479 of the General Municipal Law of the State of New York, as amended by Chapter 438 of the Laws of 1962:

- A. No person, firm, association, corporation or organization, other than a licensee under the provisions of Article 14-E of the General Municipal Law, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.
- B. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
- C. No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.
- D. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
- E. No prize shall exceed the sum or value of two hundred fifty dollars (\$250.) in any single game of bingo.
- F. No series of prizes on any one (1) bingo occasion shall aggregate more than one thousand dollars (\$1,000.).
- G. No person except a bona fide member of any such organization shall participate in the management or operation of such game.

- H. No person shall receive any remuneration for participating in the management or operation of any game of bingo.
- I. The unauthorized conduct of a bingo game and any willful violation of any provision of this ordinance shall constitute and be punishable as an offense.

§ 10-2. License authority.

Pursuant to Section 438 of Article 14-H of the General Municipal Law, the Chief of Police of the Village of Malone is hereby designated and delegated to exercise the authority granted to the Board of Trustees of the Village of Malone in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

§ 10-3. Referendum.

The provisions of this ordinance shall remain inoperative unless and until a proposition therefore submitted at a general or special election in the Village of Malone, shall be approved by a majority vote of the qualified electors in the Village of Malone voting thereon.*

§ 10-4. Conduct of games on Sunday. [Added 1-11-71]

Bingo games may be conducted on the first day of the week, commonly known and designated as Sunday, under any license issued for the holding, operating and conducting thereof pursuant to the provisions of this ordinance.

*Editor's Note: Referendum held approving 3-18-58.

Chapter 11

BOWLING

§ 11.1. Children in public bowling alleys; restrictions.

[HISTORY: Adopted Malone Village Board 9-11-61; effective 9-23-61.]

§ 11.1. Children in public bowling alleys; restrictions.

Notwithstanding the provisions of Section four hundred eighty-four of the Penal Law of the State of New York, it shall be lawful for the owner, lessee, proprietor, operator, attendant or employee of any public bowling alley to admit or allow to remain in any such public bowling alley, and to bowl therein, any child between the ages of nine (9) and sixteen (16) daily, except Sunday, between the hours of 9:00 A.M. and 7:00 P.M., when school is not in session, and on Sunday between the hours of 1:00 P.M. and 6:00 P.M., and when accompanied to, from and at such public bowling alley by a parent or by a responsible adult, or when a member of an organized group under the supervision of a responsible adult, provided that no alcoholic beverages of any kind are dispensed on such premises during the time that such child is on the premises as a member of such organized group.

Chapter 12

COMMUNITY DEVELOPMENT PROGRAM

ARTICLE I

Citizen Participation Plan

§ 12-1. Policies to encourage participation.

[HISTORY: Adopted Malone Village Board 7-11-88. Amendments noted where applicable.]

GENERAL REFERENCES

Housing - See Ch. 29.

ARTICLE I

Citizen Participation Plan

[Adopted 7-11-88]

§ 12-1. Policies to encourage participation.

The following policies have been adopted by the Village of Malone in order to encourage participation by local citizens in the formulation of plans and proposals to be included in the local Community Development Program in compliance with Section 508 of the Housing and Community Development Act of 1987.

- A. In formulating the local Community Development Program, priority will be given to those activities which benefit persons of low and moderate income. Those persons will be encouraged to participate in the development of all projects and any changes which might be required during the implementation of the Community Development Program.
- B. Timely public notice will be given for all meeting of the Village Board where plans for the Community Development Program are to be considered. All information and records relating to such plans will be available at the Office of Community Development and accessible to any resident of the village during regular business hours.
- C. To the extent possible, technical assistance will be provided to any group which requests assistance in developing proposals for consideration in the local Community Development Program. Such assistance may be provided by the Mayor, staff in the office of Community Development or by consultants retained by the village for this

- purpose, at the option of the Mayor.
- D. Public hearing will be scheduled at important stages of the Community Development Program to solicit citizen views and respond to proposals and questions related to all activities included in that program. As a minimum, hearing will be held before each new funding proposal is developed, before submission of annual performance assessment reports and when considering any modification of an existing program which results in a significant change in the scope, location or beneficiaries of any activity. All hearing will be held in the Municipal Building on Elm Street after no less than seven (7) days notice by legal advertisement in the official newspaper designated by the Village Board.
- E. Any complaints or grievances regarding the Community Development Program should be addressed in writing to the Mayor. A written answer will be provided to all such complaints within fifteen (15) working days wherever possible; and, if not possible, a written notification will be provided which includes an estimate of the time required for a response.
- F. In the event that any non-English-speaking residents are identified who would be affected by activities in the Community Development Program, special provision will be made for translation of all relevant materials presented at public hearings or otherwise used in the program.

Chapter 13

COMPENSATION OF VILLAGE OFFICIALS

Local Law

No. 1

1982

§ 13-1. Abolition of local law.

§ 13-2. Effective date.

[HISTORY: Adopted Malone Village Board 1-11-82 as Local Law No. 1, 1982. Amendments noted where applicable.]

§ 13-1. Abolition of local law.

Chapter 13 of the Code of the Village of Malone, adopted by a local law dated May 14, 1973, is hereby repealed.

§ 13-2. Effective date.

This local law shall take effect June 1, 1982.¹

¹ Editor's Note: The salaries of the Mayor and Trustees contained in former Ch. 13 continue in effect until 6-1-82, at which time and thereafter salaries will be set by the village budget, after public hearing.

Chapter 14

(RESERVED)

1401 - 1499

Chapter 15

(RESERVED)

1501 - 1599

Chapter 16

CURFEW

§ 16-1. Persons affected; minors.

§ 16-2. Persons affected; adults.

§ 16-3. Duty of police.

§ 16-4. Penalties; adults.

§ 16-5. Disposition of minors.

§ 16-6. Arrest without warrant.

[HISTORY: Adopted Malone Village Board 2-14-47.]

§ 16-1. Persons affected; minors.

It shall be unlawful for any child under sixteen (16) years of age to loiter, peddle, be engaged in any vocation or remain in or Upon any of the streets, alleys or public places in this village at nighttime, between the hours of 10:00 P.M. and 5:00 A.M., unless such person is accompanied by a parent, guardian or other person having the legal custody of such minor person or is in the performance of an errand or duty directed by such parent, guardian or other person having the care or custody of such minor person, or whose employment makes it necessary to meet upon such streets, alleys or public places during the nighttime after such specified hours. Provided, this exception shall not apply when the person under such age shall be playing or unnecessarily loitering in or upon any such street, alley or public place.

§ 16-2. Persons affected; adults.

It is hereby made unlawful for any parent, guardian or other person having the legal care or custody of any such person under sixteen (16) years of age to allow or permit ally such child, ward or other person under such age while in such legal custody to go in or be in or upon any of the streets, alleys or public places in this village within the time prohibited in § 16-1, unless there exists a reasonable necessity therefor.

§ 16-3. Duty of police.

It shall be the duty of each officer of the police force to take in custody any minor person violating the provisions of §16-1 of this ordinance and to forthwith take said minor person to his or her parent, guardian or to the person having legal custody of such minor person, and give over said minor person to the parent, guardian or other person having the legal custody of such minor and to notify such parent, guardian or other person having legal custody of such minor of the violation of §16-1 of this ordinance.

§ 16-4. Penalties; adults.

The failure or neglect of any parent, guardian or other person having the legal custody and control of any child to exercise reasonable diligence in the control of any child so as to prevent him from violating the provisions of this ordinance or the conduct of any parent, guardian or person who knowingly and willingly is responsible for, encourages, aids, causes, connives at or promotes any violation of any of the provisions of this ordinance shall constitute disorderly conduct and the person violating the same shall be a disorderly person and shall be liable to a penalty not exceeding ten dollars (\$10.) for such offense and stand committed to the Franklin County Jail until such fine be paid for a period not exceeding ten (10) days, but nothing herein contained shall be construed so as to interfere with the jurisdiction of the Family Court of Franklin County to prosecute any parent, guardian or other person having the legal custody and control of any minor person violating the provisions of § 16-1 of this ordinance for contributing to the neglect or delinquency of such child.

§ 16-5. Disposition of minors.

The violation of § 16-1 of this ordinance by any child under sixteen (16) years of age shall constitute juvenile delinquency and such child may be dealt with according to the provisions of the Family Court Act of the State of New York.

§ 16-6. Arrest without warrant.

The police of the Village of Malone are hereby authorized to arrest without a warrant any person violating the provisions of the above sections of this ordinance and detain such person for a reasonable time in which a complaint can be made and a warrant issued and served.

Chapter 17

(RESERVED)

1701 - 1799

Chapter 18

(RESERVED)

1801- 1899

FENCES

Chapter 19

Fences

**Local Law
No. 4
1989**

A LOCAL LAW REGULATING FENCES

- § 19-1. Definitions.**
- § 19-2. Approval required.**
- § 19-3. Application for permit; term; renewal.**
- § 19-4. Height Limitations**
- § 19-5. Location restrictions.**
- § 19-6. Materials and composition.**
- § 19-7. Prohibited fences.**
- § 19-8. Exemptions.**
- § 19-9. Entrances and gates.**
- § 19-10. Construction requirements.**
- § 19-11. Relationship to property line.**
- § 19-12. Visibility at intersections; violations.**
- § 19-13. Nonconforming structures.**
- § 19-14. Appeals**
- § 19-15. Fees.**
- § 19-16. Penalties for offenses.**

**[HISTORY: Adopted Malone Village Board 9-11-89 as Local Law No. 4, 1989.
Amendments noted where applicable.]**

GENERAL REFERENCES

Swimming Pools - See Ch. 51.
Zoning - See Ch. 66
Zoning Board of Appeals - See Ch 68.

§ 19-1. Definitions.

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

FENCE- Any combination of materials, regardless of composition, except a living fence or temporary enclosure for playpen use, that is erected or maintained for the purpose of enclosing a piece of land or dividing a piece of land into distinct portions.

HEIGHT-The distance measured from the existing grade to the top of the fence.

LIVING FENCE-Any fence or hedge composed of live materials.

§ 19-2. Approval required.

No fence shall be erected without the approval of the Code Enforcement Officer, unless exempt from the application of this chapter.

§ 19-3. Application for permit; term; renewal

Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Code Enforcement Officer on a form provided by the Code Enforcement Officer. Said application shall be accompanied by a plan or sketch showing the proposed location of any fence and the materials proposed to be used therein, which must be in accordance with this chapter and any other pertinent local law regulating construction within the village and shall be accompanied by an appropriate fee. Upon approval by the Code Enforcement Officer, a permit shall be issued which will be in effect for a period of one (1) year from the date thereon. Said permit shall be available on the job during the progress of the work so it may be inspected by proper village officials. In the event that any approved fence construction is not completed within said one-year period, a new application and permit will be required.

§ 19-4. Height limitations

No fence shall be more than six (6) feet in height. Any fence within twenty (20) feet of a public right-of-way or street shall not exceed three (3) feet in height except fences surrounding swimming pools.

§ 19-5 Location restrictions

Any fence erected under this chapter shall be placed at least six (6) inches from any property line. Any fence erected in a front yard shall be placed at least one (1) foot back from the front line and/or property line. If no sidewalks are in place, then the fence shall be set back a minimum of one (1) foot from the village right-of-way.

§ 19-6. Materials and composition.

Any fence, wall or similar structure, as well as shrubbery, which unduly cuts off light or air, which may cause a nuisance, a fire hazard, a dangerous condition, an obstruction to men or equipment for combating fires or which may affect public safety is hereby expressly prohibited. All chain link fences erected shall be erected with the closed loop at the top of the fence.

§ 19-7. Prohibited fenced

The following fences and fencing materials are specifically prohibited.

- A. Barbed wire.
- B. Canvas fences.
- C. Cloth fences.
- D. Electrically charged fences.
- E. Poultry fences
- F. Turkey wire.

§ 19-8. Exemptions

Any fence eighteen (18) inches or less in height shall be exempt from the provisions of this chapter. Porch and deck railings and handrails appurtenant to stairs or ramps shall also be exempt. Temporary fences shall be exempt from the setback and height requirements of this chapter, but shall be subject to all other requirements. The Code Enforcement Officer shall specify an expiration date for such temporary fence permit, which shall not exceed six (6) months from the date of approval and which may be renewed for one (1) additional six-month period on reapplication.

§ 19-9. Entrances and gates

All entrances or gates shall open into the property.

§ 19-10. Construction requirements.

Any fence, wood, stockade, chain link or other type of fence shall have the smooth side or finished side facing the outside of the property. Fence posts will be placed on the inside of the fence.

§ 19-11. Relationship to property line.

All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic or interfere with visibility at corner lots and/or other structures or vehicles, whether stationary or transitory, on private or public property.

§ 19-12. Visibility at intersections; violations

The Code Enforcement Officer shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants trees or flowers or other vegetation, fence, wall or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections, driveways or curbs. Any person who shall refuse or neglect to comply within fifteen (15) days with the written direction of the Code Enforcement Officer shall be guilty of a violation of this chapter and shall be subject to its penalties.

§ 19-13. Nonconforming structures.

The lawful use of any fence existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter. If any fence is removed or destroyed, it may not be rebuilt without a permit.

§ 19-14. Appeals

The Zoning Board of Appeals is hereby empowered to review and decide appeals from any order, requirement, decision, determination or opinion made by the Code Enforcement Officer or any other administrative official charged with the enforcement of the provisions of this chapter. Such appeal shall be taken within thirty (30) days of the decision or action complained of or within thirty (30) days from the date the appellant is reasonably deemed to have notice of the decision or action complained of. The method of appeal and the fees for appeal shall be the same as set forth in Chapter 66 of the Code of the Village of Malone. The Zoning Board of Appeals shall have the power, in passing on appeals to it, to vary or modify the provisions of this chapter relating to the construction, placement or height of fences, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done by granting a variance upon a showing of practical difficulty or unnecessary hardship. In granting such a variance, the Board may attach conditions to the variance as in its judgment it deems appropriate.

§ 19-15. Fees

The Village Board of Trustees shall set application fees for a permit by resolution and may change such fees from time to time.

§ 19-16. Penalties for offenses.

Any person, firm or corporation, or his or her or its agent, servant, workman or employee, violating any of the provisions of this chapter shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.). Each day's continuance of a violation after notice to cease shall be deemed a separate and distinct offense and shall be punishable accordingly.

Chapter 20

ELECTRICAL CODE

- § 20-1. Title.
- § 20-2. Statement of purpose.
- § 20-4. Adoption of standards.
- § 20-4. Inspector.
- § 20-6. Duties of Inspector.
- § 20-6. Authority of Inspector.
- § 20-7. Violations.
- § 20-8. Penalties for offenses.
- § 20-9. Ordinance not applicable in certain cases.
- § 20-10. No waiver or assumption of liability.
- § 20-11. Severability.
- § 20-12. Repealer.
- § 20-13. Effective date.

[HISTORY: Adopted by the Malone Village Board 4-27-1959, effective 5-20-1959. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention-See Ch. 22.
Poles and wires-See Ch. 35.

§ 20-1. Title.

This ordinance shall be known as the "Electrical Code of the Village of Malone."

§ 20-2. Statement of purpose.

Since there is danger to life and property inherent in the use of electrical energy, this Electrical Ordinance is enacted to regulate the installation, alteration or repair of wiring for electric light, heat or power and signal systems operating on fifty (50) volts or more in or on all real property within the Village of Malone.

§ 20-3. Adoption of standards.

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code except where the provisions of this ordinance or any other local law, ordinance or Building Code of the Village of Malone shall differently prescribe, in which event compliance with the provisions of such local law, ordinance or Building Code shall be recognized as proper compliance with this ordinance. The requirements of the National Electrical Code shall be those known as National Fire Protection Association Pamphlet No. 70," as approved and adopted by the American Standards Association.

§ 20-4. Inspector. [Amended 7-9-1979 by L.L. No. 6, 1979; 9-9-1991 by L.L. No. 3, 1991]

- A. The Village Code Enforcement Officers and any qualified inspection agency as recognized by the Village Board are hereby authorized and deputized as agents of the village to make inspections and reinspection of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspection be a charge against the Village of Malone. The inspection agencies recognized by the Village of Malone are the duly appointed inspectors of the New York Board of Fire Underwriters, the Middle Department Inspection Agency and the Commonwealth Electrical Inspection Service, Inc. [Amended 4-11-1995 by L.L. No. 2, 1995]
- B. Upon receipt of substantial evidence that any individual or agency authorized to make inspections has acted in a manner which is or may be detrimental to the safety, health and welfare of the residents of the Village of Malone, the Village Board may, by resolution, immediately withdraw recognition of such individual or agency as an inspector. Not later than sixty (60) days after such resolution, the affected agency or individual may petition the Board for a hearing. Such hearing shall be held within sixty (60) days from the receipt of the petition for same, and a decision shall be rendered by the Board within thirty (30) days of the conclusion of the hearing.
- C. Each authorized inspection agency shall provide the village with proof of insurance in an amount of at least one million dollars (\$1,000,000.), which insurance adequately protects the village from any potential liability arising from the inspection activities of the agency.

§ 20-5. Duties of Inspector.

It shall be the duty of the Inspector to report in writing to the Chief Building Inspector, whose duty it shall be to enforce all the provisions of this code and all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and of all local laws, ordinances and the Building Code as referred to in this ordinance insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspection of electrical installations in and on properties in the Village of Malone

upon the written request of an authorized official of the Village of Malone or as herein provided. The Inspector is authorized to make inspections and reinspection of electrical wiring installations, devices, appliances and equipment in and on properties within the Village of Malone where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Village of Malone. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village of Malone and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this ordinance. He shall direct that a copy of the certificate of compliance be sent to the Village of Malone to the attention of the Building Inspector.

§ 20-6. Authority of Inspector. [Amended 10-28-1957; 7-9-1979 by L.L. No. 6, 1979; 9-9-1991 by L.L. No. 3, 1991]

- A. The Electrical Inspector referred to in this ordinance shall be the Village Code Enforcement Officer.
- B. (Reserved)
- C. Neither this ordinance nor any amendment thereto shall be construed to relieve from or lessen the responsibility of any person, firm or corporation owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Village of Malone or the authorized inspection agencies be deemed to have assumed the liability by reason of any inspection or failure to make an inspection pursuant to this ordinance.

§ 20-7. Violations. [Amended 7-9-1979 by L.L. No. 6, 1979; 9-9-1991 by L.L. No. 3, 1991]

It shall be a violation of this ordinance for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the Village of Malone until an application for inspection has been filed with one (1) of the authorized inspection agencies. It shall be a violation of this ordinance for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a temporary certificate of compliance by the authorized inspection agencies.

§ 20-8. Penalties for offenses.

Any person, firm or corporation who shall violate any of the provisions of this ordinance or any rule or regulation made pursuant thereto shall be guilty of disorderly conduct and shall be a disorderly person and, upon conviction thereof, may be punished by a fine of not more than one hundred dollars (\$100.), and each day on which such violation continues shall constitute a separate offense.

§ 20-9. Ordinance not applicable in certain cases.

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

§ 20-10. No waiver or assumption of liability. [Amended 7-9-1979 by L.L. No. 6, 1979; 9-9-1991 by L.L. No. 3, 1991]

This ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for 1088 of life or damage to person or property caused by any defect therein, nor shall the Village of Malone or the authorized inspection agencies be deemed to have assumed any such liability by reason of any inspection made pursuant to this ordinance.

§ 20-11. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Malone hereby declares that it would have passed this ordinance or the remainder thereof had such invalid application or invalid provision been apparent.

§ 20-12. Repealer.

All ordinances and parts of ordinances inconsistent with this ordinance are hereby repealed.

§ 20-13. Effective date. [Amended 4-11-1995 by L.L. No. 2,1995]

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

Chapter 21

ENVIRONMENTAL QUALITY REVIEW

Local Law

No. 5

1979

A LOCAL LAW OF THE VILLAGE OF MALONE, NEW YORK, PURSUANT TO ARTICLE 8 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW PROVIDING FOR ENVIRONMENTAL QUALITY REVIEW OF ACTIONS WHICH MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

§ 21-1. Definitions.

§ 21-2. Compliance required.

§ 21-3. Significant and nonsignificant actions.

§ 21-4. Application for determination of significance.

§ 21-5. Determination of significance; time limit.

§ 21-6. Fee.

§ 21-7. Procedures following determination.

§ 21-8. Actions involving more than one agency.

§ 21-9. Exempt actions.

§ 21-10. When effective.

[HISTORY: Adopted Malone Village Board 2-13-79 as Local Law No. 5, 1979. Amendments noted where applicable.]

§ 21-1. Definitions.

A. Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this local law shall have the same meanings as those defined in § 8-0105 of the Environmental Conservation Law and Part 617 of 6 NYCRR.

B. As used in this local law, the following terms shall have the meanings indicated:

VILLAGE-The Village of Malone, New York.

§ 21-2. Compliance required.

No decision to carry out or approve an action other than an action listed in § 21-3B hereof or Section 617.12 of 6 NYCRR as a Type II action shall be made by the Village of Malone, New York, or by any department, board, commission, officer or employee of the village until there has been full compliance with all requirements of this local law and Part

617 of 6 NYCRR; provided, however, that nothing herein shall be construed as prohibiting any of the following:

- A. The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the village to approve, commence or engage in such action.
- B. The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this local law and Part 617 of 6 NYCRR have been fulfilled.

§ 21-3. Significant and nonsignificant actions.

- A. Consistent with Part 617 of 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of 6 NYCRR as Type I actions are deemed likely to have a significant effect on the environment.
- B. Consistent with Part 617 of 6 NYCRR and the criteria therein, the actions listed in Section 617.12 of 6 NYCRR as Type II actions are deemed not to have a significant effect on the environment.

§ 21-4. Application for determination of significance.

For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the Village Clerk of the Village of Malone, New York, setting forth the name of the applicant, the location of the real property affected, if any, a description of the nature of the proposed action and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the Board of Trustees of the Village of Malone, New York, and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the Village Clerk of the Village of Malone, New York.

§ 21-5. Determination of significance; time limit.

- A. The Village Clerk of the Village of Malone, New York, shall render a written determination on such application within fifteen (15) days following receipt of a complete application and statement; provided, however, that such period may be extended by mutual agreement of the applicant and the Village Clerk. The determination shall state

whether such proposed action may or will not have a significant effect on the environment. The Village Clerk may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.

- B. The time limitations provided in this local law shall be coordinated, to the extent practicable, with other time limitations provided by statute or local law, ordinance or regulation of the village.

§ 21-6. Fee.

Every application for determination under this local law shall be accompanied by a reasonable fee, set forth in this section, to defray the expenses incurred in rendering such determination. The fees shall be as follows: ten dollars (\$10.) plus the actual costs of printing, publication and other cash expenditures.

§ 21-7. Procedures following determination.

- A. If the Village Clerk determines that the proposed action is not an exempt action, not an action listed in § 21-3B hereof or Section 617.12 of 6 NYCRR as a Type II action and that it will not have a significant effect on the environment, the Village Clerk shall prepare, file and circulate such determination as provided in Section 617.7(b) of 6 NYCRR, and thereafter the proposed action may be processed without further regard to this local law. If the Village Clerk determines that the proposed action may have a significant effect on the environment, the Village Clerk shall prepare, file and circulate such determination as provided in 617.7(b) of 6 NYCRR, and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this local law and Part 617 of 6 NYCRR.
- B. Following a determination that a proposed action may have a significant effect on the environment, the Village Clerk shall, in accordance with the provisions of Part 617 of 6 NYCRR:
- (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement; or
 - (2) In the case of an action not involving an applicant, prepare a draft environmental impact statement.
- C. If the applicant decides not to submit an environmental impact report, the Village Clerk shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The Village Clerk may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be determined as follows: ten dollars (\$10.) plus the actual costs of printing, publication and other cash expenditures.

§ 21-8. Actions involving more than one agency.

Where more than one (1) agency is involved in an action, the procedures of Sections 617.4 and 617.8 of Part 617 of 6 NYCRR shall be followed.

§ 21-9. Exempt actions.

Actions undertaken or approved prior to the dates specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this local law and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of 6 NYCRR; provided, however, that if, after such dates, the Village Clerk modifies an action undertaken or approved prior to that date and the Village Clerk determines that the modification may have a significant adverse effect on the environment, such modification shall be an action subject to this local law and Part 617 of 6 NYCRR.

§ 21-10. When effective.

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

FIRE PREVENTION AND BUILDING CODE

Chapter 22

FIRE PREVENTION AND BUILDING CODE

**Local Law
No. 2
1986**

A LOCAL LAW FOR THE ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK UNIFORM FIRE PREVENTION AND BUILDING CODE

- § 22-1. Definitions.
- § 22-2. Designation of enforcement of fiber.
- § 22-3. Building permits.
- § 22-4. Permit fees.
- § 22-5. Certificate of occupancy.
- § 22-6. Inspections.
- § 22-7. Inspectors.
- § 22-8. Permit for solid-fuel-burning devices.
- § 22-9. Annual reports.
- § 22-10. Variance and review.
- § 22-11. Penalties for offenses.
- § 22-12. Severability.
- § 22-13. When effective.
- § 22-14. Repealer.

**[HISTORY: Adopted Malone Village Board 6-2.'3-86 as Local Law No. 2, 1986.
Amendments noted where applicable.]**

GENERAL REFERENCES

Electrical Code - See Ch. 20.
House trailers and trailer camps - See Ch. 28.
Housing - See Ch. 29.
Unsafe buildings and structures - See Ch 57.
Zoning - See Ch. 66.

§ 22-1. Definitions.

The words and terms used in this local law shall have the same meanings as those contained in the Executive Law, Article 18 (Chapter 707 of the Laws of 1981), unless the context may otherwise require.

§ 22-2. Designation of enforcement of fiber.

The Code Enforcement Officer of the Village of Malone is hereby designated to administer and enforce the New York State Uniform Fire Prevention and Building Code (Uniform Code) in said Village.

§ 22-3. Building permits.

- A. No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any building or structure, except an agricultural building or structure, nor install heating equipment without having applied for and obtained a permit from the Code Enforcement Officer. However, no permit shall be required for the performance of necessary repairs which are not of a structural nature, which are done in conformance with the Uniform Code and which do not involve abatement of a violation of the Uniform Code.
- B. Application for permit.
- (1) Applications for a building permit may be obtained from the Village Office. A completed application shall be delivered to the Code Enforcement Officer and must include:
- (a) The signature of the applicant or authorized agent.
 - (b) A description of the site on which the proposed work is to be done.
 - (c) A statement of the use or occupancy of all parts of the land and of the proposed building or structure.
 - (d) A brief description of the proposed work.
 - (e) The estimated cost of the proposed work, with appropriate substantiation.
 - (f) The full name and address of the owner and the applicant and, if either shall be a corporation, the names and addresses of responsible officers.
 - (g) A duplicate set of plans, drawings and specifications for the proposed work, which have been approved by a registered architect or licensed professional engineer of this state, if such approval is required under the provisions of the Education Law or in the discretion of the Code Enforcement Officer, if the nature of the proposed construction warrants it.
 - (h) The fee specified in this local law.
 - (i) A statement granting the applicant's permission for the Code Enforcement Officer to enter the property and structure thereon as frequently as he/she deems necessary to inspect the same for the compliance with the Uniform Code.

- (j) A statement that the work will be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations.
- (2) The applicant may request that the requirement of plans and specifications be waived where the work to be done involves minor alterations or is otherwise unnecessary.
- C. The applicant shall notify the Code Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work is determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein.
- D. A building permit issued pursuant to this local law shall be prominently displayed on the property or premises to which it pertains.
- E. A building permit issued pursuant to this local law may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been a misrepresentation or falsification of a material fact in connection with the application for the permit.
- F. A building permit issued pursuant to this local law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods, provided that the permit has not been revoked or suspended at the time the application for renewal is made, the relevant information in the application is up to date and the renewal fee is paid.

§ 22-4. Permit fees.

- A. Fees for permits shall be based on the estimated value of the work as prescribed herein and shall accompany the application for the permit.
- B. The following fees shall be applicable:
 - (1) Construction or other work - alterations and new construction, improvements, removals or demolitions.

Total Valuation	Type	Fee
Under \$1,000.00	Commercial and Noncommercial	\$ 5.00
\$1,001.00 to \$15,000.00	Commercial and Noncommercial	10.00
\$15,001.00 to \$40,000.00	Noncommercial	25.00
Over \$40,001.00	Noncommercial	50.00
\$15,001.00 to \$40,000.00	Commercial	50.00
\$40,001.00 to \$100,000.00	Commercial	100.00
\$100,001.00 to \$200,000.00	Commercial	250.00
\$200,001.00 to \$300,000.00	Commercial	500.00
\$300,001.00 to \$400,000.00	Commercial	750.00
Over \$400,001.00	Commercial	1,000.00

- (2) Requested inspections outside of normal business hours [minimum charge, two (2) hours, in addition to the permit fee]: fifteen dollars (\$15.) per hour.
- (3) Plan review (where no permit is requested): fifty percent (50%) of permit cost.
- (4) Renewal of building permits: ten dollars (\$10.).
- (5) Certificate of occupancy (if building permit is in effect): No charge.
 - (a) One- or two-family dwellings: twenty-five dollars (\$25.).
 - (b) All others: fifty dollars (\$50.).
- (6) Temporary certificate of occupancy: ten dollars (\$10.).
- (7) Permit for installation of solid-fuel-burning heating appliance, chimney and flue in any dwelling unit: ten dollars (\$10.).
- (8) Fee for fire prevention, safety inspections or other inspections authorized by the Uniform Code, other than building inspections where a building permit has been issued and the appropriate fee paid. The following general classification by occupancy or use is defined in Part 701 of Uniform Code.

Classification	Fee
B1 Multiple dwelling, permanent occupancy, per residential unit inspected	\$10.00
B2 Multiple dwelling, transient occupancy, per residential unit inspected	5.00
B3 Multiple dwelling, senior citizen housing, per residential unit inspected	5.00
B4 Multiple dwelling, adult residential care facility, per residential unit inspected	5.00

Classification	Fee
C1 Business and mercantile, per unit and inspected	20.00
C2	
C3, Industrial, storage, assembly, institution, C4, per location inspected	50.00
C5 and C6	
A1, One-family dwellings, two-family dwellings, A2 miscellaneous and all other inspections under and Uniform Code for which a C7 fee has not been established	10.00

§ 22-5. Certificate of occupancy.

- A. No building erected subject to the Uniform Code and this local law shall be used or occupied, except to the extent provided in this section, until a certificate of occupancy has been issued. No building similarly enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner or his agent shall make application for a certificate of occupancy. If the Code Enforcement Officer determines that the value of the actual work performed exceeds the estimated value contained in the application for the building permit, said officer shall collect the prescribed fee according to the schedule of rates contained in § 22-4 prior to granting a certificate of occupancy.
- B. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire six (6) months from the date of issuance, but may be renewed an indefinite number of times.
- C. No certificate of occupancy shall be issued except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use and upon payment of the appropriate fee.

§ 22-6. Inspections.

- A. Work for which a building permit has been issued under this local law shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including but not limited to building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing and heating and air conditioning. It shall be the responsibility of the owner, applicant or his/her agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.
- B. Frequency of inspections.
- (1) All dwelling units in a building consisting of more than two (2) such units shall be inspected for the purpose of determining compliance with safety requirements of the Uniform Code at least once every eighteen (18) months. Inspection of common areas of such buildings, such as halls, foyers, staircases, etc., shall be so inspected at least once in every twelve (12) months.
 - (2) All commercial or public buildings, uses and occupancies shall be inspected at least once in every twelve (12) months.
 - (3) An inspection of a building or dwelling unit shall be performed at any other time upon the request of the owner or authorized agent, receipt of a written statement specifying grounds upon which the subscriber believes a violation of the Uniform Code exists or other reasonable or reliable information that such violations exist or where conditions on the premises threaten or present a hazard to public health, safety or welfare.
- C. The fees provided in § 22-4 for such inspections shall be paid by the owner within ten (10) days of the date of the statement therefore

§ 22-7. Inspectors.

- A. The inspections required by § 22-6 of this local law may be performed by the Code Enforcement Officer. The Code Enforcement Officer is authorized to order, in writing, the correction of any condition in violation of the Uniform Code found in, on or about any building or structure. Such orders shall be served in person upon a responsible party or his/her authorized agent or by certified mail to the address of a responsible party set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. A responsible party who fails to correct the condition within the specified time shall be subject to a penalty as provided by law.
- B. A person subject to inspection under § 22-6 may be required by the Code Enforcement Officer to have such inspection performed at his/her own cost and expense by a competent inspector acceptable to the Code Enforcement Officer. Such inspector may be a registered architect, licensed professional engineer, certified code enforcement officer or other person whose experience and training has been demonstrated to the satisfaction of the Code Enforcement Officer. Such inspector shall certify the results of his/her inspection to the Code Enforcement Officer. Any

person required by the Code Enforcement Officer to have an inspection performed at his/her own cost and expense shall not be assessed the fees otherwise prescribed in this local law.

- C. If the Code Enforcement Officer is the owner of or is involved in work on the premises to be inspected or if there shall otherwise be any conflict of interest, the Village Board shall appoint a qualified individual to perform such duties.
- D. Stop-work orders. [Added 3-11-1991 by L.L. No. 2, 1991]
- (1) Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is proceeding without permit or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued or is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
 - (2) Such stop-work order shall be in writing on a form prescribed by the Building Inspector and shall state the reasons for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Building Inspector or that of an assistant and shall be prominently posted at the work site.

§ 22-8. Permit for solid-fuel-burning devices.

A permit for installation of a solid-fuel-burning heating appliance, chimney and flue in any dwelling unit shall be obtained as provided in § 22-3 of this local law. If the enforcement official, after inspection, determines that the installation is in compliance with the Uniform Code, he/she shall issue a certificate of compliance on a form to be prescribed by resolution of the Village Board. A violation of this section and/or of Subdivision 5 of § 378 of the Executive Law shall be punishable as provided in such Subdivision 5.

§ 22-9. Annual reports

The enforcement official shall annually submit a report to the Village Board, within one (1) month of the close of the village's fiscal year, containing such information as the Village Board shall prescribe by resolution, including but not limited to the number and category of inspections conducted during the village's preceding fiscal year, the number of violations and abatement thereof, the number and type of permits issued and recommendations for improving the administration and enforcement of the Uniform Code.

§ 22-10. Variance and review.

A request for a variance from the Uniform Code and an appeal to review determination or failure to render a determination by the Code Enforcement Officer shall be processed with the appropriate Board of Review as provided in 19 NYCRR 440.

§ 22-11. Penalties for offenses.

- A. In addition to the remedies prescribed by the Executive Law, § 383, any person, corporation, association, firm or partnership that fails to remedy the condition found to exist in violation of the Uniform Code and/or this local law shall be subject to a fine of not more than five hundred dollars (\$500.) or imprisonment for a period not exceeding fifteen (15) days, or to both such fine and imprisonment. Each violation that continues to exist beyond the date fixed in the order of the Code Enforcement Officer to remedy the violation shall be deemed a separate offense.
- B. An action or proceeding in the name of the Village of Malone may be commenced in any court of competent jurisdiction to compel compliance with or restrain violation of this local law or orders issued in compliance with this local law.

§ 29-12. Severability.

If any section of this local law shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to affect, impair or invalidate the remainder thereof.

§ 22-13 When effective.

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

§ 22-14. Repealer.

Chapter 22 of the Code of the Village of Malone, adopted by Local Law No. 2 of 1979, entitled "Fire Prevention," is hereby repealed as of the effective date of Local Law No. 2 of 1986.

Chapter 23

FIREWORKS

§ 23-1. Fireworks prohibited; exceptions.

§ 23-2. Sale prohibited; confiscation.

§ 23-3. Violations; penalty.

§ 23-4. Repealer.

[HISTORY: Adopted Malone Village Board 2-14-47; Amendments noted where applicable.]

§ 23-1. Fireworks prohibited; exceptions. [6-22-60]

The discharge, firing or use of firecrackers, rockets, torpedoes, Roman candles, cannons, canes or other fireworks or substances designed and intended for pyrotechnic display is hereby prohibited. Provided that the Mayor or Council may order or allow the public display of fireworks by properly qualified individuals. Provided also, that such display or displays shall be of such a character and so located, discharged or fired as, in the opinion of the Chief of the Fire Department, shall not be hazardous to surrounding property or endanger any person or persons. Caps and cap pistols containing chlorate or potash mixture may be permitted to be used and sold until such time as the Malone Village Board may deem it for the best interest of the village to rescind their use and sale.

§ 23-2. Sale prohibited; confiscation.

The sale of fireworks at retail is prohibited. The Chief of the Fire Department may, at his discretion, remove or have removed at the owner's expense, all stocks of fireworks or other combustible exposed for sale, or held in stock in violation of this ordinance.

§ 23-3. Violations; penalty.

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of disorderly conduct and be fined not less than five dollars (\$5.) nor more than twenty-five dollars (\$.25.) for each day's neglect of compliance.

§ 23-4. Repealer.

All ordinances or parts of ordinances in conflict with the foregoing are hereby repealed.

FLOOD DAMAGE PREVENTION

Chapter 24

FLOOD DAMAGE PREVENTION

Local Law No. 2 1987

A LOCAL LAW OF THE VILLAGE OF MALONE, NEW YORK, AS AUTHORIZED BY § 2 OF ARTICLE IX OF THE NEW YORK STATE CONSTITUTION AND ARTICLE 36 OF THE ENVIRONMENTAL CONSERVATION LAW, PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF FLOOD DAMAGE PREVENTION REQUIREMENTS

- § 24-1. Findings.
- § 24-2. Purpose.
- § 24-3. Objectives.
- § 24-4. Word usage and definitions.
- § 24-5. Applicability.
- § 24-6. Basis for establishing areas of special flood hazard.
- § 24-7. Effect on other laws; interpretation.
- § 24-8. Severability.
- § 24-9. Compliance required; penalties for offenses.
- § 24-10. Warning and disclaimer of liability.
- § 24-11. Designation of local administrator.
- § 24-12. Development permit required; application.
- § 24-13. Certificate of elevation; stop-work order.
- § 24-14. Duties and responsibilities of local administrator.
- § 24-15. Development to be in compliance.
- § 24-16. Inspections.
- § 24-17. Certificate of compliance.
- § 24-18. General standards for flood hazard reduction.
- § 24-19. Specific standards for flood hazard reduction.
- § 24-20. Standards for areas without base flood elevations.
- § 24-21. Floodways.
- § 24-22. Appeals.
- § 24-23. Variances.

[HISTORY: Adopted Malone Village Board 3-9-87 as Local Law No. 2, 1987. Amendments noted where applicable.]

GENERAL REFERENCES

Home trailers and trailer camps - See Ch. 28.

Zoning - See Ch. 66.

§ 24-1. Findings.

The Board of Trustees of the Village of Malone finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Malone, New York, and that such damages may include destruction or loss of private and public housing; damage to public facilities, both publicly and privately owned; and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

§ 24-2. Purpose.

It is the purpose of this local law to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property, due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses which are vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

§ 24-3. Objectives.

The objectives of this local law are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 24-4. Word usage and definitions.

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

B. As used in this local law, the following terms shall have the meanings indicated:

APPEAL-A request for a review of the local administrator's interpretation of any provision of this local law or a request for a variance.

AREA OF SHALLOW FLOODING-A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

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

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

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

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

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

CELLAR-The same meaning as abasement."

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

ELEVATED BUILDING-A nonbasement building which is built to have the lowest floor elevated above the ground level, by means of fill, solid foundation, perimeter walls, pilings, columns (posts and piers) or sheer walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) - An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

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

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

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

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

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

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

FLOODWAY-The same meaning as "regulatory floodway."

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

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

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

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

- MANUFACTURED HOME**-A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes "park trailers," "travel trailers" and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.
- MEAN SEA LEVEL**-For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- MOBILE HOME**-The same meaning as Manufactured home."
- NATIONAL GEODETIC VERTICAL DATUM (NGVD)**- As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.
- NEW CONSTRUCTION**-Structures for which the start of construction commenced on or after the effective date of this local law.
- ONE-HUNDRED-YEAR FLOOD**-The same meaning as abase flood."
- PRINCIPALLY ABOVE GROUND**- At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.
- REGULATORY FLOODWAY**-The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 24-14B of this local law.
- START OF CONSTRUCTION**-The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. For manufactured homes, the "actual start" means affixing of the manufactured home to its permanent site.
- STRUCTURE**-A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.
- SUBSTANTIAL IMPROVEMENT**- Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or if the structure has been damaged and is being restored before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement

of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

§ 24-5. Applicability.

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Malone, New York.

§ 24-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the Village of Malone, of Franklin County, New York," dated October 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, is hereby adopted and declared to be a part of this local law.

The Flood Insurance Study and maps are on file at the Village Office, 14 Elm Street, Malone, New York 12953.

§ 24-7. Effect on other laws; interpretation.

- A. This local law is adopted in response to revisions to the National Flood Insurance Program, effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance and specifically shall repeal Local Law No. 2 of 1978, being Chapter 24 of the Village of Malone, New York, Code.
- B. In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 24-8. Severability.

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

§ 24-9. Compliance required; penalties for offenses.

- A. No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safe guards established in connection with conditions of the permit shall constitute a violation.
- B. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or be imprisoned for not more than fifteen (15) days. or both. Each day of noncompliance shall be considered a separate offense.
- C. Nothing herein contained shall prevent the Village of Malone, New York from taking such other lawful action as is necessary to prevent or remedy an infraction.
- D. Any structure found not to be in compliance with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under §§ 24-22 and 24-23 will be declared noncompliant. and notification will be sent to the Federal Emergency Management Agency.

§ 24-10. Warning and disclaimer of liability.

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Malone, New York, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

§ 24-11. Designation of local administrator.

The Building Inspector is hereby appointed local administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

§ 24-12. Development permit required; application.

- A. A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 24-6.

- B. Application for a development 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: and existing or proposed structures, fill, storage of materials and drainage facilities and the location of the foregoing.
- C. The following information is required where applicable:
- (1) Elevation in relation to mean sea level of the proposed lowest floor, including the basement or cellar, of all structures.
 - (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
 - (3) When required, a certificate from a licensed professional engineer or architect stating that the utility floodproofing will meet the criteria in § 24-18C(1).
 - (4) A certificate from a licensed professional engineer or architect stating that the nonresidential floodproofed structure will meet the floodproofing criteria in § 24-19.
 - (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 24-13. Certificate of elevation; stop-work order.

Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. 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.

§ 24-14. Duties and responsibilities of local administrator.

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

A. Permit application review. The local administrator shall:

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, adversely affects means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 24-18E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 24-6, Basis for establishing areas of special flood hazard, 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 § 24-18D(4), in order to administer § 24-19, Specific standards for flood hazard reduction, § 24-20, Standards for areas without base flood elevations, and § 24-21, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (b) Maintain the floodproofing certifications required in §§ 24-18, and 24-20.
 - (3) Maintain for public inspection all records pertaining to the provisions of this local law, including variances, when granted, and certificates of compliance.
- D. Alteration of watercourses. The local administrator shall:
- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries.
- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

- (2) Base flood elevation data established pursuant to §§ 24-6 and/or 24-14B. when available. shall be used to accurately delineate the areas of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

§ 24-15. Development to be in compliance.

- A. All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 24-9 of this local law.
- B. All floodplain development found which is not in compliance with the provisions of this local law and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 24-9 of this local law.

§ 24-16. 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 that the development is in compliance with the requirements of either the development permit or the approved variance.

§ 24-17. Certificate of compliance.

- A. It shall be unlawful to use or 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 local law.
- B. All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
- C. All certifications shall be based upon the inspections conducted subject to § 24-16 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 24-18. General standards for flood hazard reduction.

In all areas of special flood hazards. the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposal developments, including proposals for manufactured home parks and subdivisions greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazard set forth in § 24-14A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 24-14B or §24-18D(4) and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 24-14B, the requirements of § 24-21, Floodways, shall apply.

§ 24-19. Specific standards for flood hazard reduction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 24-6. Basis for establishing areas of special flood hazard, and § 24-14B, Use of other base flood data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) It must have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - (b) The bottom of all such openings shall be no higher than one (1) 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.

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the

passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamics loads and the effects of buoyancy.

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

§ 24-20. Standards for areas Without base flood elevations.

New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 24-14B or two (2) feet above the highest adjacent grade where no elevation data is available.

- A. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

B. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- (1) The areas shall have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
- (2) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- (3) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 24-21. Floodways.

Located within areas of special flood hazard are areas designated as floodways. (See definition, § 24-4.) The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by §§ 244 and 24 14B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 24-22. Appeals.

- A. The Zoning Board of Appeals, as established by the Village of Malone, New York, shall hear and decide appeals and requests for variances from the requirements of this local law.
- 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 local law.
- 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 local law 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 and maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems, and streets and bridges.

§ 24-23. Variances.

- A. Upon consideration of the factors of § 24-22D and the purposes of this local law, the Zoning Board of Appeals may attach, such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- B. 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.
- C. Conditions for variances.
 - (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 24-22D(1) through (12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
 - (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
 - (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

- (a) The criteria of Subsection C(1), (4), (5) and (6) of this section are met.
- (b) The structure or other development is protected by methods that minimize flood damages during the base flood and creates no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) A showing of good and sufficient cause.
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety and extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

§ 25-1 GARBAGE AND RUBBISH COLLECTION § 25-1

Chapter 25

GARBAGE AND RUBBISH COLLECTION

- § 25-1. Definitions.**
- § 25-2. License required; fee.**
- § 25-3. Term; revocation.**
- § 25-4. Unauthorized removal prohibited.**
- § 25-5. Dumping by collectors.**
- § 25-6. Trucks and equipment**
- § 25-7. Spiking of garbage prohibited.**
- § 25-8. Nuisance prohibited.**
- § 25-9. Compliance required.**
- § 25-10. Complaints.**
- § 25-11. Toxic substances prohibited.**
- § 25-12. Penalties for offenses.**
- § 25-13. When effective.**

[HISTORY: Adopted Malone Village Board 2-14-1947, amended in its entirety 5-21-1990 by Local Law No. 4, 1990. Subsequent amendments noted where applicable.]

§ 25-1. Definitions

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

GARBAGE-Food waste.

REFUSE-Rejected material such as trash and garbage.

TOXIC AND HAZARDOUS WASTE-Those substances listed in 6 NYCRR 371 of the Department of Environmental Conservation Identification and Testing of Hazardous Waste Publication.

§ 25-2. License required; fee.

- A. The Village Clerk shall cause to be prepared and procure suitable licenses for this purpose, consecutively numbered, one (1) of which shall be issued to each person who owns or drives any equipment that collects refuse for consideration in the Village of Malone or who operates the business of collection.

- B. The fees for such license will be by resolution of the Board of Trustees and may be amended by the Village Board from time to time.
- C. Each licensee shall have such license on his person at all times of collection.

§ 25-3 Term; revocation.

Such license shall be valid until and including April 30 following the date of its issue, is not transferable and may be revoked at any time by the Village Board.

§ 25-4. Unauthorized removal prohibited.

No unauthorized person or persons, firms or corporations shall in any manner disturb or remove any garbage after it has been set out on the premise, except those having obtained a permit from the Village Clerk of Malone, New York.

§ 25-6. Dumping by collects

No deposits of garbage or refuse shall be made by any collector thereof on any vacant lot, public street, lane, avenue, alley or public place within the village, unless so directed by the Village Board with the approval of the Board of Health officers, nor shall such garbage be mixed with ashes or other substance not subject to decay.

§ 25-4. Trucks sold equipment.

- A. All garbage collectors engaged in the work of removing garbage for consideration of any kind shall have a wagon or other vehicle constructed with a tight-fitting cover or covers, or a wagon or other vehicle with metallic cans or metal receptacles with tight-fitting covers may be used on said vehicle. Said wagon or vehicle, cans or other receptacles must be kept painted and in a sanitary and clean manner and meet with the requirements of the health officer of said village.
- B. All containers shall have notices installed stating that refuse deposited in the container must conform to this local law.

§ 25-7. Spilling of garbage prohibited.

Said garbage collectors, in removing garbage from the homes or places of business in said village, must not allow the garbage to be spilled on any property or properties.

§ 25-8. Nuisance prohibited.

All garbage removed shall be disposed of in a lawful manner, and the conveyance, wagon, vehicle or receptacles used for said business shall be kept tightly closed and covered while being transported through the streets of the village, and no part thereof shall fall, spill or leak from such wagon or receptacle.

§ 25-9. Compliance required.

All garbage collectors shall at all times faithfully comply with and conform to all the rules and regulations and ordinances of the Village Board, the Board of Health and health officers in all matters connected with or related to said business of gathering or disposing of garbage in said village. This shall apply not only to the rules, regulations and ordinances now existing, but also to those that may hereafter be duly and regularly adopted.

§ 25-10. Complaints

Unsatisfactory service upon the part of either a public or private collector should be reported to the Village Clerk.

§ 25-11. Toxic substances prohibited.

Toxic substances or materials, whether in liquid or solid form, are not allowed to be dumped or placed on any village property.

§ 25-12. Penalties for offenses.

- A. The Village Clerk shall revoke the license of any garbage collector who has been convicted of a violation of this local law. No new license shall be issued for a period of one (1) year, - except with the approval of the Board of Trustees and in accordance with such reasonable terms as it may provide.
- B. No person shall intentionally deposit or cause to be deposited any waste material on village property unless such refuse is enerated by residents of the Village or Town of Malone or unless authorized by resolution of the Village Board. [Amended 12-91991 by L.L. No. 4, 1991]
- C. The owner of such firm found in violation is also responsible.
- D. Any violator of this local law, except for § 25-11, shall be fined two hundred dollars (\$200.) a day for each offense. Each day shall be considered a separate offense.
- E. Any violation of § 25-11 of this local law will constitute a Class A misdemeanor.

§ 25-13 When effective. [Amended 12-9-1991 by L.L. No. 4, 1991]

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

Chapter 26

(RESERVED)

2601 - 2699

Chapter 27

(RESERVED)

2701 - 2799

Chapter 28

HOUSE TRAILERS AND TRAILER CAMPS

- § 28-1. House Trailer Ordinance purpose.
- § 28-2. Definitions.
- § 28-3. Permit required.
- § 28-4. Location restrictions.
- § 28-5. Issuance of permit and fees.
- § 28-6. Regulations for trailer camps.
- § 28-7. Regulations for house trailers not located in trailer camps.
- § 28-8. Inspection.
- § 28-9. Revocation of permit.
- § 28-10. Penalties.
- § 28-11. Exceptions.

[HISTORY: Adopted Malone Village Board 12-14-53.]

§ 28-1. House Trailer Ordinance purpose.

The purpose of this ordinance is to regulate house trailers and trailer camps or parks within the corporate limits of the Village of Malone, New York.

- A. To require trailer camps to be laid out in an approved manner according to this ordinance.
- B. To prescribe regulations and issuance of permits for trailer camps.
- C. To prescribe minimum standards in respect to sanitary equipment and water supply.
- D. To regulate the locating, parking and duration of stay for trailers located outside of trailer camps and within the corporate limits of the Village of Malone, New York.
- E. To prescribe penalties for violations of this ordinance.

§ 28-2. Definitions.

HOUSE TRAILER - As used in this ordinance shall be defined as any vehicle used for sleeping or living quarters, whether propelled by its own power or by the power of another vehicle to which it may be attached.

TRAILER CAMPS-As used in this ordinance shall be - defined as any lot, piece or parcel of ground whereon one (1) or more house trailers, tents or tent houses used as living quarters are parked or located.

CAMP UNIT- As used in this ordinance shall be defined as the lot or section in any trailer camp occupied by any house trailer, tent or tent house.

§ 28-3. Permit required.

No person, firm or corporation, the owner of a lot or parcel of land within this village, shall use or allow to be used, such lot or parcel of land as a trailer camp until permit is obtained as hereinafter provided.

§ 28-4. Location restrictions.

No permit will be granted for the operation of a trailer camp within the limits of a residential or restricted zone as defined by Chapter 66* of the ordinances of the Village of Malone, New York, as amended.

§ 28-5. Issuance of permit and fees.

- A. The application for each trailer camp permit shall be in writing and signed by the applicant. It must state the name and address of the applicant. If a partnership or corporation, names and addresses of all partners, officers and directors must be given. A complete description of the proposed trailer camp must be given in respect to its locations number of camp units to be provided, number of toilets, lavatories, showers and tubs for each sex, location of water service, fire hydrants and fire extinguishers.
- B. Filing of application. The application shall be submitted to the Village Clerk who shall submit same to the Health Officer within seventy-two (72) hours. The Health Officer shall, after investigating the location and plan of the trailer camp, submit the application to the Board of Trustees with written approval or disapproval thereof, or recommendations pertaining thereto. All such applications shall, after investigation, be approved or rejected by the Board of Trustees. The Village Clerk shall be authorized to notify applicant in writing of the action taken thereon.
- C. Issuance of permit. The Village Clerk, upon the written application and upon the approval of the Health Officer and the Board of Trustees, and upon receipt of the fee hereinafter provided, shall issue a permit to become effective from the date of approval by the Board of Trustees and to continue in force until the 31st day of December next succeeding, for the use of the premises therein specified as a trailer camp. Such permit shall not be transferable or assignable.
- D. Fee. The applicant shall at the time of issuance of any such permit pay to the Village Clerk a fee of twenty five dollars (\$25.).
- E. Term of permit. Any permit so issued shall be effective from and after the date of issuance to and including the 31st day of December next succeeding the date of issuance, unless the permit shall sooner be revoked.

§ 28-6. Regulations for trailer camps.

- A. Prior to the issuance of a permit each trailer camp shall be divided into camp units. Each camp unit shall be at least twenty-five by forty (20 x 40) feet in dimension. Roadways within the trailer camp shall be at least twenty (20) feet wide. No camp unit shall be nearer than thirty five (35) feet from any highway or street line. Each

* Editor's Note: Ch. 66 Is Zoning. See p. 6601 et seq.

trailer camp shall be surrounded on all sides, with the exception of such portion as may abut upon a street or highway, by a woven wire or wooden fence or shrubbery forming a continuous border not less than three (3) feet in height nor more than six (6) feet in height.

- B. Prior to the issuance of a permit, each such trailer camp shall be provided with proper sewer and water connections to existing public sanitary sewer and water system lines of the Village of Malone. No trailer camp shall be permitted in any area of the village where sanitary sewer and water service are not available.
- C. Prior to the issuance of a permit, each such trailer camp shall be provided with suitable toilets, properly separated for each sex and in sufficient number consistent with the capacity of the trailer camp.
- D. Prior to the issuance of a permit, each such trailer camp shall be provided with bathing facilities, properly separated for each sex and in a sufficient number consistent with the capacity of the trailer camp.
- E. Prior to the issuance of a permit, each such trailer camp shall be provided with metal depositories for rubbish and refuse and metal depositories with flytight metal covers for garbage. These depositories shall be placed in conspicuous locations around the trailer camp. These depositories shall be emptied at least once every four (4) days.
- F. Such trailer camps shall be kept in a clean and sanitary condition at all times.
- G. Adequate records pertaining to occupants of trailer camps shall be maintained in respect to names, addresses, licenses, dates of arrival and departure and any other data required of trailer camp operators by other authorities.

§ 28-7. Regulations for house trailers not located in trailer Camps.

- A. No house trailer shall remain parked in the streets or highways of the Village of Malone in excess of two (2) hours.
- B. No house trailer shall be permitted to park or remain on any lot or parcel of land in the Village of Malone outside of a trailer camp for sleeping or living purposes. However, one (1) such house trailer and no more shall be permitted to park upon any one (1) lot or parcel of land where the owner or lessee of such house trailer is the owner or lessee of the premises or where the owner of the house trailer is a guest of the owner or lessee of the premises. House trailers owned by such guests shall not be permitted to remain upon private property in excess of four (4) weeks in every twelve (12) months.
- C. It shall be unlawful to remove the wheels from any house trailer (unless to repair same) or to otherwise permanently affix such house trailer to the ground.

§ 28-8. Inspection.

The Police officers and Fire Department officers of the Village of Malone, the Health Officers, the Mayor and members Of the Board of Trustees of the Village of Malone or any other duly authorized agent or employee of said village shall have the right at any time to enter any trailer camp or any other premises used for the parking and location of a house trailer and shall have the right at all times to inspect records pertaining to occupants of such trailer camp or premises as required.

§ 28-9. Revocation of permit.

If a Police officer, Health Officer, Mayor, Trustee or any other authorized representative of the Village of Malone shall find at any time that any trailer camp is not being maintained in a clean or sanitary condition. or it is not being conducted in accordance with the provisions of this ordinance. such facts shall be immediately brought before the Board of Trustees who shall instruct the Village Clerk to serve a written notice of such infractions to the owner or operator of such trailer camp, advising that such conditions must be remedied within five (5) days after date of such order. If conditions are not corrected after the expiration of said five-day period, the Board of Trustees may revoke the permit for such trailer camp and may cause a notice in writing to be served upon the holder of said permit advising of the revocation of his permit to operate a trailer camp. Upon revocation of such permit, all house trailers, tents and tent houses shall immediately be removed therefrom.

This ordinance shall apply to all existing trailer camps located within the Village of Malone. The owner or operator of such existing trailer Lamps shall have a period of thirty (30) days after effective date of this ordinance within which to file application for permit.

In respect to house trailers now located in the Village of Malone outside of a trailer camp, such house trailer shall be permitted to remain on private property until such time as the ownership of said house trailers changes. Should ownership of any such house trailer change, the new owner shall be bound by the provisions of this ordinance.

§ 28-10. Penalties.

Any person, firm or corporation who violates any provision of this ordinance shall be subject to a fine of not less than ten dollars (\$10.) nor more than fifty dollars (\$50.) for each offense and the person violating the same shall be a disorderly person, and such violation shall constitute disorderly conduct and the Board of Trustees of the said Village of Malone may enforce obedience to this ordinance by injunction proceedings. Each day's violation of this ordinance or any of its provisions shall constitute separate and distinct violations.

§ 28-11. Exceptions.

None of the provisions of this ordinance shall be applicable to any house trailers stored or garaged within a building where such house trailers are not being used or occupied as living or sleeping quarters.

§ 29-1

HOUSING

§ 29-1

Chapter 29

HOUSING

**ARTICLE I
Fair Housing Code**

**Local Law
No. 6
1984**

A LOCAL LAW FAIR HOUSING CODE

§ 29-1. Responsibility for compliance.

§ 29-2. Requirements.

§ 29-3. Administration and enforcement.

§ 29-4. Appeals.

[HISTORY: Adopted Malone Village Board: Article I, 5-14-84 as Local Law No. 6, 1984. Amendments noted where applicable.]

GENERAL REFERENCES

House trailers and trailer camps - See Ch. 28

**ARTICLE I
Fair Housing Code
[Adopted 5 1484 as Local Law No. 6, 1984]**

§ 29-1. Responsibility for compliance.

It shall be the responsibility of the owner or landlord of residential real property and of each realtor involved with the sale or leasing of residential real property to ensure that the requirements of this Article are adhered to with respect to the sale or lease of any residential real property within the Village of Malone, New York.

§ 29-2. Requirements. [Amended 8-1-1992 by L.L. No. 4, 1992]

- A. It shall be illegal to refuse to sell or lease residential real property located within the Village of Malone, New York, upon the grounds of race, color, creed or religion, handicap or familial status.
- B. All applicable state and federal statutes and regulations regarding fair and/or open housing shall be complied with in the Village of Malone with respect to the sale or lease of residential real property.

§ 29-3. Administration and enforcement.

- A. This Article shall be enforced by the local Fair Housing Officer who will be appointed by the Board of Trustees of the Village of Malone, New York.
- B. The Fair Housing Officer shall have the authority to make, adopt and promulgate such written rules, regulations and forms as he may deem necessary for the proper enforcement and administration of this Article and to secure the intent thereof, subject nevertheless to the approval, by resolution, of the Trustees of the Village of Malone. Such rules, regulations and forms shall not be in conflict with the provisions of this Article or any other local ordinance or local law. Said rules, regulations and forms shall be on file and available for public view with the Fair Housing Officer and with the Village Clerk.
- C. If any realtor, landlord or homeowner is reported to be violating or to have violated the conditions set forth in this Article, or in the rules and regulations of the Fair Housing Officer, that person or persons will be investigated. If the person or persons are found to be in violation of any state or federal law, appropriate action will be taken.

§ 29-4. Appeals.

- A. The Board of Trustees is hereby designated to hear and decide any appeals or review any order, requirement, determination or decision made by the Fair Housing Officer.
- B. Any person aggrieved by a determination or action of the Fair Housing Officer shall file a request for review to the Board of Trustees within thirty (30) days of the determination or decision.
- C. Upon receiving a request for review, the Board of Trustees will schedule a hearing on the appeal and notify all parties thereof. The Board of Trustees shall make a decision on the appeal within thirty-five (35) days of the hearing. The Board of Trustees may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination of the Fair Housing Officer.

Chapter 30

(RESERVED)

3001-3099

Chapter 31

JUNK DEALERS

§ 31-1. License required.

§ 31-2. Definition.

§ 31-3. Violations and penalties.

§ 31-4. Disorderly conduct.

§ 31-5. Validity.

[HISTORY: Adopted Malone Village Board 2-14-47.]

§ 31-1. License required.

No person shall engage in the business commonly known as the junk business within the village, without obtaining a license therefore Such license may be issued by the Village Clerk upon payment of the sum of fifteen dollars (\$15.) for a term of one (1) year and expire on the 31st of May next succeeding.

§ 31-2. Definition.

PERSON-Shall include persons, corporations or associations.

§ 31-3. Violations and penalties.

Any person violating this ordinance or any part thereof shall be liable for and forfeit and pay a penalty not exceeding fifty dollars (\$50.) for each offense, except as otherwise provided herein.

§ 31-4. Disorderly conduct.

Any violation of this ordinance or any part thereof, shall constitute disorderly conduct, and ally person violating any of the provisions of this ordinance shall be and is hereby declared a disorderly person.

§ 31-5. Validity.

If any section, paragraph, subdivision, clause or provision of this ordinance Shall be adjudged invalid, such adjudication shall apply only to the section, subdivision, clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

Chapter 31A

LITTERING

- § 31A-1. Definitions.
- § 31A-2. Deposit prohibited.
- § 31A-3. Placement of receptacles in public places; village responsibility.
- § 31A-4. Deposit of off site or recyclable litter prohibited.
- § 31A-5. Deposit in bodies of water.
- § 31A-6. Deposit from vehicles.
- § 31A-7. Waste generated outside of premises; property maintenance.
- § 31A-8. Deposit in parks.
- § 31A-9. Deposit on vacant lots.
- § 31A-10. Sweeping into gutters and streets.
- § 31A-11. Sidewalks; entrances; parking areas.
- § 31A-12. Prevention of spillage from vehicles and parking of vehicles.
- § 31A-13. Construction sites.
- § 31A-14. Commercial establishments; residences.
- § 31A-15. Enforcement.
- § 31A-16. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 7-25-1994 as L. L. No. 2, 1994. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and rubbish collection-See Ch. 25.
Recreation park regulations - See Ch. 44.
Sidewalks and streets -See Ch. 47.

§ 31A-1. Definitions.

Certain words, as used in this chapter, are defined as follows:

GARBAGE-Putrescible animal and vegetable wastes resulting from the handling, preparation, cooling and consumption of food.

LITTER-Any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted or lighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material.

PARK-A park, reservation, recreation center or any other area in the Village of Malone owned and used by the public and devoted to active or passive recreation.

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

PRIVATE PREMISES-Any dwelling, house, building or other structure used either wholly or in any part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging to or appurtenant to such dwelling, house, building or other structure.

PRIVATE RECEPTACLES- A receptacle for the deposit of litter, garbage, refuse or rubbish that is privately owned, rented or leased. Trash cans and dumpsters shall be included in the definition of private receptacles.

PUBLIC PLACE- Any and all streets, sidewalks, boulevards, parking areas open to the public, alleys and any and all public parks, squares, spaces, grounds and public buildings.

REFUSE- All putrescible and nonputrescible solid wastes (except body wastes), including ashes, street cleanings, dead animals, abandoned automobiles, dismantled vehicles, other abandoned personal property and solid market and industrial wastes.

RUBBISH-Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as circulars, leaflets, pamphlets, wrappers, handbills, newspapers and all and any other printed material, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, building materials and other like materials.

VILLAGE-The Village of Malone.

§ 31A-2. Deposit prohibited.

It shall be unlawful for any person to throw, drop, discard or otherwise place litter, garbage, refuse or rubbish of any nature upon any public or private property, other than in a proper receptacle. It also shall be unlawful to deposit any material which by law should be recycled.

§ 31A-3 Placement of receptacles in public places; village responsibility.

A. Receptacles and their servicing shall be required at the following public places: buildings held out for use by the public, including schools, government buildings and bus stations; drive-in restaurants; all street vendor locations; construction sites; gasoline service station islands; self service refreshment areas; shopping plazas; and special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals. The proprietors of these places, or the sponsors of these events, shall be responsible for providing and servicing the receptacles such that adequate containment of the material is available.

B. The village shall be responsible for the placement and servicing of receptacles in the active retail area and public parks. If, in the opinion of the Superintendent of Public Works and/or the Village Trustees, the public becomes abusive of the receptacles, the village may provide for their removal and the institution of a carry-in carry-out policy for litter, garbage, refuse or rubbish in public places.

§ 31A-4. Deposit of off-site or recyclable litter prohibited

It shall be unlawful to deposit litter generated off-site or any litter which by law should be recycled.

§ 31A-5. Deposit in bodies of water.

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

§ 31A-6. Deposit from vehicles.

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

§ 31A-7. Waste generated outside of premises; property maintenance.

- A. No person shall throw or deposit litter, garbage, refuse or rubbish on any private property within the village, whether owned by such person or not, except the owner or person in control of private property may maintain authorized private receptacles for collection.
- B. Such owner or person in control of private property shall at all times maintain the premises free of litter, garbage, refuse or rubbish; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collections.
- C. Such receptacles are to be kept clean and from public view except on collection day(s).

§ 31A-8. Deposit in 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, all such litter, garbage, refuse or rubbish shall be carried away from the park by the person responsible for its presence and shall be properly disposed of elsewhere.

§ 31A-9. Deposit on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the village, whether or not owned by such person.

§ 31A-10. Sweeping into gutters and streets.

No person shall sweep into or deposit into any gutter or street within the village any accumulation of litter as defined herein, including but not limited to leaves, grass clippings or other land or garden waste, except that a person may deposit leaves into the gutter or street immediately in front of his/her property during periods announced by the village for pickup or collection thereof

§ 31A-11. Sidewalks; entrances; parking areas.

Persons owning or occupying a place of business or a place of residence shall keep the sidewalks, entrance walks and parking areas in front of or upon their premises free of litter.

§ 31A-12. Prevention of spillage item vehicles and parking of vehicles.

It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any public roadway unless such a vehicle is constructed, covered or loaded to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom. Any person operating a vehicle from which any material which constitutes litter, garbage, refuse or rubbish has fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all such material and shall pay the cost thereof. It also shall be unlawful to park any vehicle used for the commercial collection of garbage, litter, refuse or rubbish in any residentially zoned area or on any village street except as necessary for the actual collection of said materials.

§ 31A-13. Construction sites.

It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter, garbage, refuse or rubbish before, during or immediately following completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers adequate to accommodate flyable or nonflyable debris or trash at areas convenient to construction areas and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.

§ 31A-14. Commercial establishments; residences.

It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstruction or nuisances of every kind and to keep sidewalks, areaways, front yards, side yards, back yards, courts and alleys free from accumulation of litter, garbage, refuse or rubbish.

§ 31A-15. Enforcement.

The provisions of this chapter shall be administered and enforced by the Code Enforcement Office, and said office is charged with the duty to enforce this chapter and, to that end, to make and sign complaints for violations in the Village Court of the Village of Malone.

§ 31A-16. Penalties for offenses.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a minimum fine of fifty dollars (\$50.) for the first offense and a maximum fine of one hundred dollars (\$100.) for each subsequent offense. Any person convicted of illegally depositing more than five (5) pounds of litter, garbage, refuse or rubbish shall be guilty of a misdemeanor and shall be fined a minimum of five hundred dollars (\$500.), or imprisoned for a term not to exceed fifteen (15) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 32-1

MEETINGS

§ 32-1

Chapter 32¹

MEETINGS

**ARTICLE I
Special Board Meetings**

§ 32-1. Calling of meeting.

**ARTICLE II
Meeting Procedures**

§ 32-2. Robert's Rules of Order.

[HISTORY: Adopted Malone Village Board: Art I, 4-1-1991 by resolution; Art II, 4-1-1991 by resolution. Amendments noted where applicable.]

**ARTICLE I
Special Board Meetings
[Adopted 4-1-1991 by resolution]**

§ 32-1. Calling of meeting.

The Mayor alone, or at least two (2) Trustees acting together, can call for a special Board meeting. Notice will be given by telephone to members of the Board, as well as to the news media, as soon as practicable after the calling of the special meeting

**Article II
Meeting Procedures
[Adopted 4-1-1991 by resolution]**

§ 32-2. Robert's Rules of Order.

Robert's Rules of Order will be followed at all Village Board meetings.

¹ Editor's Note Former Ch. 32, Milk Inspection, adopted 2-14-1947, was repealed 2-25-1985 by L.L. No. 2, 1986.

Chapter 33

MINIBIKES

§ 33-1. "Minibike" defined.

§ 33-2. Use or operation of minibikes prohibited on village property.

§ 33-3. Penalties for offenses.

§ 33-4. Effective date.

[HISTORY: Adopted Malone Village Board 8-23-71. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles - See Ch.9.

Curfew - See Ch.16.

Public safety and good order - See Ch. 39.

§ 33-1. "Minibike" defined

MINIBIKE-For purposes of this chapter is any motor powered vehicle, including a motor scooter, primarily for use off the public highways, which has a seat or saddle for the use of the driver, is designed to travel on not more than three (3) wheels in contact with the ground, and is equipped with a motor which produces not to exceed twelve (12) horsepower. This definition is not meant to include such vehicles as motorcycles, tractors, golf carts, and power-driven lawn mowers.

§ 33-2. Use or operation of minibikes prohibited on village property.

No person shall use or operate a minibike, as defined in this chapter, on any lands owned, leased, used or otherwise controlled by the Village of Malone, New York.

§ 33-3. Penalties for offenses.

Any person who violates any portion of this ordinance shall be subject to a fine not to exceed fifty dollars (\$50.) and/or imprisonment for a period of sixteen (16) days for each offense.

§ 33-4. Effective date.

This ordinance shall take effect on the first day of October 1971.

OFFICERS AND EMPLOYEES

Chapter 34¹

OFFICERS AND EMPLOYEES

**ARTICLE I
Village Justice**

**Local Law
No. 7
1984**

A LOCAL LAW CREATION OF POSITION OF VILLAGE JUSTICE IN THE
VILLAGE OF MALONE, NEW YORK

§ 34-1. Legislative intent.

§ 34-2. Creation of second position; term.

§ 34-3. Effective date.

**ARTICLE II
Convention, Conference and School Attendance**

**Local Law
No. 7
1985**

A LOCAL LAW CONVENTION, CONFERENCE AND SCHOOL ATTENDANCE

§ 34-4. Delegation of power; report on actions.

§ 34-5. When effective.

**ARTICLE III
Smoking Policy**

§ 34-6. Areas where smoking is prohibited.

§ 34-7. Enclosed smoking room.

§ 34-8. Nonsmoking areas in cafeterias, lunchrooms and lounges.

§ 34-9. Conflicts; complaints.

¹ Editor's note: Former Ch. 34, Playgrounds, adopted 10-13-47, was repealed by ordinance adopted 7-31-72, which established rules and regulations for Recreation Park. See Ch. 44.

§ 34-10. Violations**§ 34-11. Copies of rules.****§ 34-12. Enforcement****§ 34-13. Amendments.**

[HISTORY: Adopted Malone Village Board: Article I, 5-25-1984 as Local Law No. 7, 1984; Article II, 7-22-1985 as Local Law No. 7, 1985; Article III, 2-5-1990 by resolution. Amendments noted where applicable.]

ARTICLE I**Village Justice**

[Adopted 6-25-84 as Local Law No. 7, 1984²]

§ 34-1. Legislative intent.

At the time of the adoption of Local Law No. 5 of 1984, the Board of Trustees intended to recreate the position of a second Village Justice, but with an initial term of two (2) years so that the two (2) positions of Village Justice would not expire simultaneously. Accordingly, this local law provides for the creation of a second Village Justice position with an initial term of two (2) years. This will allow for the Village of Malone to continue to have two (2) Village Justices whose terms shall be staggered so as not to expire simultaneously.

§ 34-2. Creation of second position; term.

- A. Pursuant to § 3-301, Subdivision pa, of the Village Law of the State of New York, the position of a second Village Justice is established in and for the Village of Malone on and after April 1, 1986.
- B. Pursuant to § 3-302, Subdivision 3, of the Village Law of the State of New York, the initial term of office for the position of second Village Justice in and for the Village of Malone, New York, shall be for a period of two (2) years, commencing on April 1, 1986, and ending on March 31, 1988. Thereafter the terms of office for such position shall be four (4) years.
- C. This local law shall be subject to a permissive referendum.³

§ 34-3. Effective date.

This local law shall take effect on August 1, 1984.

² Editor's Note: This local law also superseded former Art. I, Village Justice, adopted 4-23-84 as Local Law No. 5, 1984.

³ No valid petition for referendum was filed.

ARTICLE II**Convention, Conference and School Attendance
[Adopted 7-22-86 as Local Law No. 7, 1985]****§ 34-4. Delegation of power; report on actions.**

- A. The Board of Trustees of the Village of Malone, New York, hereby delegates to the Mayor of the Village of Malone, New York, the power to authorize the attendance of municipal officers and employees at conventions, conferences and schools conducted for the betterment of local government. The Board of Trustees of the Village of Malone, New York, further delegates to the Mayor of the Village of Malone, New York, the power to authorize members of committees and commissions, appointed by the Mayor or the Board of Trustees, to incur such reasonable and necessary expenses as may be associated with the work of the committee or commission.
- B. The authority so delegated shall also extend to the authority to incur such necessary and reasonable costs and expenses as may be associated with such attendance by municipal officers and employees.
- C. The Mayor shall be obligated to report to the Board of Trustees, on a monthly basis, which officers and employees have been authorized to attend any convention, conference or school.

§ 34-5. When effective.

This local law shall become effective immediately upon filing with the Secretary of State of the State of New York.

ARTICLE III**Smoking Policy**

[Adopted 2-5-1990 by resolution¹]

§ 34-6. Areas where smoking is prohibited.

- A. Smoking is prohibited throughout the facilities except in designated areas identified by SMOKING PERMITTED signs.
- B. Smoking is prohibited in any indoor enclosed work area occupied by more than one (1) person, unless all employees in such area agree to allow smoking. The rights of a nonsmoker to a smoke-free area shall prevail.
- C. Smoking is also prohibited in all employee rest rooms, elevators, hallways, classrooms, auditoriums, gymnasiums, employee medical facilities and areas containing office equipment used in common.

¹ Editor's Note: This resolution was adopted in an effort to provide a safe and healthy environment for employees in accordance with the New York State Public Health Law. S 1399-o Subdivision 6, and is effective 4-1-1990

D. Smoking is also prohibited in conference or meeting rooms and municipal vehicles used by more than one (1) person, unless all occupants agree to allow smoking.

§ 34-7. Enclosed smoking room.

An enclosed smoking room may be designated, upon request, if space is available.

§ 34-8. Nonsmoking areas in cafeterias, lunchrooms and lounges.

Employee cafeterias, lunchrooms, and lounges will contain nonsmoking areas large enough to meet demand.

§ 34-9. Conflicts; complaints.

Conflicts should be brought to the attention of the appropriate supervisory personnel. Employees may also file a formal complaint with the Franklin County Board of Health.

§ 34-10. Violations.

Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to penalties.

§ 34-11. Copies of rules.

Copies of these rules will be posted and distributed to all employees and to all prospective employees upon request.

§ 34-12. Enforcement.

The Code Enforcement Officer for the Village of Malone shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

§ 34-13. Amendments.

The policy may be amended from time to time by resolution of the Village of Malone. All amendments shall be in conformance with New York State law and employees will be notified accordingly.

Chapter 35

POLES AND WIRES

§ 35-1 Minimum heights; penalty.

§ 35-2. Violations and penalties.

[HISTORY: Adopted Malone Village Board 2-14-47.]

§ 36-1. Minimum heights; penalty.

No person or corporation shall string or extend any wires along or over Main Street between Academy Street and Clay Street for telegraph, telephone or electric light purposes, at less height than fifty (50) feet from the ground, nor over any other street at less than twenty-five (25) feet from the ground, under a penalty of twenty-five dollars (\$25.) for each offense, and a further penalty of five dollars (\$5.) for every day any such wire remains so extended at a height less than the above distance from the ground for the respective streets referred to.

§ 35-2. Violations and penalties.

Any person violating this ordinance, or any part thereof, shall be liable for and forfeit and pay a penalty not exceeding fifty dollars (\$50.) for each offense, except as otherwise provided herein.

Any violation of this ordinance, or any part thereof, shall constitute disorderly conduct, and any person violating any of the provisions of this ordinance shall be and is hereby declared a disorderly person.

Chapter 36

(RESERVED)

3601 - 3699

Chapter 37

POLLUTION

§ 37-1. Stream pollution; penalty.

§ 37-2. Air Solution; exceptions; penalty.

[HISTORY: Adopted Malone Village Board 2-1447.]

§ 37-1. Stream pollution; penalty.*

No person, firm or corporation shall throw, or cause to be thrown, any rubbish or material of any sort over the Main Street bridge into the Salmon River, under a penalty of ten dollars (\$10.) for each offense.

§ 37-2. Air Solution; exceptions; penalty.

Any person or firm is hereby prohibited from burning bituminous coal within the limits of the Village of Malone, other than "smokeless" coal, so-called, except in an approved-type smokeless furnace, except the New York Central Railroad Company and the Rutland Railroad Company, under a penalty not to exceed twenty-five dollars (\$25.) for each offense. Any person violating this ordinance shall be a disorderly person.

* Editor's Note: See also § 39-5 of Ch 39, Public Safety and Good Order, p 3902, *infra*; § 22-30 of Ch. 22, Fire Prevention, p 2213, *supra*; and § 63-18 of Ch 63, Water, p 6306, *infra*

Chapter 37A

PROTEST POLICY

§ 37A-1. Laws to be enforced.

§ 37A-2. Protection of life and property.

§ 37A-3. Authority of Police Department.

[HISTORY: Adopted by the Malone Village Board 5-1992. Amendments noted where applicable.]

§ 37A-1. Laws to be enforced.

The law will be enforced to balance the rights of citizens to exercise their constitutional rights of free speech and the right of lawful medical clinics to operate. The laws of the State of New York and the Village of Malone will be enforced.

§ 37A-2. Protection of life and property.

Protection of life and property. It is our desire that no one is injured: no client or staff of the medical clinics and no citizen exercising his constitutional rights. Therefore, the least confrontational means will be used by the police as a first response in enforcing the law. The police are authorized to use all legal means to carry out their mission of enforcing the law and protecting life and property, as they determine are needed. We encourage all parties to avoid violence in any manner.

§ 37A-3. Authority of Police Department.

The Malone Village Board stands behind our Police Department as a professional group of men who have been asked by our community to handle an extremely difficult situation under extreme conditions.

Chapter 38

PUBLIC HEARING*

Local Law No. 1 1947

§ 38-1. Notice of hearing required.

§ 38-2. Public hearing required.

§ 38-3. Proof of notice to be filed.

§ 38-4. Effective date.

[HISTORY: Adopted Malone Village Board 10-13-47.]

§ 38-1. Notice of hearing required.

Before voting upon the proposed enactment of a local law, the Board of Trustees shall fix a day within thirty (30) days after the presentation of a local law to it, for a public hearing thereon, and within twenty (20) days after such local law shall have been presented to it, shall cause a notice of the time and place of such hearing to be given. Such public notice shall be given by the Village Clerk by causing the same to be published once in the official newspaper at least three (3) days prior to the day fixed for such hearing. In case there is at any time no official newspaper, the Board of Trustees shall designate the manner of giving such public notice. Such notice shall also contain the title of the proposed local law and a brief explanatory statement thereof prepared by the Clerk and approved by the Village Attorney.

§ 38-2. Public hearing required.

The board of Trustees shall attend at the time and place appointed for such hearing, which shall be within the village, and reasonable of access and at a reasonable hour, and shall afford opportunity for a public hearing concerning such proposed local law.

§ 38-4. Proof of notice to be Filed.

Proof of publication of such notice of public hearing shall be filed in the office of the Village Clerk.

§ 38-4. Effective date.

This local law shall take effect immediately.

* Editor's Note: See also, §66-72 of Chi. 66, Zoning, p. 6635, infra.

* Editor's Note:

The Municipal Home Rule Law provides In Article 3 Section 20. Subsection 3:

“Every such local law shall embrace only one subject. The title shall briefly refer to the subject matter.”

Section 20 Subsection 5 provides:

“. . . a public hearing . . . shall be on such public notice of at least three days as has been or hereafter may be prescribed by a local law on which a hearing shall have been held as prescribed by this section upon five days notice or in the event such a local law prescribing the length of notice is not adopted upon five days notice.

Section 27 which deals with the filing and publications of local laws provides as follows:

1. Within five days after a local law shall finally have been adopted the clerk or other officer designated by the legislative body shall file one certified copy thereof in the office of such clerk one certified copy in the office of the state comptroller and three certified copies in the office of the secretary of state. In the case of a local law subject to a referendum, however, such local law shall be filed within five days after its approval by the electors or where the local law was subject to a permissive referendum and no petition was filed requiring the referendum the local law shall be filed within five days after the time for filing of such petition shall have expired.

2. Each such certified copy shall contain the text only of the local law without the brackets and without the matter within the brackets the matter with a line run through It. or the Italicizing or underscoring if any. to Indicate the changes male by It. and also have attached thereto a certificate executed by the corporation counsel. municipal attorney or other principle law officer to the effect that it contains the correct text and that all proper proceedings have been had to taken for the enactment of such local law, which certificate shall constitute presumptive evidence thereof provided that any failure or omission so to certify shall not invalidate such local law.

Chapter 39¹

(RESERVED)

¹ Editor's Note: Former Ch 39 Public Safety and Good Order, adopted 2-14-47 was repealed 11-26-84 by L.L. No. 9, 1984

Chapter 40

PUBLIC HEALTH

§ 40-1. Available public sewers to be used.

§ 40-2. Blood test for food handlers; penalty.

[HISTORY: Adopted Malone Village Board 2 -14 - 47.]

§ 40-1. Available public sewers to be used.*

No person who is the owner or occupant of any building or structure shall have, maintain or use any private sewers, drains, sinks, vaults, outside toilets or privies, where any sanitary sewer system is available, in the Village Sewer District, and upon failure to comply with such ordinance the Village Board may cause the same to be done and assess the cost thereof upon the land upon which the improvement is made.

§ 40-2. Blood test for food handlers; penalty.

All employers and employees, handlers of all foods in hotels, restaurants and markets and other places handling food products, including wholesale and retail places, shall be subjected to blood test within a reasonable time and subject to such test free of charge as a health measure and as prescribed by the Health Officer of Malone. Failure to comply with said Health Officer, such person or persons shall be guilty of a violation of this ordinance and such place or places shall be condemned until such person or persons shall comply with said ordinance and such failure shall be subject to a penalty of not more than twenty-five dollars (\$25.) per day, and said place of business shall remain closed until such resolution shall be complied with and receive a certificate of compliance from the Health Officer of Malone Village. In addition to the foregoing, any person violating the provisions of this ordinance shall be guilty of disorderly conduct and is hereby declared to be a disorderly person.

* Editor's Note: See Ch. 45, Sewers, p. 4501, infra, and § 47-16, Ch. 47, Sidewalks and Streets, p. 4706, infra.

Chapter 41

(RESERVED)

4101 - 4199

Chapter 42

RAILROADS

§ 42-1. Speed limit for trains; penalty.

§ 42-2. Standing trains at crossings; penalty.

[HISTORY: Adopted Malone Village Board 2-14-47. Amendments noted where applicable.]

§ 42-1. Speed limited for trains; penalty. [Amended 1-11-64]

Subject to the provisions of the Railroad Law, no railroad company, nor any of its officers, employees or agents, shall direct, cause or permit any engine or railroad car to be drawn or propelled over or across any street of this village at a greater speed than at the rate of fifteen (16) miles in an hour, under penalty for each offense of fifty dollars (\$50.), except that when the engine or first car of any train shall have completely crossed said street, the train may then resume its otherwise lawful speed.

§ 42-2. Standing trains at crossings; penalty.

No railroad company nor any person in its employ shall allow any cars, engines or trains to stand upon street crossings in this village so as to hinder free passage across the same for a longer time than five (5) minutes, under a penalty for each offense of ten dollars (\$10.).

Chapter 42A

RECORDS

§ 42A-1. Records Management Officer (RMO).

§ 42A-2. Powers and duties.

§ 42A-3. Records center.

§ 42A-4. Disposition; transfer of records.

§ 42A-5. Replevin.

§ 42A-6. Records Advisory Board.

[HISTORY: Adopted by the Malone Village Board 1-22-1996. Amendments noted where applicable.]

§ 42A-1. Records Management Officer (RMO).

The RMO, or the RMO's designee, shall be responsible for the records management program established by this resolution and subsequent amendments thereto. Said officer will be responsible for administering the noncurrent (inactive) and archival public records for the Village of Malone in accordance with local, state and federal laws and guidelines. Said officer shall also be responsible for overseeing micrographics and technology projects involving the Village of Malone records according to quality control specifications and guidelines.

§ 42A-2. Powers and duties.

- A. The Village Clerk or the RMO's designee shall have all the necessary powers to carry out the efficient administration of records, the determination of value, use, preservation, storage and disposition of the noncurrent (inactive) and archival public records kept, filed or received by the offices and departments of the Village of Malone
- B. The Village Clerk or his/her designee shall establish guidelines for proper records management in any department or agency of the Village of Malone in accordance with local, state and federal laws, regulations and guidelines.
- C. The Village Clerk or his/her designee shall report annually to the Village Board on the powers and duties herein mentioned, including but not limited to the cost/benefit ratio, efficiencies and administrative economies of programs implemented by the Village Clerk or the RMO's designee.

§ 42A-3. Records center.

The Village Clerk shall have at his/her disposal adequate space dedicated specifically for the storage, processing and servicing of noncurrent (inactive) and archival records for all local government departments and agencies. The records center will be administered by the Village Clerk or the RMO's designee

§ 42A-4. Disposition; transfer of records.

A. The Village Clerk or his/her designee shall be the sole officer with authority over the disposition of local government records in consultation with the respective local government officer or department head who has custody of the records of his/her respective office or department and with the local Records Advisory Board.

B. Records shall be transferred to the Village of Malone Archives upon the recommendation of the RMO with the approval of the head of the department which has legal custody of the records and the approval of the Records Advisory Board. Records of local government agencies now or in the future defunct shall pass to the legal custody of the Village of Malone Archives.

§ 42A-5. Replevin.

The Village of Malone counsel, in consultation with the RMO, may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

§ 42A-6. Records Advisory Board.

- A. The Village Board shall appoint a Records Advisory Board of six (6) members based on recommendations by the Village Clerk. The Records Advisory Board shall be composed of the RMO, the local government's counsel, the fiscal officer, an administrative officer and the local government's historian. One (1) member of the Village Board shall serve as an ex-officio member of the Records Advisory Board.
- B. The function of the Records Advisory Board shall be to advise and make suggestions to the Village Clerk or designee on future improvements of the Village of Malone Records Management Program. The Board shall meet at least twice a year.
- C. The Village Clerk or the RMO's designee shall call all meetings of the Records Advisory Board, presenting progress reports of the program to the Board, reviewing local government records management and archives policies with the Records Advisory Board and examining and discussing recommendations offered by the Records Advisory Board.

Chapter 43

RECREATION COMMISSION

- § 43-1. Title.
- § 43-2. Statement of purpose.
- § 43-3. Appointment of members of Commission.
- § 43-4. Organization of Commission.
- § 43.6. Executive committee.
- § 43-ff. Powers and duties of Commission.
- § 43-7. Vacancies.
- § 43-8. Budget request.
- § 43-9. Financial support.
- § 43-10. Custodian of funds.
- § 43-11. Termination.
- § 43-12. Effective date.

[HISTORY: Adopted Malone Village Board 2-10-69; effective 3-1-69.
Amendments noted where applicable.]

§ 43-1. Title.

This ordinance shall be known as the "Malone Joint Recreation Commission."

§ 43-2. Statement of purpose.

The purpose of this ordinance is to provide for a year-round recreational program for the residents of both the Village of Malone and Town of Malone by embodying the terms of an informal agreement executed between the Town of Malone and Village of Malone on January 20, 1969, establishing a joint Recreation Commission pursuant to Article XIII of the General Municipal Law.

§ 43-3. Appointment of members of Commission.

The members of the Recreation Commission shall be appointed by the Board of Trustees and those first appointed shall be appointed for such terms that the terms of one (1) commissioner shall expire annually thereafter, and their successors shall thereafter be appointed to serve terms of years which shall total in number the membership of such Commission. The members of such Commission shall number seven (7) and shall serve without pay.

§ 43-4. Organization of Commission.

The members of the Recreation Commission shall elect from their own number a chairman and secretary and other necessary officers to serve for one (1) year and may employ such persons as may be needed as authorized by Article XIII of the General Municipal Law. Such a Recreation Commission shall have power to adopt rules of procedure for the conduct of all business within its jurisdiction.

§ 43-5. Executive committee.

The Commission may create an executive committee from its membership composed from an equal number of members from each participating municipality. The executive committee may exercise all of the authority of the joint Recreation Commission, except any executive member, by demand, may require an issue to be submitted to the joint Recreation Commission.

§ 43-6. Powers and duties of Commission.

The Commission shall have all of the authority, power and duties as specifically set forth in Article XIII of the General Municipal Law. These powers and duties shall include but are not limited to:

- A. Administer independently or with the cooperation of other civic organizations, individuals or groups to present programs and recreation facilities.
- B. Equip, operate and maintain playgrounds and neighborhood recreation centers.
- C. Accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation to be applied on principal or income for either temporary or permanent use for playground or recreation facilities.

§ 43-7. Vacancies.

Vacancies in such Commission occurring otherwise than by expiration of term shall be for the unexpired term and shall be filled in the same manner as original appointments.

§ 43-8. Budget request.

The joint Recreation Commission shall determine its total budget request. The members of each participating municipality shall present to their appropriating body the total budget and shall set forth the amount chargeable to their municipality by the terms of the agreement and ordinance. In case their appropriating body does not appropriate an amount sufficient to meet its proportionate share, the joint Recreation commission may reduce the expenditures attributable to that municipality or treat the reduced appropriations as a repudiation of the agreement and terminate the relationship.

§ 43-9. Financial support.

The distribution of financial support necessary to maintain the activities of the Commission shall be borne as follows: sixty percent (60%) will be the responsibility of the Village of Malone; forty percent (40%) will be the responsibility of the Town of Malone.

§ 43-10. Custodian of funds.

The fiscal officer of the Village of Malone shall be the custodian of moneys made available for expenditure for such purposes by all such municipalities and that such fiscal officer may make payments therefrom upon audit of the appropriate auditing body or officer of his municipality.

§ 43-11. Termination.

A municipality may withdraw from a Recreation Commission Board at the close of a fiscal year by repealing its adopting ordinance and filing a copy of the repeal ordinance with the other participating municipality. The joint Recreation Commission may terminate the participation of a municipality when it does not contribute its proportion of the total budget agreed upon in the original agreement and ordinance. The termination shall occur at the conclusion of the fiscal year in which the joint Recreation Commission makes its finding.

The joint Recreation Commission at the conclusion of a fiscal year in which a discontinuance occurs, shall fairly and equitably distribute to the participating municipalities all moneys remaining in the fund.

§ 43-12. Effective date.

This ordinance shall take effect March 1, 1969.

RECREATION PARK REGULATIONS

Chapter 44

RECREATION PARK REGULATIONS

- § 44-1. Compliance with regulations required.
- § 44-2. Permission required for after-hours use.
- § 44-3. Hours.
- § 44-4. Use of beaches and swimming facilities.
- § 44-5. Boats and swimming apparatus.
- § 44-6. Use of lake restricted.
- § 44-7. Vehicles in park.
- § 44-8. Animals prohibited.
- § 44-9. Sports and firearms.
- § 44-10. Containers; alcoholic beverages; rubbish disposal.
- § 44-11. Camping; fires; fireworks.
- § 44-12. Party permits.
- § 44-13. Removal of vegetation.
- § 44-14. Nonliability of village.
- § 44-15. Disorderly conduct.
- § 44-16. Penalties for offenses.
- § 44-17. Severability.
- § 44-18. Repealer.
- § 44-19. When effective.

[HISTORY: Adopted Malone Village Board 2-27 78 as Local Law No. 1, 1978.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Recreation Commission- See Ch. 43.

¹ Editor's Note: This local law superseded former Ch 44, Recreation Park Regulations, adopted 7-31-72

§ 44-1. Compliance with regulations required.

All persons bathing, swimming or playing at, entering or remaining upon or in any way using or occupying that area of land situate in the Town and Village of Malone generally known as the "Malone Recreation Park," to include that body of water located thereon and commonly known as "Rotary Lake," and supervised by the Town and Village of Malone and the Malone Recreation Commission shall be subject and amenable to the terms of this local law, the directives and regulations promulgated by the said Commission and the directives of those lifeguards, playground superintendents and other personnel employed by the said Commission and/or the Town or Village of Malone to supervise the said Malone Recreation Park.

§ 44-2. Permission required for after-hours use.

No person shall bathe, swim or play at or in any way enter or remain upon, use or occupy the said Malone Recreation Park at any time other than the periods of time specified herein, without the express written consent of the Malone Recreation Commission and the Village Board of the Village of Malone.

§ 44-3. Hours.

The hours for public use of the Recreation Park, under jurisdiction of the Malone Recreation Commission, shall be set at the discretion of the Recreation Commission.

§ 44-4. Use of beaches and swimming facilities.

During the said season, swimming, bathing, wading and any other form of use of said Rotary Lake, and the beaches and docks adjoining same, shall be allowed only during those hours specified for swimming and only when lifeguards, employed as such by the said Commission, town or village, shall be on duty. During those times so permitted for swimming, bathing, wading and any other form of use of the said Rotary Lake, and the beaches and docks adjoining same, such use shall be confined to those areas so designated for same by the Commission, town, village, their agents or employees.

§ 44-5. Boats and swimming apparatus.

No person shall take any boat, motor-powered or otherwise, raft, mattress, tube or other apparatus, inflatable or noninflatable, to include any and all types of snorkel or diving gear, to the said park or lake for use in the said lake, except as permitted at the direction of said lifeguards.

§ 44-6. Use of lake restricted.

Any use of the said lake, docks or beaches at any time or place not specifically authorized by this local law, and/or any use of same at a time when the said lifeguards are not in attendance and on duty shall constitute a violation of this local law and an act of trespass.

§ 44-7. Vehicles in park.

- A. Except as permitted herein or as otherwise permitted by law, no person other than a member of the said Commission or an agent or employee of the said Commission, town or village shall use or operate any vehicle, as defined in the Vehicle and Traffic Law, and/or any snowmobile, as defined in the Conservation Law, on, across or upon any portion of the said Recreation Park, including but not limited to the said Rotary Lake.
- B. During that period of time specified as the season for use of the said park, and between the hours of 8:00 a.m. and 9:00 p.m., no person other than a member of the said Commission or an agent or employee of the said Commission, town or village shall use, operate or park any vehicle of any kind on, across or upon any portion of the said Recreation Park, except in those areas specifically authorized for the use, operation and/or parking of said vehicles.
- C. Any such use or operation of any such vehicle on, about or upon the said Recreation Park and/or the said lake at any time or place not specifically authorized by this local law shall constitute a violation of this local law and an act of trespass.

§ 44-8. Animals prohibited.

No person shall, at any time, bring or permit to run at large at the said Recreation Park any dog, cat, horse or other animal of any kind.

§ 44-9. Sports and firearms.

- A. Except as otherwise permitted by law, no person or persons shall carry, fire or discharge any gun, pistol, firearm, bow and arrow or any weapon of any kind at the said Recreation Park.
- B. No person or persons shall trap or hunt wild birds, quadrupeds or fur-bearing animals.
- C. No person shall fish at the said Recreation Park and/or the said Rotary Lake, except at those times and in those places specifically authorized by the said Commission.
- D. No person shall engage in skiing, skating, sledding, sleighing or hockey or in any other winter sport without written consent of the said Commission and village, and, if such written permission is obtained, only at such times and places as may be specifically so authorized.
- E. No person or persons shall play and/or practice golf at the said Recreation Park without the written consent of the Malone Recreation Commission.
- F. No person shall play or practice any other sport at the said Recreation Park, or on the said lake unless permission is first obtained from the said Commission, town or village and unless the playing or practicing of such sport is supervised by the Commission, town or village or an agent or employee of one (1) of them.

§ 44-10. Containers; alcoholic beverages; rubbish disposal.

- A. No container, receptacle or bottle comprised of glass or glassware may be sold, transferred, brought, conveyed, carried or in any way utilized at the said Recreation Park or the said lake, except in those areas specifically designated by the said Commission and the village.
- B. No alcoholic beverages of any kind may be sold, transferred, brought, conveyed, carried or in any way utilized at the said Recreation Park or lake, except in those areas specifically designated by the said Commission and the village.
- C. No person shall deposit rubbish, papers, cans or waste materials of any kind on any portion of the said park or lake, excepting in baskets or receptacles maintained and provided for such purpose.

§ 44-11. Camping; fires; fireworks.

- A. No person shall camp on any portion of the said park for any period of time, without specific written permission of the Commission and village. "Camp" shall include but not be limited to the use of any vehicle to sleep in and the sleeping on any portion of the said park after sundown.
- B. No campfires, bonfires or fires of any kind or nature shall be permitted on any portion of the said Recreation Park, except at those times and in those places specifically designated by the said Commission and the village.
- C. No fireworks or explosive devices of any kind or nature shall be displayed, sold, transferred, brought, conveyed, carried or in any way utilized at any time or place in the said Recreation Park without the specific written consent of the said Commission and the said village.

§ 44-12. Party permits.

Groups of twenty (20) or more persons must obtain a permit from the said Commission or village to hold a picnic or party at the said park. Upon approval of the Park Superintendent, such a permit shall be issued subject to the following conditions:

- A. The said picnic or party must be restricted to areas specifically designated for such purpose.
- B. The granting of the permit does not give the recipients thereof exclusive use of the park or any area thereof.
- C. The permit shall specify which area of the park the group may use for such picnic or party.
- D. The permit shall expire at 9:00 p.m. of the day for which it is granted, unless a written extension is obtained from the said Commission or village.
- E. The applicant assumes liability for the acts of all persons comprising the group to whom the permit was granted and is responsible for the conduct of members of his group.
- F. Such permit may be revoked for the violation of any of the provisions of this local law.

§ 44-13. Removal of vegetation.

- A. It is hereby declared the policy of the Village Board to provide for proper usage of the said park by preventing all manner of removal or destruction of the grass and natural vegetation in the park areas and to help control erosion, waste and destruction of such lands. By this local law, the Village Board seeks to remove the danger of erosion caused by the removal or destruction of grass or natural vegetation.
- B. No person shall move, remove or destroy any grass or natural growth of vegetation whatsoever from any lands in the said park, except as herein provided.
- C. This local law shall apply to an owner of the whole or of any interest in said lands and to any lessee, tenant or occupant thereof and to any person whatsoever, whether or not legally or illegally upon said lands.
- D. The Commission, town or village is hereby authorized and empowered to issue a written permit for the taking, destroying, moving, transplanting or replanting of beach grass or natural vegetation in the park, subject to any rules and regulations adopted by the Town Board or Village Board. Such permit shall be issued if it appears that the issuance of the permit will not endanger the welfare and property of the park and will not cause or contribute to the erosion, wasting or destruction of said lands.
- E. An applicant for a permit shall file with the town or village a verified application in duplicate for such permit. The application shall set forth:
 - (1) The name of the applicant.
 - (2) His interest in the area concerned.
 - (3) If the applicant is not the owner, his right of authority to do the work under the permit.
 - (4) A description of the area concerned.
 - (5) The reason for the application.
 - (6) If the area concerned is to be improved with a structure, an agreement to replant the adjacent area, or, if the area concerned is not to be improved, an agreement to replant the area from which the beach grass or other vegetation is removed.
 - (7) The time within which the work under the permit will be commenced and completed.
 - (8) An agreement to comply with the requirements of the Building Inspector of the Village of Malone and any rules and regulations adopted by the village pursuant hereto.

§ 44-14. Nonliability of village.

The village will not be responsible in any manner for any article that may be stolen from bathhouses or automobiles, nor for any automobile that may be stolen from or damaged while upon the said park.

§ 44-15. Disorderly conduct.

Any person who, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, commits any of the following acts shall be deemed to have committed the offense of disorderly conduct:

- A. Uses offensive, disorderly, threatening, abusive or insulting language, conduct or behavior.
- B. Acts in such a manner as to annoy, disturb, interfere with, obstruct or be offensive to others.
- C. Unlawfully congregates with others at the park and refuses to move on when ordered by an authorized agent or employee of the said Commission, town or village.
- D. By his actions causes a crowd to collect, except when lawfully addressing such a crowd.
- E. Interferes with any person in any place by jostling against such person or unnecessarily crowding him.

§ 44-16. Penalties for offenses.

Any person who violates any portion of this local law shall be subject to a fine not to exceed fifty dollars (\$50.) and/or imprisonment for a period of sixteen (16) days for each offense.

§ 44-17. Severability.

If any section or part of a section or paragraph of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this local law.

§ 44-18. Repealer.

All previous ordinances and beach regulations inconsistent with this local law, including Chapter 34 of the Village Code of the Village of Malone, are hereby repealed.

§ 44-19. When effective.

This local law shall be effective immediately.

SEWER USE

Chapter 45

SEWER USE

**ARTICLE I
Definitions**

§ 45-1. Definitions of terms used.

**ARTICLE II
Use of Public Sewers Required**

- § 45-2. Unsanitary deposit of waste prohibited.**
- § 45-3. Discharge of untreated wastes prohibited.**
- § 45-4. Construction of privies, septic tanks, etc., controlled.**
- § 45-5. Toilet facilities, connection to public sewer required.**

**ARTICLE III
Private Sewage Disposal**

- § 45-6. When allowed.**
- § 45-7. Permit required; fee.**
- § 45-8. Inspection.**
- § 45-9. Compliance with state public health recommendations.**
- § 45-10. When public sewer available.**
- § 45-11. Operation at owner's expense.**
- § 45-12. Health Officer may impose additional requirements.**
- § 45-13. Time limit for connection.**
- § 45-14. Tapping fees for residents.**
- § 45-15. Tapping fees for nonresidents.**

**ARTICLE IV
Building Sewers and Connections**

- § 45-16. Permit required.**
- § 45-17. Classes of permits.**
- § 45-18. Costs to be borne by owner.**
- § 45-19. Each building requires separate sewer, exception.**
- § 45-20. old building sewers.**

MALONE CODE

- § 45-21. Connections from roof drains, etc., prohibited.
- § 45-22. Connection to public sewer.
- § 45-23. Superintendent to inspect connection.
- § 45-24. Guarding of excavations; restoration.

ARTICLE V Use of the Public Sewers

- § 45-25. Stormwater, etc., prohibited in sanitary sewer.
- § 45-26. Discharge of stormwater, unpolluted drainage controlled.
- § 45-27. Wastes or waters prohibited.
- § 45-28. Wastes subject to review by Superintendent.
- § 45-28.1. Grease, oil and sand interceptors.
- § 45-29. Remedies available.
- § 45-30. Control manhole.
- § 45-31. Measurements, tests, analyses.
- § 45-32. Special agreements or arrangements for industry.

ARTICLE VI Protection from Drainage

- § 45-33. Penalty for damaging or tampering with sewer.

ARTICLE VII Powers and Authority of Inspectors

- § 45-34. Entering private property.
- § 45-34.1. Provision of information.

ARTICLE VIII Penalties for Offenses

- § 45-35. Written notice of violation.
- § 45-36. Continued violation.
- § 45-37. Village to recover expense, loss and damage.

ARTICLE IX Repealer: Severability

- § 45-38. Repealer.
- § 45-39. Severability.

SEWER USE

ARTICLE X When Effective

§ 45-40. Provisions to take effect.

[HISTORY: Adopted Malone Village Board 4-25-66. Amendments noted where applicable.]

Preamble

An ordinance regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of public sewers and the discharge of waters and wastes into the public sewer system(s), and providing penalties for violations thereof, in the Village of Malone, County of Franklin, State of New York.

ARTICLE I Definitions

§ 45-1. Definitions of terms used.

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

BOD-The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C.), expressed in milligrams per liter. [Added 6-24-85 by L.L. No. 5, 1985]

BUILDING DRAIN-That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet [one and five-tenths (1.5) meters] outside the inner face of the building wall.

BUILDING SEWER-The extension from the building drain to the public sewer or other place of disposal, also called house connection. [Added 6-24-85 by L.L. No. 5, 1985]

COMBINED SEWER-A sewer intended to receive both wastewater and storm- or surface water. [Added 6-24-85 by L.L. No. 5, 1985]

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

INDUSTRIAL WASTES-The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

NATIONAL CATEGORICAL PRETREATMENT STANDARD-Any regulation containing pollutant discharge limits promulgated by the Environmental Protection Association in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users. [Added 6-24-85 by L.L. No. 5, 1985]

- NATURAL OUTLET**-Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water. [Added 6-24-85 by L.L. No. 5, 1985]
- NYSDEC**-The New York State Department of Environmental Conservation or duly authorized official of said Department. [Added 6-24-85 by L.L. No. 5, 1985]
- PERSON**-Any individual, firm, company, association, society, corporation or group. [Added 6-24-85 by L.L. No. 5, 1985]
- pH**-The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- POTW**-Publicly owned treatment works. [Added 6-24-85 by L.L. No. 5, 1985]
- POTW TREATMENT PLANT** (instead of sewage treatment plant)-That portion of a POTW which is designed to provide treatment, including recycling and reclamation, of municipal sewage and industrial waste. [Added 6-24-85 by L.L. No. 5, 1985]
- 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 one-half (1/2) inch [one and twenty-seven hundredths (1.27) centimeters] in any dimension. [Added 6-24-85 by L.L. No. 5, 1985]
- PUBLIC SEWER**-A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
- SANITARY SEWER**-A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.
- SEWAGE** - A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground-, surface and storm waters as may be present.
- SEWAGE TREATMENT PLANT**-Any arrangement of devices and structures used for treating sewage.
- SEWER**-A pipe or conduit for carrying sewage.
- SLUG**-Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works. [Amended 6-24-85 by L.L. No. 5, 1985]
- SPDES** - State pollutant discharge elimination system. [Added 6-24-85 by L.L. No. 5, 1985]
- STORM DRAIN** (sometimes termed **STORM SEWER**)-A sewer which carries storm- and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT-The Superintendent of Public Works of the Village of Malone or his authorized deputy, agent or representative, or such other official so designated by the Board of Trustees of the Village of Malone. [Amended 6-24-85 by L.L. No. 5, 1985]

SUSPENDED SOLIDS-Total suspended matter that either floats on the surface of or is in suspension in water, waste water or other liquids. and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as nonfilterable residue. [Added 6-24-85 by L.L. No. 5, 1985]

UNPOLLUTED WATER-Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided. [Added 6-24-85 by L.L. No. 5, 1985]

USEPA-The United States Environmental Protection Agency or duly authorized official of said agency. [Added 6-24-85 by L.L. No. 5, 1985]

B. Shall is mandatory; "may" is permissive. [Added 6-24-85 by L.L. No. 5, 1985]

ARTICLE II

Use of Public Sewers Required

§ 45-2. Unsanitary deposit of waste prohibited.

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 Malone, or in any area under the jurisdiction of said village, any human or animal excrement, garbage or other objectionable waste.

§ 45-3. Discharge of untreated wastes prohibited.

It shall be unlawful to discharge to any natural outlet within the Village of Malone or in 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 ordinance.

§ 45-4. Construction of privies, septic tanks, etc., controlled.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§ 45-5. Toilet facilities, connection to public sewer required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the village and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a

public sanitary or combined sewer of the village is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet [thirty and five-tenths (30.5) meters] of the property line.

ARTICLE III Private Sewage Disposal

§ 45-6. When allowed.

Where a public sanitary or combined sewer is not available under the provisions of § 45-5, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

§ 46-7. Permit required; fee.

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of five dollars (\$5.) shall be paid to the village at the time the application is filed.

§ 45-8. Inspection.

A permit for a private sewage-disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered.

§ 45-9. Compliance with state public health recommendations.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§ 45-10. When public sewer available.

At such time as a public sewer becomes available to a property served by a private sewage-disposal system, as provided in § 45-9, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

§ 45-11. Operation at owner's expense.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.

§ 45-12. Health Officer may impose additional requirements.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

§ 45-13. Time limit for connection.

When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

§ 46-14. Tapping fees for residents.

Parties wishing to connect with the village sewer mains, living within the corporation limits of Malone Village, shall pay the sum of fifty dollars (\$50.) for tapping onto said village sewer mains. The village in such cases will make the tap and extend the service line to the curb line on the owned s side of the street.

§ 45-15. Tapping fees for nonresidents. [Amended 11-13-89 by LL No. 5, 1989]

A. Parties outside the corporate limits will pay sewer tapping fees as follows:

Diameter Connecting Line (inches)	Tapping Fee
4	\$1,000, plus materials
6	\$2,000, plus materials
Above 6	At the discretion of the Village Board

B. Any potential user of the village sewer system must come to any existing sewer the village may have within the corporation limits, and any additional expense outside of said corporation to come to the village sewer line shall be borne by the person making application to be connected, and such person shall pay all expenses incurred in said tapping.

ARTICLE IV
Building Sewers and Connections

§ 45-16. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§ 45-17. Classes of permits

A. There shall be two (2) classes of building sewer permits:

- (1) For residential and commercial services.
- (2) For service to establishments producing industrial wastes.

B. In either case, the owner or his agent shall make application on a special form furnished by the village. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of five dollars (\$5.) for a residential or commercial building sewer permit and five dollars (\$5.) for an industrial building sewer permit shall be paid to the village at the time the application is filed.

§ 45-18. Costs to be borne by owner.

All costs and expense incident to the installation and connection of the building sewer shall be in accordance with §§ 45-14 and 45-16. The owner shall indemnify the village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§ 45-19. Each building requires separate sewer; exception.

A separate and independent building sewer shall be provided for every building; except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

§ 45-20. Old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

§ 45-21. Connections from roof drains, etc., prohibited.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

§ 45-22. Connection to public sewer.

The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the village.

§ 45-23. Superintendent to inspect connection.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative, by the village.

§ 45-24. Guarding of excavations; restoration.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the village.

ARTICLE V
Use of the Public Sewers

§ 45-25. Stormwater, etc., prohibited in sanitary sewer.

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 45-26. Discharge of stormwater, unpolluted drainage controlled. [Amended 6-24-85 by L.L. No. 5, 1985]

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet. Notwithstanding the foregoing, users desiring to discharge cooling water to the waters of the state must apply for and obtain a SPDES permit. Similarly, such discharges are subject to state and federal regulations which are not superseded by this chapter.

§ 45-27. Wastes or waters prohibited.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- B. [Amended 6Z24-85 by L.L. No. 5, 1985] Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or creating any hazard in the receiving waters of the sewage treatment plant, including:

Effluent Concentration Limits

Parameter	Thirty-Day Average (mg/l)	Twenty-four-Hour Average (mg/l)
Cadmium	0.4	0.8
Hex. Chromium	0.2	0.4
Total Chromium	4.0	8.0
Copper	0.8	1.6
Lead	0.2	0.4
Mercury	0.2	0.4
Nickel	4.0	8.0
Zinc	1.2	2.4
Arsenic	0.2	0.4
Available chlorine	50.0	50.0
Cyanide-free	0.4	0.8
Cyanide-complex	1.6	3.2
Selenium	0.2	0.4
Sulfide	6.0	12.0
Barium	4.0	8.0
Manganese	4.0	8.0
Gold	0.2	0.4
Silver	0.2	0.4
Fluorides		
To fresh water	6.0	12.0
To saline water	36.0	72.00
Phenol	4.0	8.0

- C. Any waters or wastes having a pH lower than five point five (5.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- D. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- E. Upon the promulgation of the national categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. [Added 6-24-85 by L.L. No. 5, 1985]

§ 45-28. Wastes subject to review by Superintendent. [Amended 3-10-69, effective 4-1-69]

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the Superintendent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

- A. Any liquid or vapor having a temperature higher than one hundred four degrees Fahrenheit (104° F.) [forty degrees centigrade (40° C.)]. [Amended 6-24-85 by L.L. No. 5, 1985]
- B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty degrees Fahrenheit (150° F.), zero and sixty-five degrees centigrade (0° and 65° C.).
- C. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower [seventy-six hundredths (0.76) horsepower metric] or greater shall be subject to the review and approval of the Superintendent.
- D. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

- E. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- F. Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- H. Any waters or wastes having a pH in excess of nine point five (9.5).
- I. Materials which exert or cause:
 - (1) Unusual concentrations of inert suspended solids, such as but not limited to Fullers earth, lime slurries and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate.
 - (2) Excessive discoloration, such as but not limited to dye wastes and vegetable tanning solutions.
 - (3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- J. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

§ 45-28.1. Grease, oil and sand interceptors. [Added 6-24-85 by L.L. No. 5, 1985]

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 4(c) of the Regulation of Sewer Use Manual of Practice Number 3 of the New York State Department of Environmental Conservation, or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the

maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner(s)' personnel must be performed by currently licensed waste disposal firms.

§ 45-29. Remedies available.

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 45-32 of this Article.
- B. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws, and such facilities shall be continuously maintained in satisfactory and effective operation by and at the owner's expense.

§ 45-30. Control manhole.

When required by the 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.

§ 45-31. Measurements, tests, analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with 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.

§ 45-32. Special agreements or arrangements for industry. [Amended 6-24-85 by L.L. No. 5, 1985]

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 therefore by the industrial concern. No special agreements shall circumvent federal categorical pretreatment standards.

**ARTICLE VI
Protection from Damage**

§ 45-33. Penalty for damaging or tampering with sewer. [Amended 6-24-85 by L.L. No. 5, 1985]

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**ARTICLE VII
Powers and Authority of Inspectors**

§ 45-34. Entering private property.

The Superintendent and other duly authorized employees of the village bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. The powers of inspection hereinbefore granted to the Superintendent are also extended to appropriate officials of the NYSDEC and the USEPA.

§ 45-34.1. Provision of information. [Added 6-24-85 by L.L. No. 5, 1985]

- A. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this local law. These requirements may include:
- (1) Wastewaters discharge peak rate and volume over a specified time period.
 - (2) Chemical analysis of wastewaters.
 - (3) Information on raw materials, processes and products affecting wastewater volume and quality.
 - (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.

- (5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

**ARTICLE VIII
Penalties for Offenses**

§ 45-35. Written notice of violation.

Any person found to be violating any provision of this ordinance except Article VI shall be served by the village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 45-36. Continued violation.

Any person who shall continue any violation beyond the time limit provided for in § 45-35, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred dollars (\$100.) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

§ 45-37. Village to recover expense, loss and damage.

Any person violating any of the provisions of this ordinance shall become liable to the village for any expense, loss or damage occasioned the village by reason of such violation.

**ARTICLE IX
Repealer; Severability**

§ 45-38. Repealer.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

§ 45-39. Severability.

The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

**ARTICLE X
When Effective**

§ 45-40. Provisions to take effect.

This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

SEWER RENTS

Chapter 46

SEWER RENTS

Local Law No. 1 1983

A LOCAL LAW TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF SEWER RENTS PURSUANT TO ARTICLE 14-F OF THE GENERAL MUNICIPAL LAW OF THE STATE OF NEW YORK

- § 46-1. Description of sewer system.
- § 46-2. Basis for rental charge.
- § 46-3. Rental rates.
- § 46-4. Period of rental; penalties for late payment.
- § 46-5. Rents to constitute lien.
- § 46-6. Collection authority.
- § 46-7. Disposition of rents.
- § 46-8. Dermissions.
- § 46-9. Review of rents.
- § 46-10. Cost of treating toxic wastes.
- § 46-11. Cost of treating extraneous flows.
- § 46-12. Inconsistent agreements.
- § 46-13. Discounts.
- § 46-14. Severability.
- § 46-15. Effective date.

[HISTORY: Adopted Malone Village Board 3-28-83 as Local Law No. 1, 1983. Amendments noted where applicable.]

GENERAL REFERENCES

Sewer use-See Ch. 45.

§ 46-1. Description of sewer system.

The sewer system for which such rents are hereinafter established and imposed is more particularly described in drawings on file in the office of the Village Clerk entitled "Village of Malone, New York, Sanitary Sewer Details, dated March 1, 1931, and prepared by M. M. Plumb, Engineer," plus any additions thereto or extensions thereof either within or without the corporate limits of the village as may from time to time be authorized by the Board of Trustees of the village.

§ 46-2. Basis for rental charge.

The sewer rental charge will be based upon the consumption of water on the premises connected with and served by the sewer system or upon the type of premises being serviced by the sewer system on a unit rate basis. Charges will be made for each family unit or each business establishment within each building. Billings for multiple-family dwellings will be on the basis of each family unit. One (1) or more persons using or operating a cook stove upon which their food is prepared shall be considered a "family unit." A business establishment is any individual, firm, corporation or association regularly established and doing business under the laws of the State of New York.

§ 46-3. Rental rates.

A. The rental rates shall be equal to the unit rate multiplied by the following unit multipliers established for that portion of the sewer system within the corporate limits of the village and for that portion of the said system situate outside the corporate limits of the village, as follows:

Type of Usage	Unit	Unit
	Multiplier	Multiplier
	Inside	Outside
Adult homes; private nursing homes; convalescent homes, per resident	0.3	0.48
Agricultural societies; barns	5.0	8.0
Alice Hyde Hospital, per bed	0.6	
Alice Hyde Nursing Home, per resident	0.3	
Animal hospitals	1.35	2.16
Armories; reserve centers	10.0	16.0
Bakeries	2.2	3.52
Banks, per office location	2.5	4.0
Barbershops	1.0	1.6
Beauty parlors	1.5	2.4

Type of Usage	Unit Multiplier	Unit Multiplier
	Inside	Outside
Boardinghouses; tourist homes	2.2	3.52
BOCES building	15.0	
Bottling plants	5.0	8.0
Bowling alleys	3.0	4.8
Bowling alleys (with bar)	5.0	8.0
Carwashes	3.0	4.8
Churches	1.0	1.6
Clubs; halls; lodges	1.5	2.4
Clubs; halls; lodges (with bar or restaurant)	2.2	3.52
College buildings	2.2	3.52
Concrete works	2.5	4.0
Dairies	12.5	20.0
Day-care nurseries, per licensed limit	0.03	0.05
Dental offices	1.0	1.6
Family unit, each	1.0	1.6
Franklin County Court House; print shop; mental health office	35.0	
Franklin County Department of Social Services	10.0	
Franklin County Jail	5.0	
Funeral parlors	1.35	2.16
Garages and service stations	2.2	3.52
Greenhouses	2.2	3.52
Hotels:		
Per transient bedroom	0.2	0.32
Per apartment	1.0	1.6
Per rented room	0.1	0.16
Ice cream stands and soda fountains	1.0	1.6
Industries:		
Per factory building	3.0	4.8
Per warehouse	1.0	1.6
Laundries and dry cleaners, including laundromats	6.0 9.6	
Laundries and dry cleaners, without laundromats	5.0 8.0	

Type of Usage	Unit	Unit
	Multiplier	Multiplier
	Inside	Outside
Laundromats	5.0	8.0
Law and other offices	1.0	1.6
Monument works	2.5	4.0
Motels:		
Per transient bedroom	0.2	0.32
Per apartment	1.0	1.6
Physicians' offices	1.0	1.6
Public nursing homes, per bed (non-hospital-operated)	0.3	0.48
Public utility buildings	2.5	4.0
Rectories; parsonages; manses	1.0	1.6
Religious community houses:		
Less than 12 residents	1.0	1.6
12 or more residents	2.0	3.2
Restaurants	3.0	4.8
Restaurants (with bar)	4.0	6.4
School systems:		
Under 1,000 students, per student and employee	0.03	0.06
1,000 students and over, per student and employee	0.075	0.12
Retail stores	1.0	1.6
Supermarkets	1.0	1.6
Taverns	4.0	6.4
Taxi stands	1.0	1.6
Theatres	1.0	1.6
Trailer parks, per trailer	1.5	

B. The following rates are established for that portion of the sewer system within the corporate limits and for that portion of said system outside said corporate limits for premises upon which a water meter is installed: a sum equal to thirty-five per centum (35%) of the water metered charge or the flat rate indicated in Subsection A above if the flat rate is higher than the metered rate.

C. Unless otherwise specifically stated in Subsection A above, the minimum sewer rental unit multiplier shall be one (1) unit within the corporate limits and one and six-tenths (1.6) units outside said corporate limits.

- D. Any user of the sewer system of the Village of Malone who is eligible for a vacancy credit under the terms and conditions of § 63-5 of Chapter 63 of the Code of the Village of Malone, New York, shall be also entitled to a vacancy credit with respect to sewer rents. No vacancy credit shall be allowed for any other reason.
- E. The unit rate shall be determined by dividing the total annual sewer rents necessary for the operation and maintenance of the sewer system by the total number of units being served. The total number of units served is equal to the summation of the number of establishments under each type of usage multiplied by the unit multiplier for that type of usage. The annual unit rate is then divided by four (4) to obtain the quarterly rate.

§ 46-4. Period of rental; penalties for late payment.

- A. Sewer charges shall be billed quarterly for calendar quarters ending March 31, June 30, September 30 and December 31. No rebate will be allowed on sewer rental bills because of vacancy or preoccupancy except pursuant to the provisions of § 46-3D hereof.
- B. Charges for sewer service will be made from the time the tap is made to the sewer main until the location is destroyed or ceases permanently to take service.
- C. A penalty of a percentage to be fixed by resolution of the Board of Trustees of the Village of Malone on or before April 1 of each year will be added if such charges are not paid in full within thirty (30) days after each billing date.

§ 46-5. Rents to constitute lien.

Sewer rents constitute a lien upon the real property served by the sewer system or each part or parts thereof for which sewer rents shall have been established and imposed. 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.

§ 46-6. Collection authority.

Collection of the sewer rents will be made pursuant to § 452 of the General Municipal Law of the State of New York.

§ 46-7. Disposition of rents.

Revenue derived from sewer rents, including penalties and interest, shall be credited to a special fund, to be known as the "Sewer Rent Fund." The moneys in such fund shall be used pursuant to § 453 of the General Municipal Law of the State of New York.

§ 46-8. Definitions.

The terms "sewer rents," "sewer system," "part," "sewage," "industrial waste" and "other wastes" shall have the meanings as defined in § 451 of the General Municipal Law of the State of New York.

§ 46-9. Review of rents.

The user charges shall be reviewed and fixed on or before April 1 of each year by resolution of the Board of Trustees of the Village of Malone to reflect actual costs of operation and maintenance of the sewerage system and treatment works.

§ 46-10. Cost of treating toxic wastes.

Any user that discharges any toxic pollutants, within the definition of Chapter 45, Sewer Use, of the Code of the Village of Malone, New York, which cause an increase in the cost of managing the effluent or the sludge from the treatment works shall pay for such increased cost.

§ 46-11. Cost of treating extraneous flows.

The cost of treating extraneous flows, within the definition of Chapter 45, Sewer Use, of the Code of the Village of Malone, New York, shall be distributed among all user classes in the same manner that costs of operation and maintenance are distributed among user classes in accordance with Article 35.929-2(d) (1) found on page 17710 of the Federal Register, Volume 43, No. 80, Tuesday, April 25, 1978.

§ 46-12. Inconsistent agreements.

This local law shall take precedence over any inconsistent agreements.

§ 46-13. Discounts.

There shall be no discounts for large-volume users in this user charge system.

§ 46-14. Severability

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

§ 46-15. Effective date.

This local law shall take effect April 1, 1983.

Chapter 47

SIDEWALKS AND STREETS

- § 47-1. Vehicles drawn by animals.
- § 47-2. Vehicles obstructing sidewalks.
- § 47-3. Horses obstructing sidewalks.
- § 47 4. Horses and vehicles on sidewalks.
- § 47-5. Vehicle warning devices required.
- § 47-6. Vehicle lights required.
- § 47-7. Unattended horses to be fastened.
- § 47-8. Vehicles on sidewalks.
- § 47-8. Material placed on streets and sidewalks; penalty.
- § 47-10. Permission to store material.
- § 47-11. Exception for wood.
- § 47-12. Dangerous articles on street and sidewalks; penalty.
- § 47-13. Hanging and projecting signs; penalty.
- § 47-14. Structures projecting over a street; penalty.
- § 47-15. Damage to streets and sidewalks; penalty.
- § 47-16. Ditches in streets; penalty.
- § 47-17. Unlawful activities in streets.
- § 47-18. Alteration of sidewalks; penalty.
- § 47-19. Removal of stone or earth from streets; penalty.
- § 47-20. Obstructing drains; penalty.
- § 47-21. Sidewalks to be kept in good repair; penalty.
- § 47-22. Sidewalks to be clear of snow, ice and debris; penalty.
- § 47-23. Deposit of ice and snow in streets; penalty.
- § 47-24. Defacing sidewalks; penalty.
- § 47-25. Noncompliance not exculpatory of duty of care.
- § 47-26. Violations and penalties.

[HISTORY: Adopted Malone Village Board 2-14-47. Amendments noted where applicable.]

§ 47-1. Vehicles drawn by animals.

No person shall suffer any carriage, wagon, cart, sleigh or sled to remain in any street or lane of Malone Village with a horse or other beast of burden attached thereto without a competent person attending the same.

§ 47-2. Vehicles obstructing sidewalks.

No person shall suffer any loaded wagon, sleigh or other vehicle to stand in any of the streets of Malone Village in such a manner as shall obstruct the free passage of the same or upon any sidewalk or crosswalk.

§ 47-3. Horses obstructing sidewalks.

No person shall at any time fasten any horse to any shade tree, lamp post, hydrant, watering trough, park fence or railing, nor fasten or stop the same in such a way that such horse or the reins, lines, halter or the vehicle attached shall be an obstruction to the free use of any street, sidewalk or crosswalk.

§ 47-4. Horses and vehicles on sidewalks.

No person shall drive, lead or ride any horse or any other animal, or propel any cart, wagon, sleigh or other vehicle on any sidewalk or crosswalk, except in crossing the same or for the purpose of entering a yard or lot.

§ 47-5. Vehicle warning devices required.

No person shall ride or propel any automobile, bicycle or velocipede upon any of the streets or public grounds of Malone Village unless a bell, horn or gong sufficient to give reasonable warning of the approach of such vehicle is attached thereto.

§ 47-6. Vehicle lights required.

No person shall ride or propel any automobile, bicycle, tricycle, motorcycle or velocipede upon any street or public grounds of Malone Village after nightfall unless to such vehicle is attached a lighted lamp or lantern affording reasonable warning of the approach of such vehicle.

§ 47-7. Unattended horses to be fastened.

No person shall leave on any of the streets or public grounds of Malone Village any horse unattended by a driver or other person, unless the same be properly fastened.

§ 47-8. Vehicles on sidewalks.

No person shall run or propel any bicycle, tricycle, motorcycle, velocipede, automobile or any other vehicle on any of the sidewalks of Malone Village.

§ 47-9. Material placed on streets and sidewalks; penalty.*

No person shall place or deposit [except as provided in this and the next two (2) sections] on any sidewalk or crosswalk, or in any street or lane of Malone Village, any cask, box, crate, stone, lumber or other material, under the penalty of two dollars (\$2.) for each and every offense; and the person or persons depositing the same and the owner or occupant of the premises in front of which any such substance or material may be, shall further forfeit the sum of one dollar (\$1.) for every twenty-four (24) hours the same shall remain, after having been notified by the Mayor, a Trustee, the Street (commissioner or Clerk, to remove the same.

* Editor's Note: See provisions of §§ 22-4 and 22-21 of Ch. 22, Fire Prevention, p. 2203, et seq., supra

§ 47-10. Permission to store material.

The Mayor may grant permission in writing to any person to place and keep any building material in any of the public streets of Malone Village, for the purpose of building or repairs, for a period not exceeding three (3) months. but such permission shall not authorize the obstruction of more than one-half (1/2) of the sidewalk and one-half (1/2) of the street opposite the lot on which the erection of a building or the repairs are to be made, by the person to whom such permission may have been granted, and such permission may be revoked by the Trustees on two (2) days' notice.

§ 47-11. Exception for wood.

§ 47-9 shall not be construed as preventing the temporary deposit of wood in the street in front of any house, store or shop for the use of which such wood is deposited, provided the same is not suffered to remain in such street for more than forty-eight (48) hours from the time of being first deposited, and provided further that the same is piled in a compact manner as near the sidewalk as possible.

§ 47-12. Dangerous articles on street and sidewalks; penalty.

No person shall place or deposit, or cause to be placed or deposited, upon any street, sidewalk, alley, lane or public grounds of Malone Village, any glass, crockery, tacks, nails or other articles liable to injure animals or vehicles traveling thereupon under penalty of ten dollars (\$10.) for each offense.

§ 47-13. Hanging and projecting signs; penalty.*

No person shall put up, erect or suffer to remain, any sign, showcase or other thing projecting into or hanging over the street or sidewalk, more than one (1) foot from the premises of such person, without having obtained permission from the Village Mayor so to do, in writing, under the penalty of five dollars (\$5.) for each offense and the further penalty of one dollar (\$1.) for every twenty-four (24) hours such obstruction shall be suffered to remain after notice given by the Mayor or a Trustee to remove the same.

§ 47-14. Structures projecting over a street; penalty.

No person shall erect or place, or cause to be erected or placed, any building or other structure extending or projecting over the street, under penalty of five dollars (\$5.) for each offense; and the further penalty of one dollar (\$1.) for each day the same shall be allowed to remain after notice to remove from the Mayor or a Trustee to remove the same, providing such penalty shall not be incurred by reason of any cornice, piazza, window cap or ornamental mounding projecting into the street three (3) feet or less or any swing awning attached to such building for the purpose of shade.

* Editor's Note: See also § 48-1 of Ch. 48, Signs and Posters, p. 4801, infra.

§ 47-15. Damage to streets and sidewalks; penalty.

Any person, persons or corporation who shall tear up or injure any pavement, planking, flagging, concrete or macadamized way, bridge, sidewalk, crosswalk, drain, gutter or sewer in any street or public ground of Malone Village, or shall dig or cause to be dug any hole or ditch or otherwise disturb the same, without permission first received from the Mayor or Trustees in writing, and not then except under the supervision of the Street Commissioner, at their own proper cost for the time of the Street Commissioner, under penalty of five dollars (\$5.) for each offense, and shall be further liable for all damage that may result by reason of disturbing said street, to be recovered in the name of Malone Village in an action brought for that purpose.

§ 47-16. Ditches in streets; penalty.

No person shall, without the permission of the Mayor or Trustees, construct or cause to be made any leading ditch for a main or side water pipe, for a main or branch gas pipe, any sewer, vault, cistern or well in any of the streets of Malone Village, nor then except under the supervision of the Street Commissioner, as specified in § 47-15 of this ordinance, under a penalty of five dollars (\$5.) for each offense, and shall be further liable for any damage that may result by reason of disturbing said street to be recovered by Malone Village in an action brought for that purpose.

§ 47-17. Unlawful activities in streets*

No person shall fly kites or discharge any firearms, torpedoes, fire canes or articles of like nature in any of the streets of Malone Village, nor coast or slide down any hill, unless specifically set aside for a specified purpose by the Village Board; nor shall the use at any other time or place upon the Village streets of sleds, skate boards, carts, roller skates, or any other articles of like nature be permitted.

§ 47-18. Alteration of sidewalks; penalty.

No person shall, without permission and under the supervision of the Street Commissioner, alter the grade of any sidewalk in Malone Village under the penalty of five dollars (\$5.) for each offense and the further penalty of one dollar (\$1.) for each and every week such grade shall remain altered after notice from the Street Commissioner or a Trustee to restore the same.

§ 47-19. Removal of stone or earth from streets; penalty.

No person, persons or corporation shall, without the permission of the Mayor or Trustees, in writing, dig, remove or carry away any stone, earth, sand or gravel from any street, land or public ground of Malone Village under a penalty of five dollars (\$5.) for each offense.

* Editor's note: See also §39-10 of Ch. 39, Public Safety and Good Order, p. 3908
supra.

§ 47-20. Obstructing drains; penalty.

No person shall, without the authority of the Street Commissioner, put any earth, stones or other material into any sluice, drain, culvert or gutter of Malone Village, or otherwise obstruct the same under the penalty of five dollars (\$5.) for each offense.

§ 47-21. Sidewalks to be kept in good repair; penalty.

The occupant or owner of every building or lot, and the owner or occupant of every vacant lot within the limits of Malone Village, shall keep the sidewalks in front of such premises in good and sufficient repair for the general use of the public, under the penalty of five dollars (\$5.) for every forty-eight (48) hours the same may remain in bad or unsafe condition, after having been notified by the Clerk of the Board of Trustees or the Mayor to repair the same. The Board of Trustees may construct or repair such sidewalks at the expense of the owners thereof, as provided by Section 161 of the Village Law. *

§ 47-22. Sidewalks to be clear of snow, ice and debris; penalty. [Amended 12-12-60]*

The owner or occupant of every building or lot and the owner of every unoccupied building lot, adjoining which is a sidewalk, shall see that the same is at all times kept unencumbered and free from snow, ice, dirt, rubbish or other matter which may obstruct the proper and free use of the same, under a penalty of five dollars (\$5.) for each offense. In case of ice and snow, if said owner or occupant shall fail to comply with the foregoing provisions, it is also enacted that the Superintendent of Public Works shall clear such walks and charge the same against the owner or occupant of the premises at the rate of ten cents (\$0.10) per lineal foot with a minimum charge of five dollars (\$5.) per walk, and the same shall be a lien upon said property, as provided by law.

§ 47-23. Deposit of ice and snow in streets; penalty. [Amended 12-12-60]

No owner or occupant of any property shall deposit ice or snow in the public streets of the Village of Malone or otherwise obstruct the same with ice or snow, under the penalty of five dollars (\$5.) for the first offense and ten dollars (\$10.) for each subsequent offense.

§ 47-24. Defacing sidewalks; penalty.

No person, firm or corporation shall place or cause to be placed upon any of the sidewalks or crosswalks of Malone Village any writing, printing, characters, figures, signs, emblems or marks, or otherwise deface such walks in any manner, under a penalty of five dollars (\$5.) for each offense.

§ 47-26. Noncompliance not exculpatory of duty of care.

Nothing contained herein or committed therefrom shall be construed or held to relieve any person using or traveling, or being upon any street in Malone Village for any purpose whatever, from exercising all reasonable care to avoid or prevent injury through collision with other persons or vehicles.

* Editor's Note: See also S 61-1, Ch. 61, Village Liability, p. 6101, infra.

§ 47-27. Violations and penalties.

Any person violating this ordinance, or any part thereof, shall be liable for and forfeit and pay a penalty not exceeding fifty dollars (\$50.) for each offense, except as otherwise provided herein.

Any violation of this ordinance, or any part thereof, shall constitute disorderly conduct, and any person violating any of the provisions of this ordinance shall be and is hereby declared a disorderly person.

SIGNS

Chapter 48

SIGNS

- § 48-1. Conformance required; purpose.
- § 48-2. Definitions.
- § 48-3. Permit applications; fee.
- § 48-4. Permit required.
- § 48-5. General standards.
- § 48-6. Maintenance.
- § 48-7. Residential districts.
- § 48-8. Residential-limited business districts.
- § 48-9. Business and industrial districts.
- § 48-10. Specific regulations to sign types.
- § 48-11. Appeals; variances.
- § 48-12. Penalties for offenses
- § 48-13. Grandfather clause.
- § 48-14. Unsafe and unlawful signs.
- § 48-15. When effective.

[HISTORY: Adopted by the Malone Village Board 4-13-1992 as LL No. 2,1992.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Poles and wires - See Ch. 35.
Sidewalks and streets - See Ch. 47.
Zoning - See Ch. 66

§ 48-1. Conformance required; purpose.

- A. Signs must be erected and maintained only when in conformance with the provisions of this local law, Chapter 48 of this Code.
- B. The purpose of this local law is to provide standards for the design, manufacture and installation of signs in the Village of Malone and to promote the public health, welfare and safety of the community by regulating existing and proposed outdoor signs. It is intended to reduce distractions, obstructions and hazards caused by indiscriminate placement and use of signs, by signs overhanging or projecting over public

Editor's Note: This local law also superseded former Chapter 48, Signs, adopted 4-9-1990 as L.L. No. 3, 1990.

rights-of-way and other adverse construction. This local law shall control the design, installation, alteration, operation, maintenance and removal of all signs existing and proposed within the Village of Malone.

C. No such sign shall be erected without First having obtained approval from the Code Enforcement Office.

§ 45-2. Definitions.

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

ACCESSORY SIGN-Any sign relating to a business, a service or products, including national brand products, supplied on the premises on which it is located.

ANIMATED OR FLASHING SIGN-Any sign or device which, in part or in whole, moves or flashes or contains traveling lights or gives the impression of movement or flashing, whether such effect is generated by natural or artificial forces.

AWNING SIGN-Any visual message incorporated into an awning attached to a building.

BANNER SIGN-Any piece of fabric which is not mounted on a firm backing, displaying a distinctive insignia, identifying wording and/or symbol representation of a business, service or activity.

COPY-CHANGE SIGN- A sign on which the visual message may be periodically changed.

DIRECTIONAL SIGN- A sign limited to providing information on the location of an activity, business or event.

DOUBLE-FACED SIGN-A sign of which two (2) sides are visible, either back-to-back or attached at an angle no greater than forty-five degrees (45°). Two (2) sign faces attached at an angle greater than forty-five degrees (45°) shall be considered a single-faced sign.

FREESTANDING SIGN-Any sign not attached to or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

IDENTIFYING SIGN-Any sign giving no more than the name and address of the business or occupant of the premises or of its operator and the hours open for business.

ILLUMINATED SIGN-Any sign illuminated by electricity, gas or other artificial light, either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

INTERIOR WINDOW SIGN-A sign occupying not more than one-third (1/3) of the window space.

MARQUEE SIGN-An identifying sign hanging from or supported by a permanent marquee or overhang.

NONACCESSORY SIGN-Any billboard or any sign or advertising device advertising a business, service, product or activity at other locations.

- OBSOLETE SIGN**-A sign which advertises a business no longer conducted or a product no longer sold.
- OFF-PREMISES SIGN**-A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.
- POLE OR PYLON SIGN**- Any sign supported by or suspended from a freestanding column or columns designed solely to support said sign and set directly on the ground.
- PORTABLE SIGN**-A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.
- PROJECTING SIGN**-A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- REPRESENTATIONAL SIGN**-A three-dimensional sign built so as to physically represent the object advertised.
- TEMPORARY SIGN**-A sign related to a single activity or event having a duration of no more than thirty (30) days.
- SIGN**-Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out of-doors, or on the exterior of any building, or indoors as a window sign, displaying an advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.
- SIGN DIRECTORY**-A listing of two (2) or more business enterprises, consisting of a matrix and sign components.
- SIGN STRUCTURE**-The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any two (2) of the sides or the projections thereof exceeds thirty degrees (30°), each side shall be considered a separate sign structure.
- SIGN SURFACE AREA**-The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display. Both faces of a double faced sign shall be included as surface or area of such a sign.
- SYMBOL SIGN**-Any nontranslucent sign which is a three dimensional representation or illustration of the activity of the business or service.
- WALL SIGN**-A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

§ 48-3. Permit applications; fee.

- A. For all permanent signs and for all symbol signs, applications should be obtained from and returned to the Village Clerk, subject to review by the Village Code Officer. The application shall include:
- (1) The name and address of the applicant.
 - (2) The location, position and the diagram of the sign, including distances from lot lines.
 - (3) Written consent of the owner of the building and land if other than the applicant.
 - (4) Such other information as the Building Inspector shall require.
- B. A nonrefundable permit fee shall be paid upon filing an application with the Village Clerk. The fee shall be established from time to time by resolution of the Village Board. The minimum fee will be five dollars (\$5.) and may also be changed from time to time by resolution of the Village Board. The fee will be based on the cost of the sign.
- C. Within five (5) working days, the Village Clerk shall refer the application and all accompanying material to the Code Officer.
- D. After receipt of the application and all required material, the Code Officer shall review the application and advise the applicant of approval or disapproval within thirty (30) days from the date of receipt.

§ 48-4. Permit required.

A. Temporary signs. All signs of a temporary nature, except as otherwise provided by this local law, shall be permitted for a period not exceeding six (6) weeks prior to the activity or event nor exceeding four (4) days after the activity or event. Such signs shall not exceed sixteen (16) square feet in business or industrial districts nor eight (8) square feet in residential districts, nor be attached to fences, trees, utility poles, rocks or other parts of a natural landscape, nor be placed in a position that will obstruct or impair traffic or in any manner create a hazard or disturbance to the health, safety and welfare of the general public.

B. Permanent signs Within any zoning district, the following permanent signs may be erected; provided, however, that this subsection shall not serve to expand the number of signs otherwise allowed, pursuant to § 48-9, Business and industrial districts:

(1) Off-premises directional signs for the convenience of the general public and for the purpose of directing persons to a business, activity, service or community facility may be erected, provided that such signs do not exceed ten (10) square feet per establishment nor total more than two (2) such signs per establishment. Messages shall be limited to name or identification, arrow or direction, and distance. Advertising messages shall be prohibited. Such signs shall be limited to major and collector streets.

§ 48-5. General standards.

The provisions contained in this section shall apply to all signs and all use districts, regardless of designation:

- A. Any sign or use of signs not specifically permitted by provision of this local law is prohibited.
- B. No sign shall be located in such a way as to interfere with or be reasonably confused with other traffic, traffic signs or signals, nor shall it hinder driver vision.
- C. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause a glare or reflection that may constitute a traffic hazard or nuisance.
- D. No sign or sign supports shall be placed upon the roof of any building.

§ 48-6 Maintenance.

- A. The owner of a sign and the owner of the premises on which each sign is located shall be jointly and severally liable to maintain such sign and supporting structure, including its illuminating sources, in neat, orderly and legible condition and good working order at all times and to prevent the development of any corrosion, rotting or other deterioration in the physical appearance or safety of such sign or supporting structure.
- B. Obstruction to doors, windows and/or fire escapes. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign shall be attached to a standpipe or fire escape.

§ 48-7. Residential districts.

- A. In residential districts, no sign shall be larger than sixteen (16) square feet, except as stated in Subsection C.
- B. Sale or rental of premises.
 - (1) Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises and signs bearing the word "sold" or "rented" with the name of the persons affecting the sale or rental may be erected or maintained, provided that
 - (a) The size of any sign is not in excess of six (6) square feet.
 - (b) Not more than one (1) sign is placed upon any property, unless such property fronts upon more than one (1) street, in which event one (1) such sign may be erected on each frontage.
 - (c) Such sign or signs shall be removed within a fifteen day period after the premises have been sold or rented.
 - (2) No such sign shall be erected without first having obtained approval from the Code Enforcement Office.

- C. Institutional signs of schools, colleges, churches, hospitals or of other similar public or semipublic nature may be erected and maintained, provided that
- (1) The size of any such sign is not in excess of thirty-two (32) square feet.
 - (2) Not more than one (1) such sign is placed on a property, unless such property fronts upon more than one (1) street, in which event one (1) such sign may be erected on each frontage.
- D. Signs designating entrances or exits to or from a parking lot and limited to one (1) sign for each such exit or entrance and to a maximum size of two (2) square feet each shall be permitted. One (1) sign per parking lot, designating the conditions or use or identity of such parking lot and limited to a maximum size of nine (9) square feet, shall be permitted, provided that, on a corner lot, two (2) such signs shall be permitted, one (1) facing each street.
- E. Development signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other persons interested in such sale or development, may be erected and maintained, provided that
- (1) The size of any sign is not in excess of thirty-two (32) square feet
 - (2) Not more than one (1) such sign is placed upon any property, unless such property fronts more than one (1) street, in which event one (1) such sign may be erected on each frontage.
 - (3) Any such sign shall be removed by the developer within fifteen (15) calendar days of final sale or completion of the project
- F. Artisan's signs. Artisan's signs, such as those of mechanics, painters and other artisans, may be erected and maintained during the period when such persons are performing the work on the premises on which such signs are erected, provided that
- (1) The size thereof is not in excess of twelve (12) square feet.
 - (2) Such signs are removed promptly upon completion of the work.

§ 48-8. Residential-limited business districts.

Within residential-limited business districts, signs will conform to all signs allowed in business districts.

§ 48-9. Business and industrial districts.

- A. Within business and industrial districts, the following permanent sign provisions may apply:
- (1) The total cumulative area of all signs permitted on such lot shall be calculated at the rate of one (1) square foot of sign area per linear foot of building front, plus one-fourth (1/4) square foot per linear foot setback of the principal building on the property, but in no case shall exceed one hundred fifty (150) square feet, whichever is less.
 - (2) Where groups of four (4) or more contiguous stores are located together in a

shopping center or where a lesser number of stores total not less than twenty thousand (20,000) square feet of gross leasable area, one (1) common freestanding sign denoting the name of the shopping facility shall be permitted, not exceeding one hundred fifty (150) square feet [seventy-five (75) square feet per side] and with a bottom panel of not less than eight (8) feet above grade. All other signs shall be attached to buildings, of a wall, projecting or soffit type, and coordinated in material, shape, lettering, color and/or decorative elements. Total sign area permitted for the entire shopping center shall be calculated at the rate of one (1) square foot of sign per foot of building front, plus one-fourth (1/4) square foot per foot of lot frontage, plus one-tenth (1/10) square foot per foot of each store's setback, not to exceed four hundred fifty (450) square feet, whichever is less.

- (3) Representational signs shall not project in any direction more than four (4) feet beyond the principal structure to which they are attached and shall not exceed fifteen (15) square feet. Only one (1) such sign per establishment shall be permitted, with the area of such sign structure included within the total sign area permitted.
 - (4) Illuminated signs which indicate the time, temperature, date or similar public service information shall not exceed thirty-two (32) square feet and shall not employ less than sixty percent (60%) of the total sign area, each side, for said public service information.
 - (5) Gasoline service stations shall additionally be permitted two (2) price, product or promotional signs each, not exceeding twelve (12) square feet or six (6) square feet per side, if located on the pump island. Separate signs shall not be closer than ten (10) feet to the edge of the pavement, nor situated so as to impair visibility for pedestrians or motorists.
- B. Portable signs. A new business, or a business in a new location, awaiting installation of a permanent sign, may utilize a portable sign for a period of not more than sixty (60) days or until installation of a permanent sign, whichever occurs first. Such a portable sign must meet all the construction standards of the municipality. A separate permit for such a portable sign shall be required.
- (1) A nonilluminated, single-sided real estate development sign, excluding industrial and commercial development, residential subdivision or construction sign denoting the architect, engineer and/or contractor, not exceeding thirty-two (32) square feet in business and industrial districts nor twenty (20) square feet in residential districts, and thirty-two (32) square feet in residential limited business districts, may be erected on property being sold, leased or developed. Such sign shall be erected parallel to the fronting highway, set back a minimum of thirty-five (35) feet from the property line or attached to the building face. Such sign shall be removed upon completion of the project and shall be in place for a period not exceeding two (2) years.

§ 48-9

MALONE CODE

§ 48-10

- (2) Signs or bulletin boards customarily incident to places of worship, libraries, museums, social clubs or societies may be erected on the premises of such institutions. One (1) such sign or bulletin board not exceeding thirty-two (32) square feet may be erected for each entrance on a different street or highway.
- (3) For multiple dwellings or apartment developments, one (1) sign advertising availability of several dwelling units not exceeding thirty-two (32) square feet shall be permitted. One (1) such sign shall be permitted for each entrance on a different street or highway.
- (4) Signs necessary for the identification, operation or production of a public utility not exceeding thirty-two (32) square feet may be erected on the premises of such public utility.

§ 48-10. Specific regulations to sign types.

Below are descriptions of signs varying in construction and type which may comply with the following additional conditions. unless otherwise specified elsewhere in a local law.

A. Wall signs.

- (1) Wall signs shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the level of the second floor of the building
- (2) Wall signs shall not extend more than nine (9) inches from the face of the building to which attached, except that copy-change signs may extend fifteen (15) inches.
- (3) Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of seven (7) feet six (6) inches.
- (4) Copy-change wall signs shall be permitted on theaters only.

B. Projecting signs

- (1) Projecting signs shall not have more than two (2) faces.
- (2) The exterior edge of a projecting sign shall extend not more than five (5) feet from the building face, or one-third (1/3) the width of the sidewalk, whichever is less.
- (3) No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have a minimum clearance of seven (7) feet six (6) inches.
- (4) Projecting signs shall not extend above the level of the second floor of the buildings to which attached, or in any case be higher than twelve (12) feet.
- (5) No projecting sign shall be closer than fifteen (15) feet from the corner of a building located at a street intersection unless it is twelve (12) feet above ground level.

C. Freestanding signs.

- (1) No freestanding sign shall be located less than five (5) feet from the front property line. The size of the sign cannot exceed thirty-two (32) square feet in a business district or sixteen (16) square feet in a residential district
- (2) No freestanding sign shall extend over or into the public right-of-way, nor shall it overhang the property lines.
- (3) Freestanding signs under which a pedestrian walkway or driveway passes must have a ten-foot vertical clearance.

- (4) If, for any reason, the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within ninety (90) days to conform to the minimum setback requirements.
- (5) Except in the case of those situations defined in the general provisions of § 4S9A(2), no freestanding sign shall be more than one hundred (100) square feet per side for a double-faced sign.
- (6) No freestanding sign shall be more than twenty-five (25) feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures.
- (7) Masonry wall-type signs shall not exceed four (4) feet in height and shall not be placed so as to impair visibility for motorists.

D. Other signs.

- (1) Sign directories.
 - (a) The character and size of the sign matrix and of the individual sign components comprising the directory shall be regulated in accordance with design guidelines provided by this local law.
 - (b) Sign directories shall contain identification of and direction to several business enterprises, but shall contain no promotional advertising
- (2) Awning signs.
 - (a) No sign shall project from an awning.
 - (b) Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.

§ 48-11. Appeals; variances.

- A. Any person aggrieved by a decision of the Building Inspector relative to the provisions of this local law may appeal such decision, in writing, to the Planning Board and shall comply with all procedural requirements prescribed by such Board.
- B. In granting any variance from the provisions of this local law, the Planning Board must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this local law, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.

§ 48-12. Penalties for offenses.

Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, reerect, construct or-structurally alter any sign without first applying for and obtaining the necessary permit or who in any other way violates any provision of this local law shall be guilty of an offense and shall be subject to a fine not to exceed fifty dollars (\$50.) for each offense. Each week's continuous violation shall constitute a separate additional violation. In case of a violation of this local law, the municipality and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this local law.

Chapter 49

SLAUGHTERHOUSES

§ 49-1. Slaughterhouses prohibited.

§ 49-2. Violations and penalties.

[HISTORY: Adopted Malone Village Board 2-14-47.]

§ 49-1. Slaughterhouses prohibited.

No person shall manage, conduct or operate any slaughterhouse or other place for the slaughter of animals within the corporate limits of Malone Village.

§ 49-2. Violations and penalties.

Any person violating this ordinance, or any part thereof, shall be liable for and forfeit and pay a penalty not exceeding fifty dollars (\$50.) for each offense, except as otherwise provided herein.

Any violation of this ordinance, or any part thereof, shall constitute disorderly conduct, and any person violating any of the provisions of this ordinance shall be and is hereby declared a disorderly person.

Chapter 50

SUNDAY SPORTS*

§ 50-1. Exhibitions permitted.

[HISTORY: Adopted Malone Village Board 8-11-52.]

§ 50-1. Exhibitions permitted.

It shall be lawful to conduct, witness, participate or engage in any form of public sports, exercises or shows which are conducted or engaged in primarily for the entertainment of spectators, not specifically prohibited by any provision of law, on the first day of the week after 2:00 P.M., to witness which the public is invited, or an admission fee is charged, either directly or indirectly.

* Editor's Note: See also, Ch 54, Theaters and Shows, p 5401, et. seq., infra.

SWIMMING POOLS

Chapter 51

SWIMMING POOLS

Local Law No. 4 1982

A LOCAL LAW ENTITLED "SWIMMING POOLS"

- § 51-1. Purpose.
- § 51-2. Definitions.
- § 51-3. Permit required; application; approval.
- § 51-4. Appeals upon denial of application; hearing; variances.
- § 51-5. Establishment, construction, maintenance and use.
- § 51-6. Barriers.
- § 51-7. Abandonment.
- § 51-8. Use of village water for filling.
- § 51-9. Enforcement official.
- § 51-10. Effect on existing pools.
- § 51-11. Penalties for offenses.
- § 51-12. Severability.
- § 51-13. When effective.

[HISTORY: Adopted Malone Village Board 6-14-82 as Local Law No. 4, 1982. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch. 66.

§ 51-1. Purpose.

The Board of Trustees of the Village of Malone recognizes that the regulation of the establishment, construction, maintenance and use of swimming pools is a matter of public importance, primarily as it concerns public safety. This local law shall be read and construed with due regard to the foregoing statement of purpose. For this reason the Board of Trustees has determined that the adoption of this local law is in the best interests of the village and its residents. It is not the intent of the Board of Trustees to require pool owners to guarantee the safety of pool users. Rather, it is intended to require certain safeguards which the Board of Trustees believes will minimize the risks involved.

§ 51-2. Definitions.

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

BARRIER-Any of the following mechanisms creating a restraint or obstruction between a swimming pool and any human being or animal seeking to make use thereof.

A. **FENCE**-Any enclosure maintained in good condition and constructed of wire mesh of not less than fourteen (14) gauge, chain link wire, woven wood, brick, stone or other similar materials and erected for the purpose of and capable of impeding access to a swimming pool. A fence constituting a barrier shall be so constructed as not to have openings, holes or gaps larger than five (5) inches and shall commence within not more than four (4) inches of the surface or ground. Any fence or hedge constituting a barrier shall be not less than four (4) feet in height, measured from ground or surface level.

B. **HEDGE**-Any natural, vegetative growth planted and maintained so as to be capable of impeding access to a swimming pool.

C. **COVER**-Any man-made device capable of covering the entire area of a pool, including the area between the surface level of the water and ground level, and which is capable of impeding access to a swimming pool.

BUILDING INSPECTOR-The Building Inspector of the Village of Malone or any duly appointed deputy.

PERMIT-A document issued by the Building Inspector in the manner prescribed by this local law and approving the construction, installation, alteration, modification, change, demolition or abandonment of any swimming pool in the village.

PERSON - Any individual, corporation, association, organization, firm or partnership.

PORTABLE POOL-Any aboveground type, artificially constructed pool, not stationary or fixed in location, capable of being removed for storage and intended for use primarily by children for swimming, bathing or wading, with a maximum surface area of one hundred (100) square feet and a maximum water depth of eighteen (18) inches.

SWIMMING POOL - Any man-made receptacle, structure, excavation or depression which is designed or intended for the purpose of immersion or partial immersion of human beings and which is capable of retaining at any point water to a depth of more than eighteen (18) inches and which has a surface area of greater than one hundred (100) square feet. There shall be excluded from the definition of "swimming pool" any natural brook, river, stream, pond or lake and any man-made body of water fed by any natural brook, river, stream or spring, including but - not limited to the facilities of the Malone Recreation Commission.

VILLAGE-The Visage of Malone, New York.

ZONING LAW-The Zoning Ordinance of the Village of Malone, New York.¹

¹ Editor's note: See Ch. 66, Zoning.

§ 51-3. Permit required; application; approval.

- A. It shall be unlawful for any person to construct, install, alter, modify, change, demolish or abandon a swimming pool within the village without having first applied for and received a permit from the Building Inspector.
- B. The application for a permit shall be made on forms provided for that purpose by the visage. The application shall include and/or be accompanied by:
- (1) A sketch or plan indicating the design, shape and dimensions of the swimming pool; the distance of the swimming pool from all boundary lines and existing structures; and the type and location of any required barrier.
 - (2) The water volume of the swimming pool in gallons and the depth or depths of the pool.
 - (3) The type of pool construction, that is whether above ground or in-ground.
 - (4) The type of filtration system.
 - (5) The type of drainage facilities.
 - (6) The source of water supply.
 - (7) The details of any electrical circuitry and devices.
 - (8) The estimated cost.
 - (9) The signature of the applicant or his or her duly authorized agent.
 - (10) Such other information as the visage may from time to time reasonably require.
 - (11) The application fee for a permit which shall be fixed from time to time by resolution of the Board of Trustees of the visage.
- C. The Building Inspector shall review the application and issue a permit immediately upon examining the application, verifying compliance with the provisions of this local law and accepting the fee.
- D. Any swimming pool which shall hold in excess of fifteen thousand (15,000) gallons of water shall first be subject to approval by the Board of Trustees of the village for that purpose only. The application for the permit to construct shall be referred by the Building Inspector to the Board of Trustees of the village. Upon approval by the Board of Trustees of the village, the application shall be returned to the Building Inspector for processing. [Amended 6-24-85 by L.L. No. 4, 1985]
- E. It shall be unlawful for any person who owns a swimming pool to allow any person (including the owner) to use any swimming pool within the village which has been constructed, installed, altered, modified or changed pursuant to a permit granted under this local law without the owner thereof first having notified the Building Inspector who shall inspect the swimming pool and who shall endorse the permit to allow the use of the pool, upon satisfactory proof of its completion in accordance with this local law and in accordance with any other applicable laws, ordinances or regulations.

§ 51-4. Appeals upon the denial of application; hearing; variances.

- A. In the event that the Building Inspector shall deny an application for a permit or shall refuse to endorse a permit for use, the applicant may appeal the denial to and request a hearing before the Zoning Board of Appeals of the village to review the reasons for the denial or to request a waiver of or a variance from any provisions of this local law.
- B. The request for a hearing shall be made in the same manner as a request for a hearing upon a denial of an application for a building permit or a certificate of occupancy pursuant to Chapter 66 of the Code of the village. The procedure followed by the Zoning Board of Appeals of the village shall be the same as followed for a hearing upon a denial of an application for a building permit or a certificate of occupancy pursuant to Chapter 68 of the Code of the village.
- C. The request for a hearing shall also set forth in detail either:
- (1) The reason why the permit should have been granted or endorsed pursuant to the requirements of this local law; or
 - (2) Such circumstances as would make compliance impractical or would deny or deprive the applicant of the reasonable use of his or her land.
- D. The Zoning Board of Appeals of the village, upon a finding that the permit or endorsement was improperly denied, shall grant the permit and/or direct its endorsement; or upon a showing that the applicant would be deprived of or denied the reasonable use of his or her land, and a finding that the circumstances of the applicant do not require the strict application of this local law, and a determination that the granting of a variance or a waiver will not detract from the general purposes of this local law or endanger the security, safety, health and general welfare of the village or its residents, may grant a waiver of or a variance from the requirements of this local law. The Zoning Board of Appeals may attach conditions or limitations to any waiver or variance so granted.

§ 51-5. Establishment, construction, maintenance and use.

- A. Establishment of swimming pools.
- (1) All new swimming pools and any facilities in connection therewith shall be located and constructed in conformity with the plans approved by the Building Inspector.
 - (2) All new swimming pools shall comply with the requirements of Chapter 66 of the Code of the village relating to accessory structures and dwellings except that the lot area occupied by said swimming pools shall not be included in computing the percentage of lot area which may be built upon.
 - (3) No new swimming pool shall be constructed, erected, installed, placed or otherwise situated within a twenty-foot radius of any above-ground electrical power wires, cables or lines or over any waterline or sewer line owned by the village.
 - (4) All new swimming pools erected and/or constructed pursuant to this local law shall comply with the same requirements for setback distances as found in Chapter 66 of the Code for the erection of structures in the various zoning districts of the village.

- (5) Any new structures or devices connected with the installation, maintenance or operation of a swimming pool, including but not limited to concrete or wood patio areas, pumps and filtration enclosures, bathhouses and cabanas shall also comply with the setback requirements of the Zoning Law.

B. Construction of swimming pools.

- (1) Pool walls and floors shall be constructed of an impervious material which shall provide a secure tank and shall be of sufficient strength to contain the water therein without collapse or leakage.
- (2) All pools shall be constructed in such a manner that all water, either overflowing or emptying from same, shall be disposed of on the owner's land and not upon the lands of the adjoining premises.
- (3) All electrical circuits connected to any electrical device, including but not limited to duplex outlets, pumps, in pool and general lighting and filters, shall be protected by ground-fault interrupters of a type accepted by Underwriters' Laboratories, Inc.

C. Maintenance and use requirements of swimming pools.

- (1) Filters, pumps and other mechanical devices used in connection with any pool shall be so located as not to interfere with the comfort, repose, health, peace or safety of the residents of the adjoining premises.
- (2) All lights used to illuminate a swimming pool, swimming pool area or any outdoor area, whether or not associated with a swimming pool, shall be shielded so as to prevent their shining upon the property of any adjacent property owner and becoming a nuisance or annoyance to residents of the adjoining premises.

§ 51-4. Barriers.

- A. Every swimming pool, the construction of which shall have been commenced after the effective date of this local law, shall be protected by a fence-type barrier. Every other swimming pool, the construction of which shall have been commenced prior to the effective date of this local law, shall be protected by a barrier as defined by § 51-2 of this local law. A dwelling or accessory building may be used as a part of such fence or other barrier.
- B. With respect to those pools having less than three fourths (3/4) of their water content, by volume, below the level of the surrounding ground:
 - (1) Said pools need not be protected by a barrier if their walls or sides, together with any structure attached to the top of the walls or sides, are at least four (4) feet above the level of the ground or surface and no part of the walls or sides of such pool are recessed into the ground or abut a rise in the ground, a sundeck, promenade or other structure from which access to such pool may be had.

- (2) In an other cases, such pools shall be protected by a barrier, as required in Subsection A of this section, between such points where the pool wan is recessed into or abuts the ground or other structure, unless such ground or structure shall be so contoured or constructed as to not be climbable for a height of four (4) feet above the bottom level of the ground or surface or between such points where access to such pool may be otherwise had.
 - (3) Any stems or ladders used to gain access to any such pool, if not within an area protected by a barrier, shall be removed from such pool, retracted to a height of four (4) feet above ground or otherwise secured so as not to be able to be used for access to the pool when the pool is not in use.
- C. All gates or doors opening through such fences or hedges to aboveground and in-ground swimming pools shall be equipped with a safety latch device designed to keep and capable of keeping the gate or door securely closed when not in use.

§ 51-7. Abandonment.

If the use of any swimming pool shall be abandoned or permanently discontinued, the owner shall see that any excavated depressions shall be filled in and that no potential hazard exists.

§ 51-8. Use of village water for filling.

The Board of Trustees of the village reserves the right to withhold the use of water from the village water supply system for the fining of any swimming pools whenever it deems necessary and advisable for the preservation of the water supply and the water supply system to the village.

§ 51-9. Enforcement official.

This local law shall be enforced by the Building Inspector.

§ 51-10. Effect on existing pools.

The provisions of this local law shall apply to existing pools as follows:

- A. The provisions of §§ 51-3 and 51-5A and B shall not apply to existing pools. The provisions of § 51-6 shall not be enforced against the owners of existing pools for a period of six (6) months following the effective date of this local law.
- B. The provisions of § 51-4 shall apply to the owners of pools existing at the effective date of this local law with respect to the requirements of § 51-6.

§ 51-11. Penalties for offenses.

- A. Any person committing an offense against any provision of this local law shall be guilty of a violation punishable by a fine not exceeding two hundred fifty dollars (\$250.).

B. 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 local law.

§ 51-12. Severability.

If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder hereof, but such adjudication shall be confined in its operation to the clause, sentence, paragraph or section directly involved in the controversy in which said judgment shall have been rendered.

§ 51-13. When effective.

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

Chapter 52

TAX ON UTILITY SERVICES

Local Law No. 1 1966

LOCAL LAW TO IMPOSE A TAX ON THE GROSS INCOME OF CORPORATIONS AND PERSONS FURNISHING UTILITY SERVICES IN THE VILLAGE OF MALONE AS AUTHORIZED BY SECTION 138-d OF THE VILLAGE LAW OF THE STATE OF NEW YORK.

- § 52-1. Tax on the furnishing of utility services.
- § 52-2. Definitions.
- § 52-3. Utilities to keep records.
- § 52-4. Utilities to file returns.
- § 52-5. Tax payable with return.
- § 52-6. Failure to submit acceptable return.
- § 52-7. Giving of notice.
- § 52-8. Penalties
- § 52-9. Refunds.
- § 52-10. Tax to be part of operating costs.
- § 52-11. Action to enforce payment.
- § 52-12. Village Treasurer to make rules.
- § 52-13. Disposition of moneys.
- § 52-14. When effective.

[HISTORY: Adopted Malone Village Board 4-19-ff6]

Be it enacted by the Board of Trustees of the Village of Malone, as follows:

§ 52-1. Tax on the furnishing of utility services.

Pursuant to the authority granted by Section 138-d of the Village Law, now renumbered Section 131 of said Village Law of the State of New York a tax equal to one per centum (1%) of its gross income from and after the first day of May, 1965 is hereby imposed upon every utility doing business in the Village of Malone which is subject to the supervision of the State Department of Public Service, which taxes shall have application only within the territorial limits of the Village of Malone, and shall be in addition to any and all other taxes imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of

the Village of Malone, notwithstanding that some act be necessarily performed with respect to such transaction within such limits. [Amended by L. L. No. 2, 1965; 4-26-65]

§ 52-2. Definitions.

As used in this local law:

UTILITY - Includes every person subject to the supervision of the State Department of Public Service and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephone, or telegraphy, delivered through mains, pipes, or wires, or of 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.

PERSON-Means persons, corporations, companies, associations, joint-stock association, 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 district.

GROSS INCOME - Means and 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 be included in gross income) made or service rendered ultimate consumption or use by the purchaser in the Village of Malone, 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 there from 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; 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 Malone, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of Malone.

§ 52-3. Utilities to keep records.

Every utility subject to tax under the local law shall keep such records of its business and in such form as the Village Treasurer may require, and such records shall be preserved for a period of three (3) years, except that the Village Treasurer may consent to their destruction within that period or may require that they be kept longer.

§ 524. Utilities to file returns.

Every utility subject to tax hereunder shall file annually, on or before the first day of April, a return for the twelve (12) calendar months ending December 31 of the prior year, including any period for which the tax imposed hereby go by any amendment hereof is effective; provided, however that in lieu of the annual return required by the foregoing

provisions, any utility may file quarterly, on or before September 25, December 25, March 25 and June 25, a return for the three (3) calendar months ending the last day of the prior month, including any period for which the tax imposed hereby or by any amendment hereof is effective. 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 be conducted by a corporation to the effect that the statements contained therein are true. [Amended by L. L. No. 2, 1965; 4-26-65]

§ 52-6. Tax payable with return.

At the time of filing a return as required by this local law, each utility shall pay to the Village Treasurer the tax imposed by this local law for the period covered by such return. Such tax shall be due and payable at the time for 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.

§ 52-6. Failure to submit acceptable return.

In case any return filed pursuant to this local law shall be insufficient or unsatisfactory to the Village Treasurer and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax 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 thirty (30) days after the giving of notice of such determination apply to the Village Treasurer for a hearing, or unless the Village Treasurer, of his own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article seventy-eight of the Civil Practice Act of the State of New York if application therefor is made within ninety days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of such tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer, 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.

Except in the case of willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made with respect to taxes imposed under this section after expiration of more than three (3) years from the date of filing of a return, provided, however, that where no return had been filed as required by this local law the tax may be assessed at any time.

§ 52-7. Giving of notice.

Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him under this local law, or, if no return has been filed, then to such address as may be obtainable.

§ 52-8. Penalties.

Any person failing to file a return or corrected return or to pay any tax or any portion thereof, within the time required by this local law shall be subject to a penalty of five per centum (5%) of the amount of tax due, plus one per centum (1%) of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the Village Treasurer, for cause shown, may extend the time for filing any return for a period not exceeding sixty (60) days, 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.

§ 52-9. Refunds.

If, within one (1) year of the payment of said tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within (1) one year a refund may be so made on the initiative of the Village Treasurer. however, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, 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 seventy-eight of the Civil Practice Act of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of money collected under this local law. 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 Village Treasurer may receive additional evidence with respect thereto. After making this determination, the Village Treasurer shall give notice thereto to the person interested, and he shall be entitled to an order to review such determination under said Article seventy-eight subject to the provisions therein before contained relating to the granting of such an order. [Amended by L. L. No. 2-1965, 4-26-65]

 **§ 62-10. Tax to be part of operating costs.**

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

§ 52-11. Action to enforce payment.

Whenever any person shall fail to pay any tax or penalty imposed by this local law, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. 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 Section one hundred eighty-six-a of the Tax Law is made a lien.

§ 52-12. Village Treasurer to make rules.

In the administration of this local law the Village Treasurer 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 local law, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§ 62-IS. Disposition of moneys.

All taxes and penalties received by the Village Treasurer under this local law shall be credited and deposited by him in the general fund of the village.

§ 62-14. When effective.

This local law to take effect immediately.

TAXICABS

Chapter 53

TAXICABS

**Local Law
No. 1
1976**

- § 53-1. Definitions.
- § 53-2. License required for drivers.
- § 53-8. Qualifications for drivers.
- § 53-4. Disqualification of drivers.
- § 53-6. License required for taxi stand or business.
- § 53-6. Permit to use parking places.
- § 53-7. Duration of licenses and permits.
- § 53-8. License fees.
- § 53-9. Fares.
- § 53-10. Waiver of requirements; inspection of vehicles; report of accidents;
continuous operation of taxicab.
- § 53-11. Penalties for offenses; personal appearance.
- § 53-12. Severability.
- § 53-13. Effective date.

[HISTORY: Adopted Malone Village Board 1-12-1976 as Local Law No. 1, 1976.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Sidewalks and streets-See Ch 47
Traffic Violations Bureau-See Ch 54A
Vehicles and traffic-See Ch 59

§ 53-1. Definitions.

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

TAXICAB-Any vehicle used to carry passengers for hire, but not operating over a fixed route.

¹ Editor's Note: This local law supersedes former Ch. 53, Taxicabs, as amended
11-14-1996

TAXI STAND-The place of business used to house the offices and/or communications equipment of a taxi service within the incorporated limits of the Village of Malone. [Amended 3-8-1982 by L.L. No. 2, 1982]

§ 53-2. License required for drivers.

- A. It shall be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, unless the driver has in his possession a valid taxicab driver's license issued by the Village Board of the Village of Malone and signed by the Village Clerk. It shall, however, not be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, without a valid taxicab driver's license for the sole purpose of leaving off, within the limits of the Village of Malone, New York, a passenger who was picked up in another municipality. [Amended 3-8-1982 by L.L. No. 2, 1982]
- B. Any person interested in obtaining such license shall complete and file an application therefore with the Village Clerk of the Village of Malone. The qualifications of the driver, as hereinafter set forth, shall be examined by the Chief of Police of the Village of Malone, who shall, within thirty (30) days after the date of the filing of the application with the Village Clerk, submit written recommendations to the Village Board of the Village of Malone.
- C. Such licenses are not transferable.

§ 53-3. Qualifications for drivers. [Amended 3-8-1982 by L.L. No. 2, 1982]

- A person shall be qualified to operate a taxicab in the Village of Malone only if he:
- A. Is at least eighteen (18) years of age.
 - B. Can, by reason of experience or training, or both, safely operate a taxicab, within the judgment of the Chief of Police of the Malone Village Police Department. In exercising this judgment, the Chief of Police shall have due regard for the safety of the applicant, the applicant's passenger or passengers, other motorists and their passengers and pedestrians, as well as the personal property of the general public.
 - C. Presents to the Chief of Police of the Malone Village Police Department a statement signed, within two (2) years prior to the date of the application or reapplication, by a physician licensed to practice his profession in the State of New York, stating that the applicant is in good general health; that he or she suffers from no known physical illness, disease, handicap or disability which would prevent or tend to prevent him or her from safely operating a taxicab; and that he or she is not taking any medication or undergoing any course of treatment which would prevent or tend to prevent him or her from safely operating a taxicab.
 - D. Possesses a driver's license valid in the State of New York for the purposes of driving or operating a taxicab.
 - E. When making initial/first application, furnishes the Chief of Police of the Malone Village Police Department with a listing of all the applicant's arrests and convictions

for violations of the Penal Law of the State of New York, the Vehicle and Traffic Law of the State of New York, the Code of the Village of Malone and any other statute or statutes of the State of New York, its sister states or the United States of America. A person making an initial first time application shall furnish the Chief of Police with a listing of all arrests, convictions, etc. [Amended 2-27-1995 by L.L. No. 1, 1995]

- F. Is not disqualified pursuant to the provisions of § 53-4 of this local law.
- G. Has tendered with his application the license fee prescribed pursuant to § 53-8 of this local law.

§ 53-4. Disqualification of drivers. [Amended 3-8-1982 by L.L. No. 2, 1982]

A person is disqualified to operate a taxicab in the Village of Malone if

- A. Amended 7-22-1985 by L.L. No. 6, 1985] He or she has, within the preceding three (3) years, been convicted of, pleaded guilty to or forfeited bond or collateral upon any of the following charges, whether the conviction, plea or forfeiture occurred in the State of New York or elsewhere:
 - (1) Any offense which constitutes a "serious offense" as that term is defined by §265.00 of the Penal Law of the State of New York or any act supplementary thereof or amendatory thereto;
- B. He or she has accumulated, within the past twenty-four (24) months, eight (8) or more points on his or her driver's license, as such points are determined by the Department of Motor Vehicles of the State of New York; or
- C. He or she has, within the past three (3) years, had his or her license to operate a taxicab in the Village of Malone revoked pursuant to the provisions of § 53-11 of this local law or has had his or her driver's license revoked by the Department of Motor Vehicles of the State of New York. [Amended 2-27-1996 by L.L. No. 1, 1995]

§ 53-6. License required for taxi stand or business.

- A. It shall be unlawful for any person or persons to engage in the business of transporting passengers for hire, within the Village of Malone, New York, without first obtaining a license to operate such taxi stand or business from the Village Board of the Village of Malone. Any person or persons intending to engage in said business of transporting passengers for hire, within the Village of Malone, New York, must also possess a valid taxicab driver's license. [Amended 3-8-1982 by L.L. No. 2, 1982]
- B. Any person interested in obtaining such license shall complete and file an application therefore with the Village Clerk of the Village of Malone. The Chief of Police shall review the applicant's qualifications, shall examine or cause to be examined the vehicles intended to be used by the applicant in such business and shall, within thirty (30) days after the date of the filing of the application with the Village Clerk, submit written recommendations to the Village Board of the Village of Malone.
- C. Such licenses are not transferable.

- D. Any such license application shall also be reviewed by the Building Inspector of the Village of Malone, or other appropriate official, to determine whether the operation and location of such taxi stand or business at the address designated in the application would violate the zoning laws or ordinances of the Village of Malone.
- E. The license to operate a taxi stand or business may be revoked if the holder of said license is in any violation of any zoning law or ordinance of the Village of Malone. [added 2-27-1996 by L.L. No. 1, 1995]
- F. Compliance with statutory provisions and rules of the New York State Vehicle and Traffic Law is required. No taxicab licensee shall operate or cause to be operated any taxicab unless the provisions of Article 8, § 370, Subdivision 1, of the New York State Vehicle and Traffic Law relating to liability and property damage insurance have been and continue to be complied with. This shall include filing, with the Malone Village Clerk, a current insurance policy showing full coverage, together with the application and/or reapplication. [Added 2-27-1995 by L.L. No. 1, 1995]

§ 53-6. Permit to use parking places. [Amended 2-27-1995 by L.L. No. 1, 1995]

No person shall be entitled to regularly park or stand any taxi vehicle in any parking place within the Village of Malone without first obtaining a permit from the Village Board of the Village of Malone, on such terms and conditions and upon the payment of whatever fees are imposed by the said Village Board. The Village Board of the Village of Malone reserves the right to limit the number of permits issued and to revoke the same in its discretion.

§ 53-7. Duration of licenses and permits.

All licenses and/or permits issued in accordance with this local law shall be valid until March 31 of the calendar year following its date of issuance, by which date the holder thereof shall obtain a renewal thereof after compliance with the terms of this local law.

§ 53-8. License fees.

- A. The fee for each taxicab driver's license shall be five dollars (\$5.). [Amended 2-27-1996 by L.L. No. 1, 1995]
- B. The fee for each taxi stand license shall be twenty-five dollars (\$25.).

§ 53-9. Fares. [Amended 3-8-1982 by L.L. No. 2, 1982; 1-23-1984; 6-4-1996]

The rate of transportation of a passenger over the age of twelve (12) years, within the Village of Malone, New York, shall be not more than two dollars (\$2.00). The Board of Trustees of the Village of Malone shall have the authority, upon proper resolution, to change the fares which may be charged for the transportation of a passenger over the age of twelve (12) years within the Village of Malone, New York.

§ 53-10. Waiver of requirements; inspection of vehicles; report of accidents; continuous operation of taxicab.

- A. The Village Board of the Village of Malone shall have the power to waive any of the requirements or terms of this local law upon good cause shown. In particular, the Board of Trustees of the Village of Malone shall have the power to waive the enforcement of those qualifications and disqualifications set forth in §§ 53-3 and 53-4 of this local law with respect to those applicants for renewal who possessed a valid taxicab driver's license as of January 1, 1982. [Amended 3-8-1982 by L.L. No. 2, 1982]
- B. The Village Board of the Village of Malone and the Chief of Police shall have the right to inspect any taxi vehicles, at reasonable times, to ensure that they are properly equipped and maintained. If such vehicles are not properly equipped or maintained, the owner thereof may be prohibited from driving, using or operating said vehicle as a taxi in the Village of Malone.
- C. An owner of a taxicab stand or business shall report to the Chief of Police of the Malone Village Police Department any motor vehicle accident involving his or her taxicab, within twenty-four (24) hours, regardless of the jurisdiction in which the accident occurred. [Added 2-27-1995 by L.L. No. 1, 1995]
- D. An owner of a taxicab stand or business shall not require, permit or authorize a driver to operate a taxicab for more than twelve (12) hours in any continuous twenty-four-hour period. [Added 2-27-1995 by L.L. No. 1, 1995.]

§ 53-11. Penalties for offenses; personal appearance. [Amended 3-8-1982 by L.L. No. 2, 1982; 2-27-1995 by L.L. No. 1, 1995]

A. Any person, firm or corporation found guilty of violating any of the provisions of this local law shall be guilty of disorderly conduct and fined not less than twenty-five dollars (\$25.) nor more than one hundred dollars (\$100.) for each offense. A separate offense shall be deemed committed on each day during which a violation occurs. In addition to the foregoing, the Chief of Police shall be empowered to suspend or revoke any and all licenses issued in accordance with this local law. In further addition to the foregoing, the Board of Trustees of the Village of Malone is empowered, upon the recommendation of the Chief of Police of the Village of Malone, to revoke any or all licenses issued in accordance with this local law upon the holder of any license having been convicted of any crime, offense or infraction which would disqualify him from obtaining a license pursuant to § 53-4 of this local law.

B. A person whose license to operate a taxicab or to operate a taxicab stand or business is suspended or revoked under any section of this local law may, within thirty (30) days, request a personal appearance before the Board of Trustees to offer evidence as to why the suspension or revocation should be reconsidered.

§ 53-12. Severability.

In the event that any portion of this local law shall be declared invalid by a court of competent jurisdiction, such invalidity shall not be deemed to affect the remaining portion hereof.

§ 53-13. Effective date.

This local law shall take effect March 31, 1976.

Chapter 54

THEATRES AND SHOWS*

§ 54-1. Theatre license required; penalty.

§ 54-2. Show license required; penalty; fees.

[HISTORY: Adopted Malone Village Board 2-14-47.]

§ 54-1. Theatre license required; penalty.

No person or corporation shall conduct any moving-picture or vaudeville show theatorium or other public place of amusement having its principal feature moving pictures, with or without musical accompaniment to the same, nor shall any person or corporation rent any building for theatre purposes within Malone Village except on the grounds of the Franklin County Agricultural Society during their annual fair, without procuring a license therefore issued under the hand of the Village Clerk. Any person or corporation owning, operating or maintaining any such public place of amusement as described in this section without first having procured a license herein required shall be liable to a penalty of twenty-five dollars (\$25.), to be recovered by Malone Village in a civil action.

Such license shall be granted to such person or corporation as may be approved by the Board of Trustees. Such license shall continue in force from the date thereof to the 31st day of August next succeeding unless sooner forfeited or revoked, and shall specify the person or persons to whom and the place for which it may be granted and shall not be assignable or transferable except with the consent of the Board of Trustees in writing and shall further specify that the same is granted and accepted subject to the statutes and laws governing the same and subject to being revoked by the Board of Trustees when, in their judgment, the conditions on which it was granted shall have been violated, and such license shall be granted only on payment to the Village Clerk, in advance, of such sum as the Board of Trustees may by resolution determine.

§ 64-2. Show license required; penalty; fees.

No person shall exhibit or assist to exhibit any show, entertainment or performance not included in the above, for money, within the limits of Malone Village, except on the grounds of the Franklin County Agricultural Society during their annual fair, without a license for that purpose, under a penalty of twenty-five dollars (\$25.) for each offense, but for the delivery of a literary, historical or scientific lecture or for entertainment in connection with a lecture course or for an amateur performance a license is not required.

* Editor's Note: See Also, Ch. 50, Sunday Sports, p. 5001, supra.

License when required for any such exhibitions may be granted upon payment of the following sums, namely: For the exhibition of a circus, the sum of not less than fifty dollars (\$50.) nor more than one hundred fifty dollars (\$150.) per day; for any other exhibition the sum of not less than five dollars (\$5.) nor more than twenty-five dollars (\$25.) per day.

Chapter 54A

TRAFFIC VIOLATIONS BUREAU

- § 54A-1. Title.
- § 54A-2. Legislative intent; creation of Bureau.
- § 54A-3. Organization and operations.
- § 54A-4. Jurisdiction and powers.
- § 54A-5. Procedure.
- § 54A-6. Failure to answer.
- § 54A-7. Persons excluded from using Bureau.
- § 54A-8. Establishment of fines.
- § 54A-9. Restrictions.
- § 54A-10. Records.
- § 54A-11. Severability.
- § 54A-12. Effective date.

[HISTORY: Adopted Malone Visage Board 2-11-74. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic - See Ch. 59.

§ 54A-1. Title.

This ordinance shall be known as the "Ordinance Establishing a Traffic Violations Bureau for the Village of Malone."

§ 54A-2. Legislative intent; creation of Bureau.

The Village Board of the Village of Malone, wishing to assist the residents of the Village of Malone and the Justice Court of said village in the disposition of offenses relating to traffic and parking violations, does hereby establish and create, pursuant to Article 14-b of the General Municipal Law of the State of New York, and § 370 thereof, a Traffic Violations Bureau.

§ 54A-3. Organization and operations.

- A. The Justice Court Clerk of the Village Court is hereby designated as the Director of the aforesaid Traffic Violations Bureau.
- B. The Traffic Violations Bureau shall be in charge of such person or persons and shall be open at such hours and on such days as the Village Justice of the Village of Malone shall designate.

§ 54A-4. Jurisdiction and powers.

The Traffic Violations Bureau established by this ordinance is hereby authorized and empowered to dispose of violations of traffic laws, ordinances, rules and regulations when such offenses shall not constitute the traffic infraction known as speeding or a misdemeanor or felony, by permitting a person charged with an offense within the limitations herein stated, to answer within five (5) days at the Traffic Violations Bureau, either in person or by written power of attorney in the form hereinafter prescribed, by paying a prescribed fine and, in writing, waiving a hearing in court, pleading guilty to the charge and authorizing the person in charge of the Bureau to accept such a plea and pay such a fine in court. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states.

§ 64A-S. Procedure.

- A. Any individual may plead guilty to an offense within the jurisdiction of the Traffic Violations Bureau by a written power of attorney in such form as prescribed by the Traffic Violations Bureau, waiving the right to trial and inclusion with said document of the payment of such fine as shall be designated by the Justice Court for said offense, provided such fines are within the limits established as penalties for such offense.
- B. Within the time specified on the summons, a person may appear personally, or by designated person, or by written power of attorney, in such form as prescribed by the Traffic Violations Bureau, before the Traffic Violations Bureau to answer the violation alleged. Said violation may be satisfied by payment of the prescribed fine and a writing waiving a court hearing. Fulfillment of said conditions shall presumptively be considered a plea of guilty, which plea the Bureau Director shall be authorized to enter.
- C. Fulfillment of said conditions shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states.
- D. The written power of attorney and waiver provided for in § 54A-4 of this chapter shall be a statement written in the presence of a witness and to which the witness shall affix his signature, or a verified statement, stating that the person executing the same and charged with a violation is appearing and answering to the charge, waiving a hearing in court, pleading guilty to the charge and authorizing the person in charge of the Bureau to accept such a plea and pay such a fine in court.

§ 54A-6. Failure to answer.

If a person charged with a traffic violation does not answer as hereinbefore prescribed within the designated time, the Bureau shall cause a complaint to be entered against him forthwith and a warrant to be issued for his arrest and appearance before the court.

§ 54A-7. Persons excluded from using Bureau.

Any person who shall have been, within the preceding twelve (12) months, guilty of a number of parking violations in excess of such maximum number as may be designated by the court, or of three (3) or more violations other than parking violations, shall not be permitted to appear in answer to a subsequent violation at the Traffic Violations Bureau, but must appear in court at a time specified by the Bureau.

§ 54A-8. Establishment of fines.

The Justice Court shall designate the fines to be paid for offenses which may be satisfied at the Bureau as provided in this ordinance, provided such fines are within the limits established as penalties for such offenses.

§ 54A-9. Restrictions.

The Traffic Violations Bureau shall not be authorized to deprive a person of his right to counsel or to prevent him from exercising his right to appear in court to answer to, explain or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

§ 54A-10. Records

A. The Traffic Violations Bureau shall keep a record of all violations of which each person has been guilty, whether such guilt was established in court or in the Bureau, and also a record of all fines collected and the disposition thereof.

B. The Bureau shall also perform such other or additional duties and keep such other or additional records as shall be prescribed by the court and/or the Village Board.

§ 54A-11. Severability

In the event that any portion of this ordinance shall be declared invalid by a court of competent jurisdiction, such invalidity shall not be deemed to affect the remaining portion hereof

§ 54A-12. Effective date.

A Traffic Violations Bureau shall be established March 1, 1974.

Chapter 55

TREES

**ARTICLE I
Care of Trees**

§ 55-1. Malicious destruction of trees.

§ 55-2. Violations and penalties.

**ARTICLE II
Elm Trees**

§ 55-3. Dutch Elm disease.

[HISTORY: Adopted Malone Village Board Art. I, 2-1347; Art. II, 9-9-63.]

**ARTICLE I
Care of Trees
[Adopted 2-14-47]**

§ 55-1 Malicious destruction of trees.

No person or persons or corporation shall wantonly cut or otherwise injure or deface any ornamental or shade tree, shrub or plant, in any street or public park of Malone Village, nor attach thereto any sign, wire, notice or advertisement.

§ 55-2. Violations and penalties.

Any person violating this ordinance, or any part thereof, shall be liable for and forfeit and pay a penalty not exceeding fifty dollars (\$50.) for each offense, except as otherwise provided herein.

Any violation of this ordinance, or any part thereof, shall constitute disorderly conduct, and any person violating any of the provisions of this ordinance shall be and is hereby declared a disorderly person.

**ARTICLE II
Elm Trees
[Adopted 9-9-63]**

§ 55-3. Dutch Elm disease.

That pursuant to the provisions of Chapter 677 of the Laws of 1958, the Board of Trustees does hereby elect, on behalf of the Village of Malone, New York, to exercise and enjoy through its appropriate officers and employees the powers and immunities prescribed and granted in Sections 164, 165, and 167 of Article 14 of the Agriculture and Markets Law with respect and in regard to the Dutch Elm disease within the limits of said village.

Chapter 56

(RESERVED)

5601 - 5699

Chapter 57

UNSAFE BUILDINGS AND STRUCTURES

§ 57-1. Purpose.

§ 57-2. Inspector.

§ 57-3 Notice to owners.

§ 57-4. Posting.

§ 57-5. Service and posting of report.

§ 57-6. Costs assessed against the land.

§ 57-7. Board functions.

[HISTORY: Adopted Malone Village Board 12-28-53.]

§ 57-1. Purpose.

The purpose of this ordinance is to promote and preserve the health, welfare and property of residents of and owners of property located within the Village of Malone by providing a method for the removal or repair of buildings within the limits of said village that, from any cause, may now be or shall hereafter become dangerous or unsafe to the public.

§ 57-2. Inspector.

The Village Board of Trustees shall annually appoint an official to act as Building Inspector under this ordinance and such Inspector be and he hereby is authorized and designated to inspect any building or structure within the limits of the Village of Malone which he has reason to believe is or may be, from any cause, dangerous or unsafe to the public, and to file with the Board of Trustees his report in writing as to the condition of any building or structure so inspected which he believes to be, from any cause, dangerous or unsafe to the public, specifying in such report the date of the inspection, the condition found which he deems to be dangerous or unsafe, his opinion as to the cause of such condition and his recommendations with reference to the correction of such conditions. Such report shall be filed with the Board of Trustees of the Village of Malone not less than five (5) days from the date of such inspection.

§ 57-3. Notice to owners.

Thereafter, and if the Board of Trustees shall so order, the Village Clerk shall cause a notice to be served on the owner, or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in same, either personally or by registered mail, addressed to the last-known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having invested or contingent interest in same, as shown by the

records of the receiver of taxes and/or in the office of the Franklin County Clerk, which said notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or structure is unsafe or dangerous.
- C. An order requiring same to be made safe and secure or removed.
- D. The time within which the person served with such notice may commence the securing or removal of buildings or structures, such time to be fixed by the Board of Trustees of the village.
- E. That the premises will be surveyed, and in the event of the neglect or refusal of the person served with notice to comply with the requirements of same, said survey to be made by such official of the village and by such practical builder, engineer or architect as may be designated, named and appointed by the Board of Trustees of the Village of Malone, and by a practical builder, engineer or architect, to be appointed by the person notified as above. and that in the event of the refusal or neglect of the person so notified to appoint such surveyor within five (5) days of the service upon him of such notice, the two (2) surveyors named shall make the survey and report, and that the survey provided for herein shall be made prior to a date to be included in said notice, such date to be fixed by the Board of Trustees of the Village of Malone, and that survey and report shall be filed with the Board of Trustees of said village on a day to be fixed in said notice, which date shall also be fixed by the Board of Trustees of the Village of Malone.
- F. That in the event the building or structure shall be reported unsafe or dangerous under such survey, that an application will be made returnable at a special term of the Supreme Court in the Judicial District in which the property is located on a date and at a time and place to be specified in such notice [which said date shall be not less than five (5) nor more than ten (10) days from the day fixed for the filing of such report] for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.

§ 57-4. Posting.

In the event such notice. is served by registered mail, then a copy thereof shall be posted on the premises on the day of the mailing of such notice.

§ 57-5. Service and posting of report.

A signed copy of the report of survey shall be served personally or by registered mail upon the person to whom such notice is directed, and a signed copy thereof shall be posted on the building or structure the day of the date of the filing of such report of survey.

§ 57-6. Costs assessed against the land.

The costs and expenses incurred by the village in connection with the proceedings to remove or secure the building or structure, including the cost of actually removing said building or structure, shall be assessed against the land on which said buildings or structures are located.

§ 57-7. Board functions.

The Board of Trustees shall determine the respective dates to be inserted in each such notice and shall appoint and designate the appropriate village official and practical builder, surveyor or architect, in each instance, and the notice to be served shall be subscribed on behalf of the Board of Trustees of the Village of Malone by the Village Clerk of said village.

Chapter 58

(RESERVED)

5801 - 5899

Chapter 59

VEHICLE AND TRAFFIC

ARTICLE I

Traffic Ordinance

- § 59-1. Definition of words and phrases.
- § 59-2. Authority to install traffic-control devices.
- § 59-3. Delegation of powers.
- § 59-4. One-way roadways.
- § 59-5. Pedestrian crossings prohibited.
- § 59-6. Turning movements.
- § 59-7. Stop and yield intersections.
- § 59-8. Maximum speed limits.
- § 59-9. Obedience to speed limits.
- § 59-10. Parking, standing and stopping.
- § 59-11. Removal and storage of vehicles.
- § 59-12. Penalties for violation of ordinance.
- § 59-13. Repeal of prior ordinances.
- § 59-14. Constitutionality.
- § 59-15. Time to take effect.

ARTICLE II

Driving Regulations

- § 59-16. Right-of-way to emergency vehicles.

ARTICLE III

Parking Restrictions

- § 59-17. No-parking tones.
- § 59-18. Limited parking permitted.
- § 59-19. Repeal of prior ordinances.
- § 59-20. Penalty for violations.

ARTICLE IV

Parking Meters

- § 59-21. Definitions.
- § 59-22. Meter sores.
- § 59-23. Meters.
- § 59-24. Rates.
- § 59-25. Maximum time; extension prohibited.

- § 59-26. Maximum time as shown on meter.
- § 59-27. Hours when maximum time is in effect.
- § 59-28. Compliance.
- § 59-29. Police to site and report violations.
- § 59-30. Parking spaces.
- § 59-31. Markings.
- § 59-32. Coin substitutes.
- § 59-33. Tampering with meters.
- § 59-34. Meter revenue.
- § 59-35. Penalty.
- § 59-36. Severability.
- § 59-37. Repealer.
- § 59-38. Effective date.

ARTICLE V
Parking Lots

- § 59-39. Definition.
- § 59-40. Parking lots established.
- § 59-41. Meters to be provided.
- § 59-42. Meter acquisition.
- § 59-43. Parking spaces and fees.
- § 59-44. Presumption of violation.
- § 59-46. Time limits.
- § 59-46. Coin substitutes.
- § 59-47. Meter tampering.
- § 59-48. Police to report and cite violations; penalty.
- § 59-49. Violations and penalties.
- § 59-50. Meter revenue.
- § 59-51. Separability.
- § 59-52. Effective date.

ARTICLE VI
Traffic Bureau

- § 59-53. Name of resolution.
- § 59-54. Creation of Traffic Bureau.
- § 59-55. Chief of Police to preside.
- § 59-56. Jurisdiction and procedure.
- § 59-57. Trials.
- § 59-58. When and where held.
- § 59-59. Clerk.

- § 59-60. Records and supplies.
- § 59-61. Fines, fees and penalties.
- § 59-62. Transfer of jurisdiction and powers.
- § 59-63. Time of taking effect.

ARTICLE VII
General Penalty Clause

§ 59-64. Violations to constitute disorderly conduct.

[HISTORY: Adopted Malone Village Board, Art. I, 6-12-61, effective 6-26-61; Art. II, 2-14-47; Art. III, 11-18-55, effective 12-18-55; Art. IV, 2-14-47; Art. V, 6-28-54, effective 7-15-54; Art. VI 44-50; Art. VII, 2-14-47. Amendments noted where applicable.]

ARTICLE I
Traffic Ordinance
[Adopted 6-12-61]

§ 59-1. Definition of words and phrases.

The words and phrases used in this ordinance shall for the purpose of this ordinance have the meanings respectively ascribed to them by Article I of the Vehicle and Traffic Law of the State of New York.

§ 59-2. Authority to install traffic-control devices.

The Board of Trustees of the Village of Malone shall install and maintain traffic-control devices when and as required under the provisions of this ordinance to make effective the provisions of said ordinance 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 Section 1682 and 1684 of that law.

§ 59-3. Delegation of powers.

A. Authority of the Chief of Police of the Village of Malone to regulate traffic. Pursuant to the provisions of Subsection (a) of Section 1603 of the Vehicle and Traffic Law, power is hereby delegated to the Chief of Police of the Village of Malone to exercise, by official order, rule or regulation, the following powers granted to the legislative body of this village in Article 39 of the Vehicle and Traffic Law:

- (1) Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or yield intersection and order like signs or signals at one (1) or more entrances to such intersection.
- (2) Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.

- (3) Regulate the crossing of any roadway by pedestrians.
- (4) Designate any highway or any separate roadway thereof for one-way traffic.
- (5) Prohibit, restrict or limit the stopping, standing or parking of vehicles.
- (6) Designate safety zones.
- (7) Provide for the installation, operation, maintenance, policing and supervision of parking meters, establish parking-time limits at such meters, designate-hours of operation of Quell meters, and fix and require the payment of fees applicable to parking where such meters are in operation.
- (8) Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations and trucks in excess of any designated weight from designated highways.
- (9) Regulate traffic by means of traffic-control signals.
- (10) Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and public parks.
- (11) License, regulate or prohibit processions, assemblages or parades.
- (12) Provide for the installation, operation, maintenance and supervision of traffic-control signals and the regulation of traffic by the same on roads and highways other than state highways.

§ 59-4. One-way roadways.

The following streets are designated for one-way traffic. Milwaukee Street in a westerly direction from its intersection with Pearl Street to its intersection with Catherine Street.

§ 59.5. Pedestrian crossings prohibited.

No pedestrian shall cross Main Street from Finney Boulevard to Andrus Street; Elm Street from Main Street to the Rutland Railroad tracks; Howard Place to the Rutland Railroad tracks and Harrison Place to Duane Street except within a marked crosswalk.

At other places where there are no traffic-control signals, police officers or intersections, pedestrians shall cross the above described streets only at places indicated by parallel painted lines, markers or signs.

§ 59-6. Turning movements.

A. Prohibition of left turns.

The left turning of vehicles is prohibited when proceeding south on Catherine Street to turn east on Milwaukee Street; when proceeding north on Mill Street to turn west on East Main Street.

B. Prohibition of right turns.

The right turning of vehicles is prohibited when proceeding north on Catherine Street to proceed east on Milwaukee Street; when proceeding west on East Main Street to proceed north on Elm Street.

C. Prohibition of U-turns.

The turning of vehicles so as to proceed in the opposite direction is prohibited on all streets.

§ 59-7. Stop and yield intersections.

A. Through highways.

- (1) East Main Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: Mill Street from the south; Catherine Street from the south; Pearl Street from the south; Washington Street from the south; Clay Street from the south; Church Place from the north; Morton Street from the north; Howard Avenue from the south; Spaulding Avenue from the north; Homestead Park from the north; Willow Street from the south; Edward Street from the north; Center Street from the south; Stevens Street from the north; William Street from the south; Raymond Street from the north; Boyea Avenue from the north; Andrus Street from the south; Hillside Avenue from the south.
- (2) West Main Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: Amsden Street from the north; Academy Street from the south; Brewster Street from the north; Webster Street from the south; Fort Covington Street from the north; Rockland Street from the south; Wellington Street from the south; St. Markes Avenue from the north; Pleasant Street from the south.
- (3) Webster Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: Jane Street from the east; Francis Street from the east; Franklin Street from the west; Jones Street from the west; Coolidge Court from the east; Harding Avenue from the west; Shields Street from the east; Willard Street from the west; Ketchum Street from the east; Woodward Street from the west; Hillsdale Terrace from the east.
- (4) Fort Covington is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: Clark Street from the east; Shepard Street from the east; Huntington Street from the east; Maple Street from the east.
- (5) Constable Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: First Street from the west; Second Street from the west; Whittelsey Avenue from the east; Third Street from the west; Fourth Street from the west; Prospect Street from the east.
- (6) Elm Street is hereby designated as a through high way and stop signs shall be erected on the following entrances thereto: Park Avenue from the north west; Park Street from the southeast; Wheeler Avenue from the northwest; Morton Street from the northwest; Constable Street from the north; Terrace Street from the northwest; Lawrence Avenue from the north; Porter Avenue from the North; Webb Avenue from the north; Raymond Street from the south; Cedar Street from the southeast; Short Avenue from the northeast; Williamson Street from the north; Bentley Avenue from the south

- (7) Park Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto First Street from the east; Second Street from the east; Charles Street from the west; Third Street from the east; Fourth Street from the east and west; Fifth Street from the west.
- (8) Duane Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto College Avenue from the south east; Elbow Street from the east; Moses Street from the east; Willson Street from the west; South Street from the east; Ketchum Street from the west; Hillsdale Terrace from the west; Howard Drive from the west
- (9) Franklin Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto Rockland Street from the north; Highland Avenue from the south; Wellington Street from the north; Pleasant Street from the north.
- (10) Pearl Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto: Milwaukee Street from the east; Frederick Street from the east; Monroe Street from the east; Catherine Street from the southwest; College Avenue from the east and west.

B. Stop intersections.

- (1) The intersection of Jane Street with Academy Street is hereby designated as a stop intersection and a stop sign shall be erected on Jane Street at its entrance to said intersection from the west.
- (2) The intersections of Academy Street with Academy Hill are hereby designated as stop intersections and stop signs shall be erected on Academy Street at its entrances to said intersection from the north and south.
- (3) The intersection of West Street and Rennie Street is hereby designated as a stop intersection and a stop sign shall be erected on West Street at its entrance to said intersection from the northeast.
- (4) The intersection of Coffee Street and Front Street is hereby designated as a stop intersection and a stop sign shall be erected on Coffee Street at its entrance to said intersection from the northeast.
- (5) The intersection of Duane Street and Harrison Place is hereby designated as a stop intersection and a stop sign shall be erected on Duane Street at its entrance to said intersection from the south.
- (6) The intersection of South William Street and Andrus Street is hereby designated as a stop intersection and a stop sign shall be erected on South William Street at its entrance to said intersection from the west.
- (7) The intersection of Willow Street and College Avenue is hereby designated as a stop intersection and a stop sign shall be erected on Willow Street at its entrance to said intersection from the north.
- (8) The intersection of College Avenue and Willow Street is hereby designated as a stop intersection, and a stop sign shall be erected on College Avenue at its entrance to said intersection from the west.

- (9) The intersection of Hillsdale and Webster is hereby designated as a four-way stop intersection. [Added 3 - 9 - 87]

§ 59-8. Maximum speed limits.

Thirty (30) miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of this village.

§ 59-9. Obedience to speed limits. [Amended 3-13-89 by L.L. No. 1, 1989]

- A. General limit. Thirty (30) miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of this village, except as set forth in Subsection B.
- B. School speed limit Twenty (20) miles per hour is hereby established as the maximum school speed limit in designated school zones during school days between the hours of 7:00 a.m. and 6:00 p.m. The following are hereby designated school zones:
- (1) St. Joseph's School: Elm Street as it passes said school building and for three hundred (300) feet from the building line of the school abutting on said highway.
 - (2) Middle School: Jane Street, Francis Street, Webster Street and Academy Street as they pass said school building and for three hundred (300) feet in each direction from the building line of said school building abutting on said highways.
 - (3) G. B. Davis School: Webster Street as it passes said school building and for three hundred (300) feet in each direction from the building line of said school building abutting on said highway.
 - (4) Lambertton School: West Street as it passes said school building and for three hundred (300) feet in each direction from the building line of said school building abutting on said highway.
 - (5) Notre Dame School: Spaulding Avenue as it passes said school building and for three hundred (300) feet in each direction from the building line of said school building abutting on said highway.
 - (6) Bishop Smith School: Webster Street as it passes said school building and for three hundred (300) feet in each direction from the building line of said school building abutting on said highway.

§ 59-10. Parking, standing and stopping.

- A. 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.
- B. Parallel parking. All vehicles shall be stopped, standing or parked parallel with the edge of the roadway headed in the direction of lawful traffic.

§ 59-11. Removal and storage of vehicles.**A. Authority to impound vehicles.**

- (1) When any vehicle is parked or abandoned on any highway within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the village police of the Village of Malone.
- (2) When any vehicle is found unattended on any highway within this village, where said vehicle constitutes an obstruction to traffic or where stopping, standing or parking is prohibited, said vehicle may be removed by the village police of the Village of Malone.
- (3) When any vehicle is found to be parked, abandoned or unattended in violation of the provisions of § 59-18C, said vehicle may be removed by the village police of the Village of Malone. [Added 2-24-86 by L.L. No. 1, 1986]

B. Storage and charges. After removal of any vehicle, as provided in this Article, the village police of the Village of Malone may store such vehicle 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 village police of the Village of Malone of the amount of any expenses actually and necessarily incurred in effecting such removal, together with any charges actually and necessarily incurred for storage. [Amended 2-24-86 by L.L. No. 1, 1986]

C. Notice of removal. The village police of the Village of Malone shall, without delay, report the removal and the disposition of any vehicle removed, as provided in this Article, to the Malone Village Board, and it shall be the duty of such Board to ascertain, to the extent possible, the owner of the vehicle or 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 the same.

§ 59-12. Penalties for violation of ordinance.

Every person convicted of a traffic infraction for a violation of any of the provisions of § 59-5 or 59-9 of this ordinance shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment of not more than forty-five (45) days, or by both such fine and imprisonment; upon a third or subsequent conviction within eighteen (18) months after the first conviction such person shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

§ 59-13. Repeal of prior ordinances.

- A. Ordinances repealed; general. All ordinances or parts of ordinances of this village in conflict with or inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.
- B. Ordinances repealed; specific. The following ordinances or parts of ordinances are hereby specifically repealed: Article 2, Sections 1, 2, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23; Article II A, Sections 1, 3, 4, 5A and 7 and amendments relating thereto.¹

§ 59-14. Constitutionality.

If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

§ 59-15. Time to take effect.

- A. This ordinance shall take effect from and after the 26th day of June 1961, except those parts, if any, which are subject to approval under Section 1684 of the Vehicle and Traffic Law and Section 46 of the Highway Law of the State of New York.
- B. Any part or parts of this ordinance which are subject to approval under Section 1684 of the Vehicle and Traffic Law and Section 46 of the Highway Law of the State of New York shall take effect from and after the day on which approval in writing is received from both the New York State Traffic Commission and the New York State Department of Public works.

ARTICLE II
Driving Regulations
[Adopted 2-14-47]

§ 59-16. Right-of-way to emergency vehicles.

The officers and men of the Fire Department with their apparatus of all kinds when going to, returning from or on duty at a fire, and all ambulances, whether public or private, and all vehicles when employed in carrying sick or injured persons to hospitals or other places for relief or treatment, shall have the right-of-way in any street and through any procession.²

¹ Editor's Note: These are prior ordinances as numbered in pamphlet, Malone Village Ordinances, 2-14-47.

² Editor's Note: See also § 22-8 of Ch 22, Fire Prevention, p 2204, supra.

ARTICLE III
Parking Restrictions
[Adopted 11-18-55]

§ 59-17. No-parking zones.

A. Locations.

The parking or standing of vehicles, other than ambulances, fire vehicles or police vehicles, on emergency trips in any of the following locations, is hereby prohibited:

- (1) On the south side of Elm Street from its intersection with Morton Street to its intersection with Terrace Street.
- (2) East side of Clay Street.
- (3) East side of Washington Street from the south line of 8 Washington Street to the intersection of Washington and Milwaukee Street.
- (4) East side of Catherine Street from its intersection with East Main Street to the north line of 24 Catherine Street, and the east side of Catherine Street from Milwaukee Street to Pearl Street.
- (5) West side of Catherine Street from its intersection with East Main Street to its intersection with the south side of driveway at 17-19 Catherine Street.
- (6) East side of Mill Street from its intersection with East Main Street to its intersection with Mechanic Street.
- (7) West side of Academy Street from its intersection with West Main Street to its intersection with Jane Street.
- (8) West side of Amsden Street from its intersection with West Main Street to its intersection with Front Street.
- (9) West side of Duane Street from its intersection with Harrison Place to a point opposite its intersection with the east side of Elbow Street.
- (10) East side of Pearl Street from its intersection with East Main Street to its intersection with College Avenue.
- (11) South side of Milwaukee Street from its intersection with Catherine Street to its intersection with Clay Street.
- (12) North side of West Main Street from its intersection with the east end of the bridge over Salmon River to the west end of No. 15 West Main Street.
- (13) West side of Howard Place.
- (14) West side of Morton Street from its intersection with Elm Street to the south line of the most southerly driveway at 18 Morton Street.
- (15) East side of Morton Street from the south line of 33 Morton Street to East Main Street.
- (16) East side of South Pearl Street from College Avenue to Seaver Street.
- (17) South side of Ketchum Street from Duane Street to east bounds of 22 Ketchum Street.
- (18) East side of Harrison Place or Jane Street from north side of No. 50 thereof to Academy Street.
- (19) South side of East Main Street from its intersection with Clay Street to east line of Flanders School lot. [Added 12-19-57]

- (20) All sides of the short street forming the southerly side or base of A small triangle having as its apex the intersection of Finney Boulevard and Fort Covington Street, being designated in the records of the New York State Department of Public Works as follows:
 Malone-Duane Pt. 1-SH 5552: Sta. N 55 plus 50 Rt. to Sta. N 56 plus 85 Rt.
 Malone Village-Ft. Covington St.-SH 950 Sta. 31 plus 35 Rt. to Sta. 32 plus 70 Rt.
- (21) The east side of Fort Covington Street from a point thirty (30) feet north of its intersection with the north line of Huntington Street to a point which is twenty (20) feet north of the apex of a small triangle forming the intersection of Finney Boulevard and Fort Covington Street, being designated in the records of the New York State Department of Public Works as follows:
 Malone Village Ft. Covington St.-SH 950: Sta.31 plus 17 Lt. to Sta. 32 plus 38 Lt.
- (22) The west side of Fort Covington Street, from its intersection with Finney Boulevard to a point thirty (30) feet north of the intersection of the north side of Maple Street (extended) with Fort Covington Street, being designated in the records of the New York State Department of Public Works as follows:
 Malone Village Ft. Covington-SH 950: Sta. 25 plus 95 Rt. to Sta. 28 plus 77 center line Rt.-Sta. N 59 plus 39.8 center line Lt.-Malone Duane, Pt. 1- SH 5552.
- (23) The west side of Finney Boulevard, from its intersection with Fort Covington Street to a point which is fifty (50) feet southerly from the point of intersection of a line forming an extension, to the west, of the south bounds of Huntington Street and Finney Boulevard, being designated in the records of the New York State Department of Public Works as follows:
 Malone Duane, Pt. 1-SH 5552: Sta. N 54 plus 15 Lt. to N 59 plus 39.8 Lt.
 [Added 12-12-60]
- (24) On the east side of Rockland Street, from its intersection with Main Street to and including the property of John Brady located at 28 Rockland Street.
- (25) On the south side of Main Street, from its intersection with Finney Boulevard to the west line of the Hyde property. [Added 6-1-61]
- (26) On the west side of South Pearl Street. [Added 9-9-81]
- (27) On the east side of Duane Street from its intersection with Elbow Street to its intersection with Moses Street. [Added 9-28-87]
- (28) On Fourth Street, between Park Street and Barbara Street.

§ 59-18. Limited parking permitted.

- A. Time and locations. It shall be unlawful for any vehicle to park or to stand during otherwise legal parking hours on the following streets or portions thereof for a longer period of consecutive minimums than is hereinafter set forth:
- (1) West side of Catherine Street, from the south line of driveway at 17-19 Catherine Street to a point opposite the intersection of the east line of Catherine Street with the north line of Milwaukee Street: thirty (30) minutes.
- (2) East side of Catherine Street, from the north line of 24 Catherine Street to Milwaukee Street: thirty (30) minutes.

- (3) West side of Mill Street, from the south side of No. 25 Mill Street to the north side of No. 29 Mill Street: one hundred twenty (120) minutes.
 - (4) East side of Duane Street, from the south line of No. 46 Duane Street to Elbow Street: sixty (60) minutes.
 - (5) West side of Clay Street, from Main Street to north line of No. 19 Clay Street: sixty (60) minutes.
 - (6) East side of Academy Street, from Main Street to Jane Street or Harrison Place: sixty (60) minutes.
 - (7) East side of Mill Street, from Mechanic Street to the south bounds of Mill Street: sixty (60) minutes. [Added 12-19-57]
 - (8) No more than one (1) hour continuous parking of vehicles will be permitted in the following locations: (at On the east side of Fort Covington Street from a point thirty (30) feet north of its intersection with the north line of Maple Street to a point twenty (20) feet north of the apex of a small triangle forming the intersection of Finney Boulevard and Fort Covington Street. being designated in the records of the New York State Department of Public Works as follows: Malone Village Fort Covington St.-SH 950-Sta. 25 plus 95 Lt. to Sea. 31 plus 17 Lt.
- B. Tractors, trailers and semitrailers. [Added 9-3-85 by L.L. No. 8. 1985]
- (1) Definitions. As used in this subsection. the following terms shall have the meanings indicated:
 - PARK-As defined in § 129 of the Vehicle and Traffic Law of the State of New York and any laws amendatory thereto or supplementary thereof.
 - SEMITRAILER-As defined in § 143 of the Vehicle and Traffic Law of the State of New York and any laws amendatory thereto or supplementary thereto.
 - STAND-As defined in § 145 of the Vehicle and Traffic Law of the State of New York and any laws amendatory thereto or supplementary thereto.
 - TRACTOR-As defined in § 151-a of the Vehicle and Traffic Law of the State of New York and any laws amendatory thereto or supplementary thereto.
 - TRAILER-As defined in § 156 of the Vehicle and Traffic Law of the State of New York and any laws amendatory thereto or supplementary thereto.
 - (2) Tractors, trailers and semitrailers. It shall be unlawful for any tractor, trailer, semitrailer or other motor vehicle in excess of eight (8) tons' gross vehicle weight to park or stand during otherwise legal parking hours on any street in a Residence District or Residence-Limited Business District of the Village of Malone for a period in excess of two (2) hours in any one (1) twenty-four-hour period.
 - (3) It shall be unlawful to idle any tractor or other motor vehicle in excess of eight (8) tons' gross vehicle weight or to operate any accessory equipment, in any Residence District or Residence-Limited Business District of the Village of Malone between the hours of 10:00 p.m. and 7:00 a.m. for longer than thirty (30) minutes in any one (1) twenty-four-hour period.

- (4) Exemptions. The provisions of this subsection shall not be interpreted or construed to prohibit the parking or standing of tractors, trailers or semitrailers on the streets of the Residence District or Residence-Limited Business District of the Village of Malone in conjunction with construction, renovation, demolition or landscaping of any property where the total time for such work shall not exceed one (1) week. Where the total time for such work shall exceed one (1) week, the property owner or individual performing such work may obtain a waiver from the enforcement of the provisions of this subsection upon application to the Chief of Police, which waiver shall be granted upon good cause shown.
- C. Winter parking limitations. It shall be unlawful for any vehicle to park or stand during otherwise legal parking hours on any street or portion thereof owned by or maintained by the Village of Malone, New York, between the hours of 2:00 a.m. and 6:00 a.m., from November 1 through March 31, both dates inclusive. [Added 2-24-86 by L.L. No. 1, 1986]

§ 59-19. Repeal of prior ordinances.

All ordinances or parts of ordinances and amendments thereto of the Village of Malone, New York, inconsistent with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency, and, in all other respects, this ordinance shall be in addition to other ordinances and amendments thereto regulating and governing the subject matter covered by this ordinance.

§ 59-20. Penalty for violations.

- A. Any person violating any of the provisions of this ordinance shall be punishable by a fine of not to exceed one hundred dollars (\$100.).
- B. This ordinance shall become effective on December 18 1955.

ARTICLE IV
Parking Meters
[Adopted 2-14-47]

§ 59-21. Definitions.

- For the purpose of this ordinance, the following terms shall have the meanings indicated:
- OPERATOR-Includes every individual who shall operate a vehicle as the owner thereof or as the agent, employee or permittee of the owner.
- PARK, PARKING or PARKED-The stopping of a motor vehicle or motorcycle upon any public highway and leaving such motor vehicle or motorcycle attended or unattended by a person capable of operating it for a period longer than necessary to load or unload passengers or freight.
- PERSON-Includes an individual, firm or copartnership.

STREET- Any public street, avenue, road, boulevard, highway, square or other public place located in the Village of Malone and established for the use of vehicles.

VEHICLE- Any device in, upon or by which any person or property is or may be transported upon the highway, except a device which is operated upon rails or tracks.

§ 59-22. Meter zones.

A. The following described streets or parts of streets are hereby established as parking-meter zones:

- (1) Both sides of Main Street, including East and West Main Street, except the south side of East Main Street from the intersection of East Main Street and Catherine Street to a point seventy-three (73) feet west from the center of said intersection. [Amended 6-10-63]
- (2) The west side of Pearl Street. [Amended 7-14-59]
- (3) East side of street on Harrison Place.
- (4) East side of Howard Place.
- (5) Both sides of Elm Street.
- (6) West side of Duane Street from its intersection with Jane Street (or Harrison Place) to its intersection with the southerly line of the Malone Village Parking Lot On the corner of Jane Street (or Harrison Place) and Duane Street; south side of Jane Street (or Harrison Place) from its intersection with the west side of Duane Street to the driveway at or near the south bounds of premises formerly assessed to James E. and Nora Carroll, 54 Harrison Place. [Amended 6-28-54]

And such other parking meter zones as may be here after created by the ordinances of the Board of Trustees of the Village of Malone, New York.

§ 59-23. Meters.

The Board of Trustees of the Village of Malone shall cause to be installed parking meters, and cause parking-meter spaces to be designated in accordance with the provisions of this ordinance, or any amendment thereto. Such parking meters shall be placed upon the curb alongside of or next to individual parking spaces to be designated as provided by such resolutions or ordinances and each of said parking meters shall be so set as to show or display a signal that the parking space alongside is or is not in use.

§ 59-24. Rates. [Amended 4-14-52]

The Board of Trustees of Malone Village shall provide for the installation, regulation, control, operation and use of the parking meters provided for in this ordinance and shall cause said meters to be maintained in a good workable condition, and each meter shall be

each meter shall be so set as to display a signal showing legal parking periods not in excess of twelve (12) minutes for a fee of one cent (\$.01), and not in excess of two (2) hours for a fee of ten cents (\$.10) in one-cent and five-cent coins of the United States or Canada, parking time for the part of the street upon which said meter is placed. Each meter shall, by its device clearly set out and continue in operation from the time of depositing of such coin until the expiration of the time fixed by this ordinance as the parking limit for the part of the street upon which said meter is placed. Each set meter shall be so arranged that upon the expiration of said parking limit it will indicate by a mechanical operation and the display of proper signal that the lawful period for parking, as fixed by the Board of Trustees, has expired.

§ 59-25. Maximum time; extension prohibited. [Amended 4-14-62]

It shall be unlawful and an offense for any person to deposit or cause to be deposited in a parking meter a one-cent coin or a five-cent coin for the purpose of extending the parking space alongside of or next to which said parking meter is placed for a period longer than two (2) hours continuous parking.

§ 59-26 Maximum time as shown on meter.

It shall be unlawful and an offense for any person to permit a vehicle to remain or to be placed in any parking space alongside of or next to which any parking meter is placed while said meter is displaying a signal showing that such vehicle shall have been already parked or occupying such space beyond the period of time fixed by this ordinance for such parking space.

§ 59-27. Hours when maximum time is in effect. [Amended 2-23-54, 6-28-54]

It shall be unlawful and an offense for any person to permit a vehicle to remain or be placed in any parking space on the streets hereinbefore set forth in § 59-22, except on Sundays and holidays, longer than one hundred twenty (120) minutes between the hours of 9:00 a.m.* and 6:00 p.m., Mondays through and including Thursdays, and from 8:00 a.m. to 9:00 p.m. Fridays, and from 8:00 a.m. to 6:00 p.m. on Saturdays, the legal hours to be computed upon whatever hours Malone Village is operating.

Notwithstanding the provisions of this Article, the same shall not be effective from 6:00 p.m. to 9:00 p.m. on all Fridays for a period from July 9, 1954, through October 8, 1954, inclusive.

§ 59-28. Compliance. [Amended 4-14-52]

When any vehicle shall be placed or parked in any space hereinbefore mentioned alongside of or next to which there is located under this ordinance a parking meter, the

* Editor's Note: Amendment of 6-28-54 changed the time from 8:00 a.m. and added the last sentence of the section.

owner, operator, manager or driver of said vehicle shall, upon entering said parking space, immediately deposit one-cent or five-cent coins, not exceeding an aggregate of ten cents (\$0.10), of the United States or Canada, in the parking meter alongside of or next to said parking space, and said parking space may then be used by such vehicle for twelve 412> minutes for each one cent ~\$0.01}, and for one (1> hour for each five cents (\$0.05 > deposited, within the parking limit as provided by this and § 59-27 hereof, for the part of the street in which said parking space is located. If said vehicle shall remain parked or placed in any such parking space beyond the parking limit fixed by this and § 59-27 for such parking space, the parking meter shall display a sign showing illegal parking, and in that event such vehicle shall be considered as parked overtime and beyond the limit fixed by this ordinance; and the parking of a vehicle or its occupancy of such parking space overtime or beyond the period of time now or hereafter fixed by ordinance in any such part of a street where any such meter is located shall be a violation of this ordinance and punished as hereinafter set forth. It shall be unlawful for any person to cause, allow, permit or suffer any such vehicle registered in his name to be parked or to occupy such parking space overtime or beyond the lawful period of time as above described.

§ 59-29. Police to cite and report violations.

- A. It shall be the duty of each traffic patrolman, or such other officer as shall be so instructed by the Chief of Police, in his beat or district to take the number of any meter at which any vehicle is overparked or has occupied the space overtime, as provided in this ordinance, and the state vehicle tag number of such vehicle, and report the same to the Police Department, together with the length of time during which said vehicle has remained in violation of any of the provisions of this ordinance, as well as any other facts; a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.
- B. Each such police of fiber shall also attach to such a vehicle a notice to the owner thereof that such vehicle has been parked or has remained in such place in violation of a provision of this ordinance and instructing such owner to report at the Police Court* of the Village of Malone in regard to such violation. A penalty of two dollars (\$2) shall be paid by the owner of the vehicle to the Police Court of the Village of Malone within seven (7) days from the notice of the violation of the Parking Meter Ordinance, and an additional penalty of one dollar (\$1.) shall be added thereto for each week that the original penalty remains unpaid for a maximum period of ten (10) weeks, after which the owner of said vehicle shall be subject to the penalties provided for in § 59-35 of this ordinance. [Amended 4-18-63; 7-10-72**]

* Editor's Note: See § 59-62. this chapter as to jurisdiction of Police Court in traffic matters.

** Editor's note: Amendment adopted 7-10-72 to become effective 9-1-72.

§ 59-30. Parking spaces.

Any vehicle parked or placed in any parking space in any parking meter zone shall be parked or placed with the hood of such vehicle alongside or next to the parking meter alongside of such parking space in parallel parking spaces, and with the radiator directed at the said meter in diagonal parking spaces, and in either event shall be parked within the lines marked on the street for such parking purposes as hereinafter provided.

§ 59-31. Markings.

The Board of Trustees, or such officers or employees of the Village of Malone as it shall select, shall place lines or marks on the curb or in the street about or alongside of such parking meter, to designate the parking space for which said meter is to be used, and every vehicle parked or placed alongside of or next to any parking meter shall be parked or placed within the lines or marks so established. It shall be unlawful and an offense to park or place any vehicle across any such line or mark or to park or place said vehicle in such a way that the same shall not be within the area so designated by such lines or marks.

§ 59-32. Coin substitutes.

It shall be unlawful and an offense to deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a one-cent or five-cent coin of the United States or Canada.

§ 59-33. Tampering with meters.

It shall be unlawful and an offense for any person to deface, injure, tamper with or open or willfully break, destroy or impair the usefulness of any parking meter installed under this ordinance.

§ 59-34. Meter revenue.

The one-cent and five-cent coins required to be deposited in parking meters, as provided herein, are hereby levied and assessed as fees to be provided for the proper regulation and control of vehicles upon the public streets and to cover the cost of the supervision, inspection, installation, operation, maintenance, control and use of the parking spaces and the regulating of the parking of vehicles in the parking-meter zones hereby created, and are to be deposited with the general funds of the Village of Malone.

§ 59-35. Penalty.

Every person who violates or fails to comply with any of the provisions of this ordinance shall be punished by a fine or penalty of not exceeding fifty dollars (\$50.).

§ 59-36. Separability.

If any section, part of section, sentence, clause or phrase of this ordinance shall be held to be unconstitutional or invalid, the remaining provisions hereof shall nevertheless remain in full force and effect.

§ 59-37. Repealer.

This ordinance is hereby declared to be for the preservation of peace, health, safety and property, and a police regulation therefore It is declared to be in addition to and supplementary to existing ordinances of the village and an additional provision for the regulation of traffic and parking in those zones provided for herein, and not in conflict with nor a repeal of existing ordinances excepting only any and all parts of existing ordinances relating to traffic which are contrary to the provisions of this ordinance in its present form and hereby repealed and declared void.

§ 59-38. Effective date.

This ordinance shall take effect on and after its passage.

ARTICLE V
Parking Lots
[Adopted 6-28-54]

§ 59-39. Definition.

VEHICLE-Shall mean any device by which any person or property may be transported upon a highway, except those operated upon rails or tracks.

§ 59-40. Parking lots established.

That property owned by Malone Village and located at the southeast corner of Jane Street or Harrison Place and Duane Street is hereby established as a nonparking meter zone. [Amended 10-25-65]

That property occupied by the Village of Malone and located on the northwesterly side of Elm Street in the Village of Malone on lands owned by the Citizens Bank of Malone, Howard Properties and New York Telephone Company is hereby established as a nonparking meter zone.

§ 59-41. Meters to be provided.

The Malone Village Board shall provide for installation of meters, including marking lines, regulation and operation thereof, and shall cause said meters to be maintained in good workable condition. Meters shall be placed upon the property next to individual parking places and meters shall be so constructed as to display a signal showing legal parking upon deposit therein of the proper coin or coins of the United States or Dominion of Canada, as indicated by instructions on said meter, and for a period of time conforming to the parking limits of the Village of Malone, said signal to remain in evidence until expiration of said parking period so designated, at which time a change of signal or some other mechanical operation shall indicate expiration of said parking period.

§ 59-42. Meter acquisition.

The village is hereby vested with the authority to enter into a contract for the purchase and installation of parking meters and to provide payment thereof exclusively from the receipts obtained by the village from their operation and that said means of payment shall be in addition to any other purchasing powers vested in the village.

§ 59-43. Parking spaces and fees.

When any vehicle shall be parked next to a parking meter, the owner or operator of said vehicle shall park within the area designated by the marking lines as indicated for parallel or diagonal parking, and upon entering said parking space shall immediately deposit in said meter one twenty-five-cent coin of the United States or of the Dominion of Canada, or one (1) to six (6) five-cent coins of the United States or of the Dominion of Canada and/or one (1) or two (2) ten-cent coins of the United States or of the Dominion of Canada. It shall be unlawful for any person to fail to park within said designated area, or fail or neglect to so deposit the proper coin or coins.

Said parking space may then be used by such vehicle during the legal parking limit provided by the ordinances of the village, and said vehicle shall be considered as unlawfully parked if it remains in said space beyond the legal parking limit and/or when said parking displays a signal showing such illegal parking. It shall be unlawful for any person to cause or permit any vehicle registered in his name to be unlawfully parked, as set out in this section.

No vehicle having an overall length in excess of twenty (20) feet shall be parked in the said parking area.

§ 59-44. Presumption of violation.

Proof of registration of a motor vehicle and proof of a violation of this ordinance shall be construed as prima facts proof that the registered owner of such motor vehicle was the user or operator thereof at the time of the violation charged.

§ 59-45. Time limits.

The deposit of a twenty-five-cent coin in such meter shall entitle the vehicle properly parked in that particular space governed by such meter to remain parked there for twelve (12) hours. The deposit of a five-cent coin shall entitle the vehicle properly parked in that particular space governed by such meter to remain parked there for two (2) hours. The deposit of a ten-cent coin shall entitle the vehicle properly parked in the space governed by such meter to remain parked there for four (4) hours. It shall not be lawful, however, for one (1) vehicle to remain parked in any one (1) particular space for over twelve (12) consecutive hours.

§ 59-46. Coin substitutes.

It shall be unlawful to deposit or cause to be deposited in any parking meter any slug, device or a metallic substitute for a coin of the United States or of the Dominion of Canada.

§ 59-47. Meter tampering.

It shall be unlawful for any person to tamper with, open, willfully break or destroy any parking meter.

§ 59-48. Police to report and cite violations; penalty.

It shall be the duty of each traffic patrolman, or such other officer as shall be so instructed by the Chief of Police in his beat or district, to take the number of any meter at which any vehicle is overparked or has occupied the space overtime, as provided in this ordinance, and the state vehicle tag number of such vehicle, and report the same to the Police Department, together with the length of time during which said vehicle has remained in violation of any of the provisions of this ordinance, as well as all other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation. Each such police officer shall also attach to such a vehicle a notice to the owner thereof that such vehicle has been parked or has remained in such a place in violation of a provision of this ordinance, and instructing such owner to report at the Police Court* of the Village of Malone in regard to such violation. Each such owner may within three (3) days of the time when such notice was attached to such vehicle pay to the Police Court of the Village of Malone, as a penalty for and in full satisfaction of such violation, an amount equivalent to one dollar (\$1.), multiplied by the number of periods of parking time established as the legal limit for such parking space, and during which such vehicle occupied such parking space in violation of any of the provisions of this ordinance. The failure of such owner to make such payment to the Police Court of the Village of Malone, New York, within said three (3) days shall render such owner subject to the penalties hereinafter provided for a violation of the provisions of this ordinance.

§ 59-49. Violations and penalties.

Any person, firm or corporation who shall violate or permit or allow anyone to violate the provisions of this ordinance shall upon conviction be fined not more than fifty dollars (\$50.) and costs.

§ 59-50. Meter revenue.

The fee required to be deposited in said meters is hereby levied as a police regulation and inspection fee to cover the cost of providing parking spaces, parking meters, and installation and maintenance thereof, the cost of regulation and inspection, operation, control and use of the parking-meter spaces and zones erected herein, for the regulation and control of traffic moving in and out of, and parking in, said parking spaces and zones so erected and for the cost of any resultant traffic administration expense.

* Editor's Note: See § 59-62, this Chapter, as to jurisdiction over traffic matters, p. 5935, *infra*.

§ 59-51. Separability.

If any section, provision or part thereof in this ordinance shall be adjudged invalid or unconstitutional by a court of competent jurisdiction, then such adjudication shall not affect the validity of the ordinance as a whole, or any section, provision or part thereof not so adjudged invalid or unconstitutional.

§ 59-52. Effective date.

This ordinance shall become effective on July 15, 1954.

**ARTICLE VI
Traffic Bureau
[Adopted 44-50]**

§ 59-63. Name of resolution.

This resolution shall be known and may be cited and referred to as the "Village of Malone Traffic Bureau Resolution."

§ 59-64. Creation of Traffic Bureau.

There is hereby created and established in and for the Incorporated Village of Malone a bureau to be known as the Traffic Bureau of the Incorporated Village of Malone, to be held by the Chief of Police of the said Village of Malone and to have and exercise the jurisdiction of this resolution or as hereafter conferred by law.

§ 59-66. Chief of Police to preside.

The Chief of Police of the Incorporated Village of Malone shall preside at, hold and conduct all sessions of the Bureau created by this act. The Chief of Police shall hold this office for so long as he is duly acting as said Chief of Police. The Chief of Police shall receive no additional salary for his duties conferred hereunder.

In ease of absence from the village, illness or other disability of the Chief of Police, or during a vacancy in the office, any member of the Village Board, designated by the Mayor of the Incorporated Village of Malone, shall act as the head of the Bureau until the Chief of Police returns, the disability ceases or the vacancy is filled.

§ 59-56. Jurisdiction and procedure.

- A. The Bureau hereby created shall be authorized to dispose of violations of traffic laws, ordinances, rules and regulations when such offenses shall not constitute the crime of speeding, reckless driving or the commission of a misdemeanor or a felony, by permitting a person charged of an offense within the limitations herein stated to answer, within a specified time, at the Traffic Violations Bureau, either in person or by written power of attorney in such form as may be prescribed by the head of the Traffic Violations Bureau herein, by paying a prescribed fine and in writing waiving a

hearing in court, pleading guilty to the charge and authorizing the person in charge of the Bureau to make such a plea and pay such a fine in court. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the violations and the violator shall be given a receipt which so states.

- B. If a person charged with a traffic violation does not answer as hereinbefore prescribed within a designated time, the Bureau shall cause a complaint to be entered against him forthwith and a warrant to be issued for his arrest and appearance before the regularly constituted Traffic Court. Any person who has been guilty of three (3) or more violations within the preceding twelve (12) months shall not be permitted to appear and answer to a subsequent violation at the Traffic Violations Bureau but must appear in court before the regularly constituted Traffic Court Judge at the time specified by the Bureau. The within Traffic Violations Bureau shall not be authorized to deprive a person of his right to counsel or to prevent such person from exercising his right to appear in court to answer to, explain or defend any charge of the violation of any traffic law, ordinance, rule or regulation if such person sees fit so to do.
- C. The persons in charge of the Traffic Violations Bureau shall designate fines paid for first, second and third offenses, which may be satisfied at the Bureau as herein before stated, provided such fines are within the limits established as penalties for such offenses. The within Traffic Violations Bureau is hereby directed to keep a record of all violations of which each person has been guilty, whether such guilt was established in court or in the Bureau, and also keep a record of all fines collected and the disposition thereof. It shall also perform such other or additional duties and keep such other or additional records as shall be prescribed by the regularly constituted Traffic Court and/or the Village Board of the Incorporated Village of Malone.

§ 59-57. Trials.

All trials and hearings in the Bureau hereby created shall be conducted by the person in charge of the Bureau.

§ 59 58. When and where held.

The Traffic Violations Bureau of the Incorporated Village of Malone shall be held within the Incorporated Village of Malone in suitable quarters to be designated and provided by the Village Board of the said Incorporated Village of Malone. The Bureau shall be open for transaction of business daily between the hours of 9:00 A.M. and 5:00 P.M., and the sessions of the Bureau shall be held as frequently as the business of the court may require and at such times as may be designated by the head of said Bureau.

§ 59-59. Clerk.

The head of the Traffic Violations Bureau may, with the consent of the Village Board, appoint a Clerk of the Bureau. The compensation of the Clerk shall be fixed by the Village Board. It shall be the duty of the Chief of Police of the Incorporated Village of Malone to designate if he feels the need either for one (1) or more persons under his jurisdiction from time to time as may be required by the head of the Traffic Violations Bureau to perform

such services as attendants of the court as may be required. No such persons shall receive additional compensation for any services rendered under such designation.

§ 59-60. Records and supplies.

The head of the Traffic Violations Bureau shall keep a check of all the cases brought before it showing the disposition thereof and the Village Board of the Incorporated Village of Malone shall further provide monies for the head of the Traffic Violations Bureau to purchase for the use of such Bureau such dockets, records, blanks, papers, books and stationery as may be necessary for the conduct of the work of the court.

§ 59-61 Fines, fees and penalties.

The head of the Traffic Violations Bureau shall receive fines, fees and penalties assessed and payable in the said Bureau and they shall be paid over in the same manner and at the same time as fees and penalties assessed in traffic-infraction cases heretofore arising in the Police Court of the Village of Malone.

The head of the Traffic Violations Bureau of the said Incorporated Village of Malone shall execute and file with the Village Board of the Village of Malone a bond for such penal sum as may be prescribed by the Village Board of the Incorporated Village of Malone and the fee therefore to obtain said penal bond shall be paid for out of the common treasury of the Incorporated Village of Malone.

§ 59-62. Transfer of jurisdiction and powers.

The jurisdiction of the Police Court for the Incorporated Village of Malone is hereby modified to exclude therefrom those duties, powers and jurisdiction herein imposed and conferred Upon the Bureau of Traffic Violations.

§ 59-63. Time of taking effect.

This resolution shall take effect immediately and copies of this resolution shall be made available to the general public upon payment of spell printing fees as the head of the Traffic Violations Bureau shall set with the consent of the Village Board of the said Incorporated Village of Malone.

ARTICLE VII
General Penalty Clause
[Adopted 2-14-47]

§ 59-64. Violations to constitute disorderly conduct.

Any violation of the provisions of this ordinance shall constitute disorderly conduct and, in addition to penalties provided elsewhere herein, shall be punishable as such and the person convicted of such violation shall be punishable as a disorderly person.

Chapter 60

(RESERVED)

6001 - 6099

Chapter 61

VILLAGE LIABILITY*

Local Law

No. 1

1953

§ 61-1. Liability of village in certain actions.

§ 61-2. Retroactivity.

§ 61-3. Effective date.

[HISTORY: Adopted Malone Village Board 9-28-53.]

§ 61-1. Liability of village in certain actions.

Section three hundred forty-one-a of the Village Law as added thereto by Chapter six hundred fifty of the Laws of nineteen hundred twenty-seven, as it applies to the Village of Malone, is hereby unneeded to read as follows:

"Section 341-a. Liability of Village in certain actions.

No civil action shall be brought or maintained against the Village of Malone for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed, or in consequence of the existence or accumulation of snow or ice upon any street, highway, bridge, culvert, sidewalk or crosswalk, unless written notice of the existence of such condition, relating to the particular place, had theretofore actually been given to the Board of Trustees of the Village of Malone and there had been A failure or neglect on the part of said village to cause such condition to be corrected or spell snow or ice to be removed, or the place made reasonably safe within a reasonable time after the receipt of such notice."

§ 61-2. Retroactivity.

Nothing herein contained, however, shall be held to revive any claim or cause of action now barred by any existing requirement or statute of limitations nor to waive any existing limitation now applicable to any claim or cause of action against the Village of Malone.

§ 61-3. Effective date.

This local law shall take effect immediately.

Editor's Note: For ordinances regarding sidewalks, see also, Ch. 47, Sidewalks and Streets

* Editors Note: See also. § 63-13 of Ch. 63, Water, p. 6305, infra.

Chapter 62

(RESERVED)

6201 - 6299

WATER

Chapter 63

WATER

Local Law

No. 2

1988

A LOCAL LAW KNOWN AS "CHAPTER 63, WATER"

- § 63-1. Purpose; limitations of service.
- § 63-2. Conditions of service.
- § 63-3. Connections.
- § 63-4. Permit required for additional or other use of water.
- § 63-5. Charges for alteration of service and filling of swimming pool
- § 63-6. Vacancy credit.
- § 63-7. Inspections; repair of conditions causing waste of water required.
- § 63-8. Liability of owner.
- § 63-9. Interruptions of service.
- § 63-10. Liability of village.
- § 63-11. Maintenance to be responsibility of owner.
- § 63-12. lumber of property, change of use.
- § 63-13. Tampering with hydrants; penalties for offenses.
- § 63-14. Pollution of water system prohibited.
- § 63-15. Right to change rules and regulations.
- § 63-16. Use at construction sites.
- § 63-17. Metering.
- § 63-18. Rates
- § 63-19. Rates for nonfunctioning meters.
- § 63-20. Service connection fee.
- § 63-21. Payment dates; penalty for late payment.
- § 63-22. Collection of past-due payments.
- § 63-23. Extraordinary cases.
- § 63-24. Misrepresentations; abuses of service.
- § 63-25. Penalties for offenses; due process
- § 63-26. Severability.
- § 63-27. Repealer.
- § 63-28. Effective date.

[HISTORY: Adopted Malone Village Board 6-20-88 as Local Law No. 2, 1988.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Pollution - See Ch. 57.

Sewer use - See Ch. 45.

Sewer rates - See Ch. 46

Swimming pools - See Ch. 51.

§ 63-1. Purpose; limitations of service.

- A. The Village Board recognizes that the future health, safety and prosperity of its residents and businesses depend upon an adequate supply of clean, potable water and the establishment and ongoing maintenance of an effective water system owned and maintained by the village. Such can only be assured through careful, vigilant regulation and a local law which provides the mechanisms and safeguards to prudently manage, conserve and distribute this valuable but limited resource and assures the funding necessary to achieve these goals.
- B. While it is the desire of the village to provide such water to all who have reasonable need for the same and are willing to abide by the conditions of service and pay the necessary administrative and other charges therefore as described hereinafter, all users of the system, present and future, should be aware of the following limitations, which the Board deems to be reasonable and necessary:
- (1) The first priority is to assure a fair and equitable distribution of water, with adequate pressure, to the residents and businesses of Malone's village, with due regard to the fact that, at all times, there must be a sufficient reserve within the village water system to provide for growth and development within the village, adequate fire protection, other emergencies, droughts and the unexpected.
 - (2) To the extent that, after reserving against the above needs, an excess of water supply exists for the use of persons; firms and/or corporations situate outside the village limits the village may grant such outside users the right to connect to the village water system, on the terms and conditions hereinafter provided but always subject to the village's revocation of such supply to the extent necessary to fulfill the primary purpose of the village water system, the protection and service of the residents and businesses lying within Malone Village. Specifically, the village assumes no obligation to furnish water to or for the use of any property or user outside of the Malone Village limits. In the event that it accepts such an application and supplies water to the user, it specifically reserves the right to

¹ Editor's Note: This local law also repealed former Ch. 63, Water, adopted 11-24-74 as L.L. No. 1, 1974, as amended.

discontinue such service at any time if, in the opinion of a minority of the Village Board of Trustees, such water is required for consumption within the village; provided, however, that in the case of emergency, the Mayor of the village may discontinue such water service to outside users by executive order.

- (3) All of the users of the system must recognize that the village may, in its discretion, interrupt and/or withhold service to everyone using the system, from time to time, for emergency purposes and/or that the water supply or pressure may be discontinued, delayed, diminished and/or interrupted due to water shortages for whatever reason.
- (4) The village has never been, is not and cannot be guarantor of adequate water service sufficient to meet the desires of everyone, and those who choose to use the system accept that risk. The village does, however, assure the users of its system that it will, as it has in the past, do its best to properly maintain its system to the best of its ability and with the health, safety and well-being of the user in mind, but subject to the conditions expressed herein.
- (5) As the costs of the maintenance of this system have spiraled in recent years, the village has deemed it necessary to impose the charges and/or metering requirements described hereinafter but notes that the same are subject to change as necessary, simply because the village cannot provide the service its users require and deserve unless it is provided with the funds to do so.
- (6) The user must also recognize that the village can only establish taps, make connections, perform maintenance and repairs and the like as promptly as labor, materials and budgetary constraints permit.
- (7) Any and all current or future users accept continued or future service subject to the above basic purposes and limitations-and the terms hereinafter described, as their use of the village water supply constitutes a contractual relationship whereby the user, in return for a supply of water, agrees to the policy, purposes, regulations and penalties set forth herein, agrees to pay the rates established hereinafter and also agrees to allow village employees access to the user's property for the purposes hereinafter mentioned.

§ 63-2. Conditions of service.

- A. When any person, firm or corporation, hereinafter called the "user", who owns or otherwise uses property situate either within or without the Village of Malone desires to in any way connect with the village water system or otherwise use village water, for any purpose, such user shall, prior to any such use or consumption of village water, be required to first prepare and file a written application with the Village Clerk of the Village of Malone at the Village Office, which application shall be complete in every detail and shall contain whatever information the Village Clerk shall desire and

- which shall be accompanied by whatever application fee the Village Clerk shall prescribe pursuant to this local law and/or the other valid requirements of the Village Board. After compliance with the foregoing and full payment of the application fee, the Village Clerk shall promptly transmit the same to the Department of Public Works Superintendent.
- B. In any case, but without binding the village to act within said time frame, the proposed user must provide the Village Clerk with at least five (5) working days' notice before the desired connection is made, with the understanding that no such connection shall be made until approved by the Village Board. No tap shall be made unless the user digs the necessary ditch to a depth of at least five (5) feet and lays the service pipe to the point of connection, all to the satisfaction of the Public Works Construction and Maintenance Supervisor of the Malone Village Water Department, hereinafter called the "DPW Superintendent," but at the user's sole risk, liability and expense. The DPW Superintendents approval of the foregoing shall rest in his sole authority and discretion.
- C. If and when the application for service is approved by the Village Board and the aforesaid ditching and piping is approved by the DPW Superintendent, the user shall be entitled to one (1) tap to be made by the village to its water system, the use of that tap to be limited precisely by the terms of the user's application. Any additional use of the tap, unless approved by a subsequent application procedure, shall render the previous application and use null and void, and the village shall have the rights and remedies provided hereinafter.
- D. Any user applying for service by accepting service from the village accepts such service upon the express condition, agreement and/or understanding that such user shall not permit any other user to connect or use water from said tap and also that such water shall be used solely and exclusively for the use of the building or buildings and/or the purposes defined in said application.
- E. All users of village water are considered connected to the village water system, whether connected directly to a village water main or in any way connected to a private main in any way supplied by village water.

§ 63-3 Connections

- A. Whenever an application for water service is accepted and the proposed user has completed all the work required by this local law to the satisfaction of the DPW Superintendent, the DPW Superintendent shall, when time allows and materials are available, make a tap to the main and connect thereto a corporation stop, service lead, shut-off and service box, all of which are and shall remain the property of the village. When all work has been completed to the satisfaction of the village, the village employees shall make the service connection to the user's line. Only village personnel shall make taps to mains that are served by village water, whether the mains are

owned by the village or not. When application is made to connect a new user to a main not owned by the village, such application shall be made jointly by the new user and the owner of the main.

- B. Notwithstanding any provision of this local law to the contrary, it shall be a violation of this local law to make any connection to the village water supply system or any private main serviced by village water outside the corporate limits of the Village of Malone without obtaining prior written consent of the Board of Trustees.
- C. The Board of Trustees, in its discretion, may require that all service, whether inside or outside the corporate limits of the village, be metered.
- D. The connection of any pumps or heat pumps or similar devices, which extract heat or cold from water, to the village water supply system is expressly prohibited, except for any such devices which are connected to the village water supply system with consent of the Board of Trustees as of the date of adoption of this local law.

§ 63-4. Permit required for additional or other use of water.

- A. Should any user desire a supply of water additional to that currently used or that described in his initial application or desire to use water for purposes different from his current purposes or those purposes described in his initial application or to allow someone else to draw water from his premises, the user must file an application for such additional or other use with the Village Clerk, in compliance with § 63-2, which application shall be complete in every detail and shall contain whatever information the Village Clerk shall require and which shall be accompanied by whatever application fee the Village Clerk shall prescribe pursuant to this local law and/or the other valid requirements of the Village Board. After compliance with the foregoing and full payment of the application fee, the Village Clerk shall promptly transmit the same to the DPW Superintendent.
- B. If a new tap or connection is required, the conditions and requirements described in §§ 63-3 and 634 hereof shall apply.
- C. Any person or user violating this provision shall be charged a minimum rate of at least four (4) times the normal water rate prescribed herein for such periods of unauthorized water use or whatever lesser rate the Board of Trustees shall prescribe, until such person or user complies with the provisions of this local law, in addition to the other penalties described hereinafter.
- D. Any use of water, in addition to that currently used or in addition to that described in the user's initial application, or any use of water other than as currently used or different from that described in the user's initial application shall be a violation of this local law and subject to the penalties described herein.

§ 63-5 Charges for alteration of service and filling of swimming pools.

- A. If any user desires water service to be either turned on or turned off, such user shall file an application with the Village Clerk on such forms as shall be prescribed therefore which application shall be accompanied by the fees set forth hereinafter.
- (1) For inside village users, a charge of ten dollars (\$10.) shall be made for turning off or turning on the water, provided that such work is done during normal working hours. If such work is required to be completed for the convenience of the owner and/or user outside the normal working hours, a charge of twenty dollars (\$20.) shall be made.
 - (2) For outside village users, a charge of twenty dollars (\$20.) shall be made for turning off or turning on the water during normal working hours. If such work is required for the convenience of the owner and/or user outside the normal working hours, a charge of forty dollars (\$40.) shall be made.
 - (3) As used herein, the term "normal working hours" means from 7:00 am. to 4:00 p.m., Monday through Friday, excluding legal holidays.
 - (4) The above charges shall be made for each trip to the worksite.
- B. A service charge in the amount of thirty dollars (\$30.) shall be charged for the filling or refilling of any swimming pool within the village, and a charge of forty dollars (\$40.) shall be charged for the filling or refilling of any swimming pool outside the village, which charge shall be payable at the time of application for a building permit or an application for the filling or refilling of any pool. The above charge is imposed for water only, and no village equipment shall be devoted thereto.

§ 63-6. Vacancy credit

A vacancy credit shall be allowed to those users whose water is actually shut off in the manner hereinafter described for a period of three (3) consecutive months from the date that the valve is actually sealed, but no credit shall be allowed for portions of a billing period. For a user to obtain a vacancy credit, a written application shall be filed with the Village Clerk requesting that the water be shut off, and the user must supply, at his/her own expense, a sufficient number of acceptable shutoff valves in order to cover each house, each apartment or unit within the house and/or any other outlet of water. As soon as practicable after receipt of such application by the Village Clerk, the DPW Superintendent shall cause the water department to shut off the water valve and place a seal upon such valve. Such shall be accomplished only by the DPW Superintendent and/or the Water Department employees, and the seal or seals shall be removed only by them and then only after a written request for a turn-on of such water has been made by the user.

§ 63-7. Inspections; repair of conditions causing warm of water required .

Any village official, employee of the Water Department or any other village employee as designated by the DPW Superintendent may inspect any premises to which village water is furnished, and the owner of such premises must, within twenty (20) days of such notice to him/her or to his/her tenant to do so or within the time prescribed by the DPW Superintendent, whichever is less, repair or cause to be repaired any defective faucet, meter, appliance or any other condition which is causing the wasting of water. In the event of the failure to do so, the Village of Malone shall have the right to summarily and without further notice discontinue the furnishing of the water to said premises, in addition to the other penalties described hereinafter. In the event of an emergency, the twenty-day notice period need not be adhered to, and, in such event, the village shall have the right to impose reasonable requirements upon the owner and/or user and also to discontinue the furnishing of water to such owner and/or user if he/ she fails to comply therewith.

§ 63-8. Liability of owner.

All owners of property shall be held responsible for all arrearages unpaid by their tenants, contract purchasers or other users of their property, and all contracts with the Village of Malone for water shall be deemed to be made with the owners of the property being supplied.

§ 63-9. Interruptions of service.

The Village of Malone, its agents and employees shall have the right at any time, without notice, to ration water and/or shut off the water in the mains, or any of them, in cases of conflagration, for making repairs or extensions, or for other purposes. All users having boilers within their premises not supplied by tanks or cisterns but depending upon the pressure in the pipes to keep them supplied operate the same at their own risk. Risk of loss or damage in all cases shall be exclusively by the user.

§ 63-10 Liability of village.

The Village of Malone undertakes only to use reasonable care and diligence to provide a constant supply of water through its mains to consumers. In any case, the village shall not be responsible for any problems that occur from the point where the user connects to the village line to the user's structure or within the structure itself. Although it is manifestly in the interest of the village that no break, failure or accident should occur, it is provided, however, that in the event of such occurrence, the Village of Malone shall not be liable to any consumer for any damages resulting from the public enemy, the elements or any accident, misfortune, failure and break in the reservoir or mains of the village. Anyone who applied for and/or uses village water accepts the same with that understanding.

§ 63-11. Maintenance to be responsibility of owner.

It shall be the duty of each property owner and/or user to maintain all faucets, valves and private water pipes in a state of good repair and ensure that there shall be no unnecessary waste of water.

§ 63-12. Transfer of property, change of use.

As the village cannot reasonably be expected to monitor all changes in the ownership or use of properties served by village water, it shall be the duty of any property owner or any other village water user to give the village at least thirty (30) days' written advance notice of any change in ownership and/or use. Any property owner or user who fails to do so shall remain personally liable for all accrued water charges and for all future charges until the village receives actual written notice of the change, and, in any case, the property owner and/or user shall remain personally liable for all water charges for the billing period within which any such change of ownership or use actually occurred.

§ 63-13. Tampering with hydrants; penalties for offenses.

- A. No person or persons shall open any fireplug or hydrant or draw water therefrom except with the express written permission of the DPW Superintendent or persons designated by him/her to grant such permission.
- B. The Chief of the Malone Callfiremen, Inc., his/her assistants and members of said Department are authorized to use the hydrants and plugs for the purpose of obtaining water to extinguish fires or for the training or making trials of the hose of the Department; but such shall be under the supervision of the Chief or his/her assistants, and in no case shall an inexperienced person be permitted to manipulate or control in any way any hydrant, plug or other fixture. In any case, the Malone Callfiremen shall be liable for any damage caused by its negligence or those of its members.
- C. Any person tampering with village hydrants shall be subject to all of the provisions of the Penal Law of the State of New York and shall also be subject to a fine of five hundred dollars (\$500.) for each such violation.

§ 63-14. Pollution of water system prohibited.

No person shall bathe or attempt to bathe in the reservoirs which supply the watermarks of the village or cast any wood, dirt or any other substances whatsoever into any of the reservoirs or any of the springs or streams running into the same or in any manner interfere with the structure of said reservoirs, pipes, hydrants or any other property connected therewith or take any ice therefrom. No person shall in any manner wrongfully interfere with or trespass upon any property appertaining to said waterworks not hereinabove specified. Any person violating this section shall be subject to a fine of five hundred dollars (\$500.) and any other penalties provided by the Penal Law of the State of New York.

§ 63-15. Right to change rules and regulations.

The Board of Trustees reserves the right to add to or modify its rules, regulations and rates at any time.

§ 63-16. Use at construction sites

Owners of property shall be charged for water used in construction of residences or other structures. The payment shall begin when the tap is made or, if taken from other sources of the village water supply, will commence as soon as water is used. The rate to be charged during construction shall be the same rate which would apply upon the completion of the structure or residence.

§ 63-17. Metering. [Amended 3-23-1992 by LL No. 1,1992]

The village retains the right to determine which consumers of water shall be metered. Anyone desiring a water meter must make application to the Malone Village Office. The approval/disapproval of said application will rest with the Board of Trustees.

§ 63-18. Rates [Amended 4-10-1989 by L.L. No. 2, 1989; 3-23 1992 by L.L. No. 1, 1992]

Effective April 1, 1992, all customers of the Malone Village Water Department (except those under contract as of the effective date of this local law) shall pay the following established rates:

A. Metered rates inside the village, per quarter:

- (1) First one hundred thousand (100,000) gallons: one dollar (\$1.) per one thousand (1,000) gallons.
- (2) One hundred thousand one (100,001) to four hundred thousand (400,000) gallons: sixty cents (\$0.60) per one thousand (1,000) gallons.
- (3) Four hundred thousand one (400,001) gallons and over: fifty cents (\$0.50) per one thousand (1,000) gallons.

B. Metered rates outside the village, per quarter:

- (1) First one hundred thousand (100,000) gallons: one dollar and fifty cents (\$1.50) per one thousand (1,000) gallons.
- (2) One hundred thousand one (100,001) to four hundred thousand (400,000) gallons: ninety cents (\$0.90) per one thousand (1,000) gallons.
- (3) Four hundred thousand one (400,001) gallons and over seventy-five cents (\$0.75) per one thousand (1,000) gallons.

C. Minimum metered rates inside the village, per quarter:

- (1) Per meter classification:
 - (a) Up to three-fourths-inch meter: eighteen dollars (\$18.).
 - (b) One-inch meter: fifty dollars (\$50.).
 - (c) Two-inch meter one hundred dollars (\$100.).
 - (d) Four-inch meter: three hundred dollars (\$300.).
 - (a) Six-inch meter: five hundred dollars (\$500.).

D. Minimum metered rates outside the village, per quarter:

- (1) Per meter classification:
 - (a) Up to three fourths-inch meter: twenty-seven dollars (\$27.).
 - (b) One-inch meter seventy-five dollars (\$75.).
 - (c) Two-inch meter one hundred fifty dollars (\$150.).
 - (d) Four-inch meter four hundred fifty dollars (\$450.).
 - (e) Six-inch meter seven hundred fifty dollars (\$750.).

E. Flat rates; basis for water rental charge.

- (1) The water rental charge will be based upon the consumption of water on the premises connected with and served by the water system or upon the type of premises being serviced by the water system on a unit rate basis. Charges will be made for each family unit or each business establishment within each building. Billings for multiple family dwellings will be on the basis of each family unit. One (1) or more persons using or operating a cookstove upon which his or their food is prepared shall be considered a "family unit". A "business establishment" is any individual, firm, corporation or association regularly established and doing business under the laws of the State of New York.
- (2) The rental rates shall be equal to the unit rate multiplied by the following unit multipliers established for that portion of the water system within the corporate limits of the village and for that portion of said system situate outside the corporate limits of the village, as follows:

Unit Classification	Unit Multiplier Inside	Unit Multiplier Outside
Adult homes, private nursing homes and convalescent homes, per resident	0.30	0.48
Agricultural societies and Barns	5.00	8.00
Alice Hyde Hospital, per bed	0.60	-----
Alice Hyde Nursing Home, per resident	0.30	-----
Animal hospitals	1.35	2.16

Unit Classification	Unit Multiplier Inside	Unit Multiplier Outside
Armories and reserve centers	10.00	16.00
Bakeries	2.20	3.52
Banks, per office location	2.50	4.00
Barbershops	1.00	1.60
Beauty parlors	1.50	2.40
Boardinghouses and tourist homes	2.20	3.52
BOCES building	15.00	-----
Bottling plants	5.00	8.00
Bowling alleys	3.00	4.80
Bowling alleys with bar	5.00	8.00
Car washes	3.00	4.80
Churches	1.00	1.60
Clubs, halls and lodges	1.50	2.40
Clubs, halls and lodges with bar or restaurant	2.20	3.52
College Buildings	2.20	3.52

Unit Classification	Unit Multiplier Inside	Unit Multiplier Outside
Concrete works	2.50	4.00
Dairies	12.50	20.00
Day-care nurseries, per licensed limit	0.03	0.05
Dental offices	1.00	1.60
Family units, each		
R-1	1.00	1.60
R-2	2.00	3.20
R-3	3.00	4.80
R-4	4.00	6.40
R-5	5.00	8.00
R-6	6.00	9.60
R-7	7.00	11.20
R-8	8.00	12.80
R-9	9.00	14.40
R-10	10.00	16.00
Franklin County Court House, print shop, mental health	35.00	-----
Franklin County Jail	5.00	8.00
Franklin County De- partment of Social Services	10.00	-----
Funeral parlors	1.35	2.16
Garages and service stations	2.20	3.52
Greenhouses	2.20	3.52

Unit Classification	Unit Multiplier Inside	Unit Multiplier Outside
Hotels		
Per transient bedroom	0.20	0.32
Per apartment	1.00	1.60
Per rented room	0.10	0.16
Ice cream stands and soda fountains	1.00	1.60
Industries		
Per factory building	3.00	4.80
Per warehouse	1.00	1.60
Laundromats	5.00	8.00
Laundries and dry cleaners including Laundromats	6.00	9.60
Laundries and dry cleaners without Laundromats	5.00	8.00
Law and other offices	1.00	1.60
Monument works	2.50	4.00
Motels		
Per transient bedroom	0.20	0.32
Per apartment	1.00	1.60
Physicians' offices	1.00	1.60
Public nursing homes, per bed (non- hospital-operated)	0.30	0.48
Public utility buildings	2.50	4.00

Unit Classification	Unit Multiplier Inside	Unit Multiplier Outside
Rectories, parsonages and manses	1.00	1.60
Religious community houses		
Fewer than 12 residents	1.00	1.60
12 residents or more	2.00	3.20
Restaurants	3.00	4.80
Restaurants with bar	4.00	6.40
School systems		
Under 1,000 students, per student and employee	0.03	0.045
1,000 students and over, per student and employee	0.10	0.15
Retail stores	1.00	1.60
Supermarkets	1.00	1.60
Taverns	4.00	6.40
Taxi stands	1.00	1.60
Theaters	1.00	1.60
Trailer parks, per trailer	-----	1.60

§ 63-19. Rates for non functioning meters.

The charge to a metered user during quarters when his/her meter is out of service or not functioning properly for any reason shall be a rate based on the average amount of water used during the past two (2) metered quarters.

§ 63-20. Service connection fee. [Amended 11-27-1989 by L.L. No. 6, 1989]

A. Each application for water service shall be accompanied by a fee as stipulated below

Tap Size (inches)	Inside Village Rate	Outside Village Rate
3/4,	Actual cost of materials	\$2,000., plus materials
1	Actual cost of materials	\$2,500., plus materials
2	Actual cost of materials	\$5,000., plus materials
4 and above	Actual cost of materials	As determined by Village Board

B. Water service connection fees may be paid in four (4) equal installments, over a one-year period, if requested by the applicant/property owner.

§ 63-21. Payment dates; penalty for late payment.

Water payments are due and payable at the Village Office quarterly for water used during the preceding quarterly period, and the quarterly periods shall begin on the dates as follows April 1, July 1, October 1 and January 1. Water bills shall be sent by the village to nonmetered customers annually for payment within thirty (30) days from the end of each quarter without penalty. Water bills shall be sent to metered customers at the end of each quarter and shall be payable without penalty within forty-five (45) days of the end of each quarter. It shall be the duty of the water user, in the event he/she shall not receive a bill, to contact the Village Office concerning payment within the time period allowed for payment without penalty. The penalty for any late payments shall be six percent (6%) per annum, computed from the due date of payment.

§ 63-22. Collection of past-due payments.

In addition to the other remedies provided herein as to those users who in any way violate any provision of this local law, the village shall have the following rights with respect to the collection of past-due payments:

A. As to those users of water concerning properties situate within the limits of the Village of Malone, all water payments, including penalties or interest, not paid for any quarter of service shall be added to the village tax roll. If two (2) quarterly payments remain unpaid, the Village Clerk shall provide the user and/or property owner with thirty (30) days' written notice, by registered or certified mail, return receipt requested, that his water supply shall be shut off without further notice. Unless the user or property owner pays the arrearage, with penalties or interest in full, or else satisfactorily appeals to the Village Board within said thirty-day period, the water supply may be turned off by the village, without liability to the user, property owner or property, and shall continue to be turned off until all arrearages have been paid in full.

B. As to those users of water concerning property situate outside the limits of the Village of Malone, if two (2) quarterly payments remain unpaid, the Village Clerk shall provide the user and/or property owner with thirty (30) days' written notice, by registered or certified mail, return receipt requested, that his water supply shall be shut off without further notice. Unless the user or property owner pays the arrearage, with penalties or interest in full, or else satisfactorily appeals to the Village Board within said thirty day period, the water supply may be turned off by the village, without liability to the user, property owner or property, and shall continue to be turned off until all arrearages have been paid in full.

§ 63-23. Extraordinary cases

In all cases where, in the judgment of the Village Board, the established rates do not adequately compensate the village for the actual use of village water, the Village Board may establish a rate which, in its judgment, shall be just and proper. In such cases, the village shall provide the user with thirty (30) days' written notice by registered or certified mail, return receipt requested, within which time the user or applicant may file an appeal with the Village Board.

§ 63-24. Misrepresentations; abuses of service.

In any and all cases of fraudulent misrepresentation by an applicant or user or of waste or improper use of water or allowing water to run to prevent freezing or its use for any purpose or to any greater extent than shall be covered and paid for by the quarterly payments paid by the applicant and/or user, the village shall have the right to charge such additional amounts as it may deem proper and/or may, in its discretion, turn off the water from the premises upon which such abuse shall be practiced and/or may impose the penalties described hereinafter, subject to thirty (30) days' written notice by registered or certified mail, return receipt requested, within which time the user or applicant may file an appeal with the Village Board.

§ 63-25. Penalties for offenses; due props

A. In addition to any penalties herein provided and those penalties provided by the Penal Law of the State of New York, any user of village water and/or applicant who violates any of the provisions of this local law shall be subject to the following penalties and/or fines

- (1) The discontinuance of water supply.
- (2) A fine of five hundred dollars (\$500.) for each violation.
- (3) Any and all court costs and the reasonable legal fees and disbursements of the Village Attorney and/or the prosecuting attorney.
- (4) Whatever other fines, penalties and/or conditions as may be imposed by the court.

- B. Any user or applicant who desires village water and/or accepts the same does so with the express condition and understanding that he is subject to the jurisdiction of the Village Court of the Village of Malone or whatever court the village should choose as a forum to prosecute said violation.
- C. Prior to invoking any of the penalties prescribed herein, except for the addition of unpaid water rents, interest and/or penalties to the village taxes of any user whose property is situated within Malone Village, the village shall provide the user and/or property owner with thirty (30) days' written notice by registered or certified mail, return receipt requested, which notice shall reasonably detail the alleged violation and the remedy sought to be imposed by the village. The user and/or property owner shall then have thirty (30) days to file a written appeal with the Village Clerk, and the Village Board shall allow the user and/or property owner to orally present his appeal at a regular Village Board meeting to be held within thirty (30) days after the receipt of the written appeal by the user and/or property out: If the Village Board denies the appeal, the village shall then invoke the remedies provided herein, in compliance with law.

§ 63-26. Severability.

If any provision of this local law shall be held unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this local law or the application of any provision to any other person or circumstances.

§ 27. Repealer.

All ordinances, statutes or local laws of said Village of Malone, or parts thereof, which in any manner conflict with the terms and provisions of this local law are hereby repealed.

§ 28. Effective date.

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

Chapter 64

(RESERVED)

6401 - 6499

Chapter 65

(RESERVED)

6501 - 6599

ZONING

Chapter 66

ZONING

**ARTICLE I
Title and Purpose**

§ 66-1. Title.

§ 66-2 General purpose.

**ARTICLE II
Word Usage and Definitions**

§ 66-3. Definitions.

**ARTICLE III
Designation of Districts**

§ 66-4. Districts.

§ 66-5. Map.

§ 66-6. District boundaries.

**ARTICLE IV
Regulations**

§ 66-7. Application of regulations

**ARTICLE V
R Residence Districts**

§ 66-8. Purpose.

§ 66-9. Permitted uses.

§ 66-9.1. Uses permitted by special exception.

§ 66-10. Requirements.

**ARTICLE VI
R-LB Residence-Limited Business Districts**

§ 66-11. Purpose.

§ 66-12. Permitted uses.

§ 66-12.1. Uses permitted by special exception.

§ 66-13. Requirements.

MALONE CODE

**ARTICLE VII
B General Business Districts**

- § 66-14. Purpose.
- § 66-15. Permitted uses.
- § 66-16. Uses permitted by special exception.
- § 66-17. Requirements.

**ARTICLE VIII
C-I Commercial-Industrial Districts**

- § 66-18. Purpose.
- § 66-19. Permitted was.
- § 66-20. Uses permitted by special exception.
- § 66-21. Requirements.

**ARTICLE IX
SP Scenic Preservation Districts**

- § 66-22. Purpose.
- § 66-23. Permitted uses.

**ARTICLE X
PD Planned Development District**

- § 66-24. Purpose.
- § 66-25. Procedure.

**ARTICLE XI
Building Permit, Certificate of Occupancy**

- § 66-26. Permit required.
- § 66-27. Application for certificate of occupancy.
- § 66-28. Certificate required.
- § 66-29. Fees.
- § 66-30. Records maintained and available.
- § 66-31. Issuance of certificates.

**ARTICLE XII
Height Exceptions**

- § 66-32. Height limitations.

ZONING

ARTICLE XIII Nonconforming Uses

- § 66-33. Existing uses.
- § 66-34. Unsafe structured
- § 66-35. Alterations.
- § 66-36. Extension.
- § 66-37. Construction approved prior to ordinance.
- § 66-38. Restoration.
- § 66-39. Abandonment.
- § 66-40. Changes.
- § 66-41. Displacement.
- § 66-42. Cessation.
- § 66-43. District changes.

ARTICLE XIV Penalties; Enforcement; Amendments

- § 66-44. Penalties for offenses
- § 66-45. Complaints of violations.
- § 66-46. Enforcement.
- § 66-47. Interpretation; conflict with other lawn
- § 66-48. Severability.
- § 66-49. Amendments.

ARTICLE XV Special Exceptions

- § 66-50. Authority of Zoning Board of Appeals to hear applications.
- § 66-51. Procedure.
- § 66-52. Notice of public hearing.

ARTICLE XVI Repealer; When Effective

- § 66-53. Repealer.
- § 66-54. Effective date.

[HISTORY: Adopted Malone Village Board 2-14-72.¹ Amendments noted where applicable.]

GENERAL REFERENCES

House trailers and trailer camps-See Ch. 28.

Unsafe buildings and structures-See Ch. 57.

ARTICLE I Title and Purpose

§ 66-1. Title.

This ordinance shall constitute and be known as the "Zoning Ordinance of the Village of Malone, New York."

§ 66-2. General purpose.

The provisions of this ordinance shall be held to be the minimum requirements adopted for the purposes of promoting the health, safety, morals and general welfare of the inhabitants of the Village of Malone. It is intended to provide a basis for systematic and desirable growth. The village is hereby divided into districts, with controls to ensure proper use and systematic growth of land uses and buildings. The ordinance is to be used in conjunction with the Zoning Map, which is a part of this ordinance. This ordinance is formulated to secure safety from fire, panic and other dangers, to lessen congestion in the streets, to provide adequate light and air, to prevent the overcrowding of land, to conserve property values, and to promote the growth and prosperity of the said village.

ARTICLE II Word Usage and Definitions

§ 66-3. Definitions.

For the purpose of this ordinance, certain terms or words shall be interpreted or defined as follows:

A. Word usage.

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural.
- (3) The word "person" includes a corporation or association as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel".
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

¹ Editor's Note: This ordinance repealed former Ch. 66, Zoning, adopted 8-1-60.

B. Definitions.

ACCESSORY BUILDING-Any subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

ACCESSORY USE -A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ALLEY-A service way which affords a secondary public means of vehicular access to abutting property.

ALTERATION - A change or rearrangement in the structural parts or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AREA, BUILDING-The maximum horizontal area of a building and its accessories at the ground level, except as hereinafter provided with respect to accessory garages in residence districts.

AUTO WASH - A structure designed or intended primarily for the washing of automobiles, including conveyor, drive-through and self-service types.

BASEMENT-A space of full-story height partly below grade and having at least half of its clear floor-to-ceiling height above the established grade of the street center line, or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living accommodations.

BOARDINGHOUSE -A private dwelling in which not more than six (6) rooms are offered for rent and table board is furnished only to roomers, and in which no transients are accommodated.

BUILDING-Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING COVERAGE-That portion of the plot or lot area covered by a building.

BUILDING, DETACHED-A building surrounded by open space on all sides on the same lot.

BUILDING FLOOR AREA - The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, FRONT LINE OF-The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

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

BUILDING, PRINCIPAL - A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMPSITE-Any one (1) or more of the following, other than a hospital, place of detention or school offering general instruction:

- (1) Any area of land or water on which are located two (2) or more cabins, tents, trailers, recreational vehicles, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.
- (2) Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and shall apply to any of the foregoing uses whether or not conducted for profit and whether occupied by adults or by children, either as individuals, families or groups.

CELLAR-A story partly underground and having more than one half (1/2) of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

DRIVE-IN RESTAURANT or REFRESHMENT STAND-Any place or premises used for sale, dispensing or serving of food, refreshments or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING-A building with complete housekeeping facilities designed or used as the living quarters for one (1) family.

DWELLING, CONDOMINIUM - Any apartment, townhouse or other residential building, or portion thereof, involving a combination of two (2) kinds of ownership of real property:

- (1) Fee simple ownership of the individual dwelling unit, and
- (2) Undivided ownership, together with other purchasers, of the common elements of the structure, land and appurtenances, the management thereof controlled by a property owners' association.

DWELLING, GUEST HOUSE-An accessory seasonal dwelling unit built on the same lot with the principal dwelling and not for rent.

DWELLING, MULTIFAMILY-A dwelling or group of dwellings on one (1) > plot, containing separate living units for three (3) or more families living independently of each other, and other than hotels, motels and rooming houses.

DWELLING, ONE-FAMILY - A detached building designed for year-around occupancy by one (1) family exclusively, other than a mobile home, recreational vehicle or any temporary structure.

DWELLING, TOWNHOUSE - Three (3) or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy by one (1) family per unit.

DWELLING, TWO-FAMILY-A building designed for year-around occupancy by two (2) families exclusively, living independently of each other, and other than a mobile home, recreational vehicle or rooming house.

DWELLING, SEASONAL - A detached dwelling unit providing complete housekeeping facilities for one (1) family, designed for seasonal or non-year-round occupancy, other than a mobile home, camp or recreational vehicle.

FAMILY-One (1) or more persons occupying the same premises, related by blood, marriage or adoption and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, hotel or commune.

GARAGE, PRIVATE - An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a nonresident of the premises.

GARAGE, PUBLIC - Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE STATION - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means. Such term shall include filling and service station.

HOME OCCUPATION-Any accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small announcement or professional sign not over two 12 > square feet in area, and in connection therewith there is not involved the keeping of a stock-in-trade. The of fire of a physician, surgeon, dentist or other professional person, including instruction in a musical instrument limited to one (1) pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be "home occupations"; and the occupations of dressmaking, milliner or seamstress, each with not more than one (1) paid assistant, shall also be deemed to be a "home occupation." Dancing instructions, banks, instrument instruction in groups, tearooms, tourist homes, beauty parlors, convalescent homes, mortuary establishments and stores, trades or businesses of the kind herein excepted shall not be deemed to be "home occupations."

HOSPITAL - The term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments, not including animal hospitals.

- HOTEL or MOTEL**-A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.
- JUNKYARD**-A lot, land or structure or part thereof used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.
- LAUNDERETTE**- A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.
- LINE, STREET**-The dividing line between the street and the lot.
- LODGING HOUSE**-A building in which three (3) or more rooms are rented and in which no table board is furnished. A rooming house shall be deemed to be a Lodging house.
- LOT**-A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it or by a group of buildings with a common use or interest, including such open spaces as are required by this ordinance, and having its principal frontage on a public street or an officially approved place.
- LOS AREA**-The total area included within side and rear lot lines and the street or highway right-of-way.
- LOT, CORNER**-A lot local Ed at the intersection of and fronting on two (2) or more intersecting streets and having an interior angle at the corner at the intersection of less than one hundred thirty-five degrees (135°).
- LOT DEPTH**-A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lined
- LOT, INTERIOR**-A lot other than a corner lot.
- LOT LINE**-Any line dividing one lot from another.
- LOT, THROUGH**- A lot having frontage on two (2) approximately parallel or converging streets, other than a corner lot
- LOT WIDTH**-The mean width measured at right angles to its depths
- MOBILE HOME**-A factory-finished movable dwelling unit designed and built on frame and wheels to be towed on its own chassis and designed as a self-contained unit to provide housekeeping facilities for year-round occupancy, including living and sleeping accommodations, a flush toilets tub or shower and kitchen facilities and with plumbing and electrical connections provided for attachment to outside systems after being transported to the building site. It does not include a recreational vehicle. A "mobile home" does not lose its character as such by reason of any connections to its chassis or attachment to the ground, a slab or any foundation or by reason of any

addition or attachment to the mobile home, whether or not said addition or attachment is built on site, premanufactured or prefabricated. [Amended 1-14-1991 by L.L. No. 1, 1991]

MOBILE HOME COURT-A parcel of land which has been planned and improved for the placement of two (2) or more mobile homes for dwelling purposes. The term shall include mobile home park or other areas planned and/or improved for two (2) or more mobile homes.

NONCONFORMING LOT-Any lot in single ownership which does not conform with the minimum area and/or dimensions required in the district in which it is situated or for any special use, as the case may be, and where the owner of said lot does not own any adjoining property, the subdivision of which could create one (1) or more conforming lots.

NONCONFORMING USE-A building, structure or use of land existing at the time of the enactment of or amendment to this ordinance and which does not conform to the regulations of this ordinance concerning the district in which it is situated.

NURSING or CONVALESCENT HOME-Any building with less than fifteen (15) sleeping rooms. licensed or regulated by the State of New York. where persons are housed or lodged and furnished with meals and nursing care for pay.

NURSERY SCHOOL-Facilities for the daytime care or instruction of two (2) or more children from two (2) to five (5) years old. inclusive, and operated on a regular basis for pay.

PARKING SPACE-The space designated for parking one (1) automobile. including at least two hundred (200) square feet, not including passageways or driveways thereto.

PERSONAL SERVICE SHOP [Added 12-15-86 by LL No. 4, 1986]-An area of land, including the structures thereon, used for

- (1) Any use of a service or instructional character, except those otherwise expressly set forth as a permitted use, which is conducted within a building, except that no material or stock-in-trade shall be sold or stored upon such premises except as is clearly incidental to the service or instruction provided.
- (2) Any use of a commercial nature, except those otherwise expressly set forth as a permitted use, which is conducted within a building and which is limited to the making or sale of items for individual or household use, provided that not more than three (3) people may be employed within such facility at any one time.
- (3) For the purpose of this definition, a facility for the making or sale of crafts and souvenirs shall be a "personal service shop", but the term personal service shops shall not be defined to include any facility for the repair, storage, sale or sale of parts of motor vehicles.

PLANNED DEVELOPMENT DISTRICT-A tract of land designed for or capable of being used for one (1) or more residential. commercial. industrial or recreational uses which have certain facilities in common and which have been designed as an integrated unit.

RECREATIONAL VEHICLE-A mobile recreational unit, including travel trailer, pickup, camper, converted bus, tent trailer, camper trailer, tent or similar device used for temporary portable housing.

SANITARIUM, SANATORIUM- A private hospital, whether or not such facility is operated for profit.

SIGN-Any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, work, model, banner, flag, pennant, insignia device or representation used as or which is in the nature of an announcement, direction or advertisement. A "sign" includes any billboard, but does not include the flag, pennant or insignia of any nation or group of nations or of any state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization, campaign, drive, movement or event. However, a "sign" shall not include a similar structure or device located within a building.

- (1) A "business sign" is a sign which directs attention to a business or profession conducted or to products sold upon the same lot.
- (2) An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.
- (3) An "illuminated sign" is any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.
- (4) A "flashing sign" is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SPECIAL EXCEPTION-A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such use may be permitted in certain zoning districts as a "special exception", if provision for such "special exception" is made in this Zoning Ordinance.

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 it, then the space between any floor and the ceiling next above it.

STORY, HEIGHT OF-The vertical distance from the floor to the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET-A public way which affords the principal means of accent to abutting properties.

STRUCTURE - A combination of materials to form construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds and storage bins. Notwithstanding the foregoing, a fence shall not be deemed a "structure". [Amended 9-11-89 by L.L. No. 4, 1989]

STRUCTURAL ALTERATION-Any change in the supporting members of the building, such as bearing walls, columns, beams or girders.

THEATER, MOVING PICTURE-A building or part of a building devoted to the showing of moving pictures on a paid admission basis.

THEATER, OUTDOOR DRIVE-IN-An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid-admission basis, to patrons seated in automobiles or on outdoor seats.

TOURIST CABINS-A group of buildings, including either separate cabins or a row of cabins, which contain living and sleeping accommodations for transient occupancy and have individual entrances.

TOURIST HOME-A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

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-(See "accessory use.")

VARIANCE-An authorized departure by the Board of Appeals from the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

YARD-An unoccupied space, open to the sky, on the same lot with a building or struck.

YARD, FRONT-An open, unoccupied space on the same lot with a building, situated between the street line and a line connecting the parts of the building setting back from and parallel to the street line and nearest to such street line, and extending to the side lines of the lot.

YARD, REAR-An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the average rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the average rear line of the lot or the center line of the alley, if there be an alley, and the rear line of the building.

YARD, SIDE-An open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE III
Designation of Districts

§ 66-4. Districts.

For the purpose of this ordinance, the Village of Malone shall be divided into the following types of districts:

R Residence Districts

R-LB Residence Limited Business Districts

B General Business Districts

C-I Commercial-Industrial Districts

SP Scenic Preservation Districts

PD Planned Development Districts

§ 66-5. Map. [Amended 11-14-88 by L.L. No. 3, 1988]

The boundaries and divisions of the above-mentioned districts are hereby established as shown on the map entitled "Zoning Map of the Village of Malone, New York", as amended, a certified copy of which shall be on file in the office of the Village Clerk. Said map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance. Notwithstanding the foregoing, and despite the boundaries and divisions specified on said map, the following area shall be weed R-LB, Residence-Limited Business District bounded north by the south side of Huntington Street; bounded east by the west side of Railroad Street; bounded south by the north line of Clark Street; and bounded west by the easterly line of Fort Covington Street.

§ 66-6. Distinct boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply

- A. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries
- B. When district boundaries are 9 indicated that they are approximately parallel to the center lines or right-of-way lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- C. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

- D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the center of the body of water and any island therein shall belong to the district in which it is chiefly situated.
- E. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals shall render a determination With respect thereto.

ARTICLE IV Regulations

§ 66-7. Application of regulations.

The following regulations shall apply in their respective districts except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot areas, or to have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which such building or structure is located.
- C. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building or structure.

ARTICLE V R Residence Districts

§ 66-8. Purpose.

This district is planned primarily to protect one-^{Family Dwelling}~~and~~ from injurious and objectionable uses; to provide privacy; to provide traffic safety by street arrangement encouraging through traffic on the proper streets; to provide homogeneity in lot sizes and locations; to eliminate nonconforming uses; to protect against harsh and conflicting conditions in lot and street layouts; to ensure beauty and permanence; to encourage development; to conserve property values; and to ensure the ends desired in § 66 2.

§ 66-9. Permitted uses.

- A. One-family dwelling, two-family dwelling
- B. Churches or similar places of worship, parish houses, convents.
- C. Public parks, playgrounds and recreational areas operated by membership organizations for the benefit of their members and not for profit.
- D. Public and private schools and institutions of higher education, public libraries, municipal buildings.

- E. Philanthropic or eleemosynary institutions other than a camp, hospital, sanatorium, correctional institution or institution for the insane. A camp, hospital, sanatorium, correctional institution or institution for the insane may be permitted upon approval of the Board of Appeals and subject to such conditions and safeguards as are deemed appropriate by such Board and upon securing a permit therefore
- F. Customary gardening operations comprising gardens and nurseries, subject to the following restrictions.
 - (1) No storage of odor- or dust-producing substance shall be permitted within one hundred (100) feet of any adjoining lot line.
 - (2) No products shall be publicly displayed or offered for sale from the roadside.
- G. Customary home occupations, provided that there shall be no external evidence of such occupation except a small announcement or professional sign not over two (2) square feet in area and not illuminated by more than two (2) bulbs of sixty (60) watts each; maximum, or equivalent fluorescent lighting
- H. Customary accessory uses and buildings, provided that such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory buildings shall be located on the same lot with the principal building.

§ 66-9.1. Uses permitted by special exception. [Added 12-15-86 by L.L. No. 4, 1986]

Public utility or public service uses or public buildings other than those expressly listed as permitted uses.

§ 66-10. Requirements

- A. Building height limit two and one-half (2 1/2) stories but not exceeding thirty-five (35) feet.
- B. Yards required. Each lot shall have front, side and rear yards not less than the depths or widths following
 - (1) Front yard depth: twenty-five (25) feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: not less than eight (8) feet, but the sum of the two (2) side yards shall be not less than twenty (20) feet.
 - (3) Rear yard depth: twenty-five (25) feet.
- C. Parking and signs. One (1) off-street parking space shall be provided for each dwelling and the appropriate number as determined by the Planning Board for each public or semipublic use. Temporary "for sale" or "to let" signs and institutional or religious identification signs are not to exceed fifteen (15) square feet.

ARTICLE VI

R-LB Residence-Limited Business Districts

§ 66-11. Purpose.

This district allows all uses permitted in R Districts and some special use that may approach that of business. This district acts as a transition zone between R and B Districts.

§ 66-12. Permitted uses.

- A. All uses permitted in R Districts.
- B. Multifamily dwellings, tourist homes, lodging and boardinghouses.
- C. Municipal building, lodge, club, church, school, hospital, bank, mortuary, medical center, rest home, business or professional office, philanthropic and eleemosynary institution or use.
- D. (Reserved) ¹
- E. Business signs not to exceed thirty-two (32) square feet.

§ 66-12.1. Uses permitted by special exception. [Added 12-15-86 by L.L. No. 4,1986]

- A. Public utility or public service uses or public buildings other than those expressly listed as a permitted use.
- B. Personal service shops.

§ 66-13. Requirements.

- A. Building height limit three (3) stories, but not exceeding forty (40) feet.
- B. Yards required. The following minimum depths and widths shall be provided:
 - (1) Front yard depth: twenty-five (25) feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: each side shall be one-third (1/3) the height of the building.
 - (3) Rear yard depth: equal to the height of the building.
- C. Distance between buildings on same plot. No principal building shall be closer to any other principal building than the average of the height of the two (2) buildings.
- D. Automobile storage and parking spaces. Parking shall be provided for commercial and office uses which are permitted uses, as determined by the Planning Commission after due consideration of available public and private spaces in the immediate vicinity and the scope and nature of the proposed commercial or office use. Parking for all uses which are permitted by special permit shall be provided as determined by the Village Board of Trustees after a public hearing. [Amended 12-15-86 by L.L. No. 4, 1986]

ARTICLE VII**B General Business Districts**

¹ Editor's Note: Former Subsection D, which provided for personal service shops, neighborhood grocery stores or convenience item stores as permitted uses in the R-LB Residence-Limited Business Districts, was repealed 12-15-86 by L.L. No. 4, 1986.

§ 66-14. Purpose.

This district is planned to protect and foster business, including the identification of a central business section to enable purchasers to shop for a considerable variety of items with a minimum of travel; to have sufficient, convenient and proper parking facilities to attract customers; to locate parking on the outskirts of this central business section so as to avoid congestion in the business section itself; to provide attractive stores and buildings; to provide loading facilities; and to promote trade and business.

§ 66-15. Permitted uses.

- A. Multifamily dwelling.
- B. Lodging or boardinghouse or tourist home.
- C. Churches; religious, school and municipal, public or quasipublic buildings and institutions.
- D. Hotels, motels, banks, business or professional offices, studios.
- E. Retail or wholesale stores, personal service shop, laundrette.
- F. Restaurant, theater, public recreation or entertainment uses.
- G. Business signs not to exceed thirty-two (32) square feet.
- H. Accessory buildings and uses.

§ 66-16. Uses permitted by special exception.

- A. Gasoline station.
- B. Automobile, boat, farm implement, mobile home, trailer, snowmobile or motorcycle sales or rental.
- C. Mortuary.
- D. Public utility or public service uses or public buildings other than those expressly listed as permitted uses. [Added 12-15-86 by L.L. No. 4,1986]

§ 66-17. Requirements.

- A. Building height limit No building shall be erected to a height in excess of fifty-five (55) feet.
- B. Required lot area Any building used for residential purposes shall have a lot width equal to that required in the least restricted residence district for the same type of dwelling.
- C. Yards required.
 - (1) Front yard: none required.
 - (2) Side yard width for any building used for residential purposes shall be as specified for such dwelling in the least restricted residential district.
 - (3) Rear yard depth shall be not less than thirty (30) feet.
- D. Parking. Refer to § 66-13D.

ARTICLE VIII
C-I Commercial-Industrial Districts

§ 66-18. Purpose.

This district is planned to aid and attract commerce and industry in the proper locations; to protect potential industrial locations from encroachment; to aid in planning our economy in advance by protecting interests and sites; to consider proximity to railroads and rivers; and to foster necessary industrial growth in an orderly and well-planned manner.

§ 66-19. Permitted uses

- A. Truck terminal.
- B. Auto wash.
- C. Lumber. feed, fuel sales or storage.
- D. Heating, plumbing, electrical, metal or similar fabrication or welding shop.
- E. Concrete products.
- F. Machine shop.
- G. Manufacturing or assembly.
- H. Wholesale. storage or warehouse facility.
- I. Cold storage or packing plant.
- J. Dairy processing plant.
- K. Development or research center.
- L. Business sign.
- M. Customary accessory building, use.

§ 66-20. Uses permitted by special exception. [Amended 12-15-86 by LL No. 4,1986]

- A. Public utility or public service uses or public buildings other than those expressly listed as permitted uses.
- B. All industrial uses of lands not otherwise expressly listed as a permitted use.

§ 66-21. Requirements.

- A. Building height limit sixty (60) feet.
- B. Yards required.
 - (1) Front yard depth: twenty-five (25) feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: ten (10) feet along the side of every lot.
 - (3) Rear yard depth: twenty-five (25) feet.
- C. Parking. loading and unloading. [Amended 12-15-86 by L.L. No. 4, 1986]
 - (1) Industrial or manufacturing establishments shall provide at least one (1) parking space for each four hundred (400) square feet of gross floor area or for each five (5) workers. All parking spaces provided pursuant to this subsection shall be on the same

lot as the building, except that the Board of Appeals, or the Village Board (in cases of uses permitted only by special exception) may permit the parking spaces to be on any lot within five hundred (500) feet of the building if it determines that it is impractical to provide parking on the same lot with the building.

(2) Loading and unloading are to be provided for upon the premises.

ARTICLE IX SP Scenic Preservation Districts

§ 66-22. Purpose.

This district is planned to enhance community appearance; to promote the use of scenic resources for the pleasure and welfare of the citizens of and visitors to the village; and to safeguard against damage due to natural causes such as flooding and water pollution.

§ 66-23. Permitted uses.

Within this Scenic Preservation District, which includes that area within two hundred (200) feet of the shoreline at normal water level of those streams and waterways as delineated on the map, all development will be in accord with the planned development process as set forth in the following Article. No permanent building or structure shall be located within seventy-five (75) feet of the shoreline at normal water level except by approval of the Village Board under Article X.

ARTICLE X PD Planned Development Districts

§ 66-24. Purpose.

This district is planned to provide a means of developing those land areas within the community considered appropriate for new residential, recreational, office space, commercial or industrial use, or a satisfactory combination of these uses, in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this Zoning Ordinance.

§ 66-25. Procedure.

A. For the establishment of Planned Districts:

- (1) Application for designation of a PD District shall be referred to the Village Board. The Village Board shall refer the application to the Planning Commission within ten (10) days of receipt. The applicant shall furnish basic data pertaining to boundaries of the proposed development, the existing zoning, topography, drainage, soil conditions and such preliminary plans as may be required for an understanding of the type, uses and design of the proposed development.

- (2) The Planning Commission and the Commission's professional planning consultant, if any, shall review such application. The Commission may require such changes in the preliminary plans as are found to be necessary to meet the requirements of this Article. to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision regarding the preliminary plans. the Planning Commission shall consider and make findings regarding those considerations set forth under Subsection B(2) of this section. All applications for creation of a Planned District shall be referred to the Franklin County Planning Board, which may review and comment on the referral within thirty (30) days.
 - (3) The Village Planning Commission shall report its findings and render its decision to the Village Board within forty-five 145t days. It may recommend approval, disapproval or conditional approval subject to modifications regarding the proposed development.
 - (4) The Village Board shall hold a public hearing after public notice as required for any amendment to this ordinance and shall consider the report and recommendations of the Planning Commission and all other comments, reviews and statements pertaining thereto. It may amend the Zoning Map to establish and define the type and boundaries of the Planned District, and in so doing may state specific conditions in addition to those provided by this ordinance, further restricting the nature or design of the development. In the event that the Planning Commission disapproved the proposal or rendered conditional approval subject to modifications with which the developer is not willing to comply, the Village Board may amend the Zoning Map in accordance with the application only upon an affirmative vote of at least three-fourths (3/4) of the members of the Village Board.
- B. For the approval of development within an established Planned or Scenic Preservation District:
- (1) Amendment of the Zoning Map shall not constitute authorization to develop in the district. Such authorization after a Planned or Scenic Preservation District has been established shall require that the applicant submit to the Planning Commission such further plans and specifications, supporting documents and data as shall be required by the Commission and shall specify on the plans and in writing the building types and layout, setbacks, off street parking and loading, ingress and egress, signs, existing and proposed amenities, screening, planting and ornamental features and the plan or arrangement for development of the area in stages or in its entirety. A copy of the proposed development will be submitted to the Franklin County Planning Board for review as required under Section 239-L and Section 239-M of the General Municipal Law.
 - (2) The Planning Board and the Board's professional planning consultant, if any, shall set forth the particular ways in which the proposed development would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

- (a) In what respects the plan is or is not consistent with the stated purposes of a Planned or Scenic Preservation District.
 - (b) The extent to which the plan departs from zoning regulations formerly applicable to the property in question (if not originally designated as a Planned District), including, but not limited to, bulk, density and permitted uses.
 - (c) The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
 - (d) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
 - (e) The provision for pedestrian circulation and open space in the planned development, the reliability of the proposal for maintenance and conservation of common open space and pedestrian circulation as related to the proposed density and type of development.
 - (f) The traffic circulation features within the site, including the amount of, location of and access to automobile parking and terminal loading areas.
 - (g) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards such as inadequate site distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.
 - (h) The provision for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site.
 - (i) The proposed location, type and size of signs and landscape features.
 - (j) The physical design of the plan and the manner in which said design does or does not make adequate provision for service demands (water, sewer, fire, etc.), provide adequate control over vehicular traffic, and further the amenities of light, air and visual enjoyment.
- (3) No permit shall be issued until the Planning Commission has made its determination based on the foregoing considerations and the Village Board has considered this determination and any review by the Franklin County Planning Board and authorized issuance of a permit by resolution. The Village Board may override the recommendation of the Planning Commission in adopting its resolution to authorize or deny a permit only by an affirmative vote of a majority of the Board.
 - (4) All conditions imposed by the Village Board in its amendment and all subsequent conditions imposed by the Planning Commission in its review of the final plans, including any conditions the performance of which were conditions precedent to the issuance of any permit, shall run with the land and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.

- (5) If construction of the development in accordance with the approved plans and specifications has not begun within one (1) year after the date of the resolution authorizing issuance of the building permit, all permits shall become null and void, the approval shall be deemed revoked and vacated and the Village Board shall have the authority to again amend the map to restore the zoning designation for the district to that which it had been prior to the application, or any other district.
- C. Special application. All proposed mobile home courts as well as all developments within any Scenic Preservation District will be considered under the Planned Development District procedure.

ARTICLE XI

Building Permit; Certificate of Occupancy

§ 66-26. Permit required.

No building shall be erected, moved, substantially altered, added to or enlarged, and no excavation for any building shall be begun, unless and until a building permit for such work has been issued by the Building Inspector.

§ 66-27. Application for certificate of occupancy.

All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.

§ 66-28. Certificate required.

- A. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector, stating that the building or proposed use thereof complies with the provisions of this ordinance.
- B. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the Building Inspector therefore except for ordinary repairs.

§ 66-29. Fees.

The fee for building permits for new residences shall be ten dollars (\$10.) and for alteration of old residences, five dollars (\$5.); building permits for new business or industrial buildings, ten dollars (\$10.). A card showing the building permit number shall be attached to all buildings for which a permit is issued.

§ 66-30. Records maintained and available.

The Building Inspector shall maintain a record of all certificates with the Village Clerk, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected upon payment by him to the village of a fee of two dollars (\$2.).

§ 66-31. Issuance of certificates.

- A. Upon written request from the owner and on payment by him to the village of a fee of five dollars (\$5.), the Building Inspector shall issue a certificate of occupancy for any building or premises existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use or disposition of the buildings or the premises, and whether such use or disposition conforms with the provisions of this ordinance.
- B. Upon payment to the village of a fee of five dollars (\$5.), the Building Inspector shall issue a certificate of occupancy for all new buildings or buildings on which alterations or additions are to be made.
- C. Under such rules and regulations as may be established by the Zoning Board of Appeals and filed with the Village Clerk, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by hire.

ARTICLE XII Height Exceptions

§ 66-32. Height Limitations.

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, 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 purposes they are to serve. No advertising device of any kind shall be inscribed upon or attached to that part of any structure which extends above the roof limitations.

ARTICLE XIII Nonconforming Uses

§ 66-33. Existing uses.

The lawful use of any building or land existing at the time of the enactment of this ordinance may be continued although such use does not conform with the provisions of this ordinance.

§ 66-34. Unsafe structures.

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition, subject to § 66-38 hereunder.

§ 66-35. Alterations.

A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the assessed value of the building unless said building is changed to a conforming use.

§ 66-36. Extension.

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this ordinance shall not be deemed the extension of such nonconforming use.

§ 66-37. Construction approved prior to ordinance.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six (6) months of the date of the permit, and which entire building shall be completed according to the filed plans within one (1) year from date of this ordinance.

§ 66-38. Restoration.

No building damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its fair market value shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

§ 66-39. Abandonment.

Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this ordinance.

§ 66-40. Changes.

- A. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- B. No nonconforming use shall be changed to another type of nonconforming use.

§ 66-41. Displacement.

No nonconforming use shall be extended to displace a conforming one.

§ 66-42. Cessation.

Notwithstanding any other provisions of this ordinance, any automobile wrecking yard or other junkyard or any billboard or advertising structure in existence in any district at the date of enactment of this ordinance shall at the expiration of three (3) years from such date become a prohibited and unlawful use and shall be discontinued and removed.

§ 66-43. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

ARTICLE XIV**Penalties; Enforcement; Amendments****§ 66-44. Penalties for offenses.**

- A. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this act or of any ordinance or other regulation made under authority conferred thereby, the Board of Trustees, in addition to other remedies, shall institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- B. Any person or persons, firm or corporation violating any of the provisions of this ordinance, in addition to the above described remedies, shall forfeit and pay a penalty of one hundred dollars (\$100.) for each and every day that said violation continues, and in addition to the penalty, a violation of this ordinance shall constitute disorderly conduct and the person violating the same shall be a disorderly person.

§ 66-45. Complaints of violations.

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Board of Trustees.

§ 66-46. Enforcement.

This ordinance shall be enforced by the Building Inspector or other designated official who shall be appointed by the Board of Trustees. No building permit or certificate of occupancy shall be issued by him except where the provisions of this ordinance have been complied with.

§ 66-47. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§ 66-48. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances, and the Board of Trustees hereby declares that it would have enacted this ordinance or the remainder thereof had the invalidity of such provision or application thereof been apparent.

§ 66-49. Amendments.

- A. The Board of Trustees may from time to time on its own motion, or on petition, or on recommendation of the Planning Commission, amend, supplement, change, modify or repeal the regulations, boundaries and provisions of this ordinance.
- B. Every such proposed amendment or change, whether initiated by the Board of Trustees, the Planning Commission or by petition, shall be referred to the Planning Commission for a public hearing which shall be held within twenty (20) days of the referral upon notice to be given by publishing a notice at least five (5) days prior to said hearing in at least one (1) newspaper of general circulation in such village. The Planning Commission shall, within ten (10) days of said public hearing, report in writing to the Board of Trustees its recommendation with respect to the proposed amendment or change. [Amended 2-17-87 by LL No. 1, 1987]
- C. [Amended 2-17-87 by LL No. 1, 1987] Upon receipt of the recommendation of the Planning Commission, the Board of Trustees, by resolution adopted at a stated meeting, may fix the time and place for a public hearing on the proposed local law which would amend or change Chapter 66 of the Code of the Village of Malone. Notice of the proposed local law and of the public hearing thereon shall be given as follows:
 - (1) By following the provisions of Chapter 2 of the Code of the Village of Malone with respect to adopting local laws.
 - (2) By mailing a notice thereof to every association of residents of the village which shall have registered its name and address for this purpose with the Village Clerk and to all other organizations, corporations or governmental entities specified in § 7-706 of the Village Law, where required.
 - (3) The notice shall state the general nature of the proposed local law.

- D. Whenever the owners of fifty percent (50%) or more of the street frontage in any district or any specified part thereof shall present to the Board of Trustees a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for the zoning maps, including such district or specified part thereof and provided that the Planning Commission recommends such amendment or change after a public hearing as provided in Subsection C above, it shall be the duty of the Board of Trustees to hold a public hearing on a proposed local law which would amend or change Chapter 66 of the Code of the Village of Malone in conformity with the petition of the property owners. [Amended 2-17-87 by LL No. 1, 1987]
- E. In case of a protest against such proposed amendment, supplement or change signed by the owners of twenty percent (20%) or more of the area of the land included in such proposed change, or the land immediately adjacent extending one hundred (100) feet therefrom, or the land directly opposite thereto extending one hundred (feet from the street frontage of such opposite land, such amendment shall not become effective except by a favorable vote of three fourths (3/4) of the members of the Board of Trustees.

ARTICLE XV

Special Exceptions

[Added 12-15-86 by L.L. NO. 4, 1986; Amended 7-24-89 by L.L. NQ 3, 1989]

§ 66-50. Authority of Zoning Board of Appeals to hear applications.

- A. The Zoning Board of Appeals shall have the sole authority to determine applications for any special exception specified in Chapter 66 of the Village Code.
- B. In determining whether a special exception shall be granted, the Zoning Board shall consider the established character of the neighborhood wherein such use is proposed to be located and whether the village would be detrimentally affected by the additional traffic to be generated, the production or emission of noise, smoke, fumes, refuse matter or similar substances or conditions, the proposed landscaping, including parking areas, fences and buffer areas, the overall architectural appearance of any building to be erected or to be used and such other criteria as the Zoning Board shall deem necessary to maintain and promote the public health, safety, morals, general welfare order, comfort, convenience, appearance or prosperity.

§ 66-51. Procedure.

- A. The application for a special exception and all attachments shall be furnished to the Village Clerk at least twenty (20) days prior to any public hearing date. No hearing shall be had unless the application and all attachments are timely filed.
- B. The application for a special exception shall consist of the following:

- (1) The written executed petition stating in detail all of the pertinent facts relating to the application and setting forth the steps that will be taken by applicant to ameliorate any negative impact that the proposed use would have upon the existing neighborhood and the general community.
 - (2) A plot plan, survey or diagram of the subject premises accurately showing the dimensions of all actual or proposed structures on the subject premises, the distances of all actual or proposed side, rear or front yards, all existing or proposed landscaping and all courts, driveways, parking lots and abutting streets. The plot plan shall contain a parking plan showing the location and number of on-site parking spots.
 - (3) A statement of the maximum number of employees to be employed at the subject premises and their proposed hours of duty.
 - (4) The name, address and telephone number of all adjoining landowners and landowners of property located directly across any abutting public road from any of the subject premises.
 - (5) Any memorandum of law or additional information that the applicant feels may support or explain the application.
- C. The applicant shall submit any additional material requested by the Zoning Board after a public hearing.
- D. The Zoning Board may, upon good cause shown, waive or modify the requirements of § 6641A, B or C.
- E. A filing fee of fifty dollars (\$50.) shall be deposited with the Village Clerk at the time of the filing of the application for special exception.
- F. Decisions of the Zoning Board with respect to any application for a special exception shall be made not later than sixty-two (62) days from the date of any final hearing on such matter. The final decision on any application shall be made in a written order signed by the chairperson or such other member of the Zoning Board as said Board may select. Such decision shall state findings of fact which were the basis for the Board's determination. The decision shall state in full any conditions or safeguards imposed by the Board in granting such a special exception.

§ 66-52. Notice of public hearing

The Village Clerk shall give notice of the public hearing by mailing a written notice thereof to the applicant or his attorney by regular mail, and by publishing such notice twice in the official newspaper of the village. Additionally, such notice shall be mailed to all such property owners whose premises adjoin those of the applicant and such other property owners as the Zoning Board, in its discretion, deems advisable. The notice of hearing shall state the location of the building or property involved, the date, time and place of the hearing and the relief sought. Such notice shall be mailed and the first publication shall take place at least ten (10) days prior to the scheduled hearing date.

§ 66-53

MALONE CODE

§ 66-54

ARTICLE XVI
Repealer; When Effective

§ 66-53. Repealer.

All ordinances of said Village of Malone or parts thereof inconsistent with or which in any manner conflict with the terms and provisions of this ordinance are hereby repealed.

§ 66-54. Effective date.

This ordinance shall take effect April 1, 1972.

SUBDIVISION OF LAND

Chapter 66A

SUBDIVISION OF LAND

**Local Law
No. 1
1988**

**ARTICLE I
Purpose; Intent**

§ 66A-1. Purpose; intent.

**ARTICLE II
Definitions**

§ 66A-2. Definitions

**ARTICLE III
Procedure for Filing Subdivision Applications**

- § 66A-3. Approval required.**
- § 66A-4. Sketch plan.**
- § 66A-5. Approval of minor subdivision.**
- § 66A-4. Preliminary plot for major subdivision.**
- § 66A-7. Plat for major subdivision.**
- § 66A-8. Required improvements.**
- § 66A-9. Filing of approved subdivision plot.**
- § 66A-10. Public streets; creation areas.**

**ARTICLE IV
General Requirements and Design Standards**

- § 66A-11. Adherence to standards required.**
- § 66A-12. In general**
- § 66A-13. Street layout.**
- § 66A-14. Street design.**
- § 66A-15. Street names.**
- § 66A-16. Lots.**
- § 66A-17. Drainage improvements.**

MALONE CODE

§ 66A-18. Parks, open spaces and natural features.

§ 66A-19. Revegetation of disturbed soil areas

§ 66A-20. Streetlights, trees and signs

ARTICLE V

Documents to Be Submitted

§ 66A-21. Sketch plan.

§ 66A-22. Minor subdivision plat

§ 66A-23. Major subdivision preliminary plat and accompanying data.

§ 66A-24. Major subdivision final plat and accompanying data

ARTICLE VI

Severability

§ 66A-25. Severability.

ARTICLE VII

Variances and Waivers

§ 66A-26. Zoning Board of Appeals action.

§ 66A-27. Planning Board action.

§ 66A-28. New community, planned neighborhood or cluster development

§ 66A-29. Requirements for granting

ARTICLE VIII

When Effective

§ 66A-30. When effective.

[**HISTORY: Adopted Malone Village Board 3-28-88 as Local Law No. 1, 1988.
Amendments noted where applicable.**]

GENERAL REFERENCES

Flood damage prevention-See Ch 24.

Housing - See Ch. 29.

Zoning - See Ch. 66

Planning Board - See Ch 69.

ARTICLE I
Purpose; Intent

§ 66A-1. Purpose; intent

- A. It shall be the policy of the Malone Village Planning Board to consider the proposed subdivision of land within the village with respect to its effect upon the orderly, efficient and economical development of the community. The purpose for such review shall be to ensure that
- (1) The land in question can be used safely for building purposes without danger to health or peril from flood or fire.
 - (2) Adequate provision has been made for water supply, sewage disposal and surface drainage.
 - (3) The proposed lot and street layout compliments neighboring development and is in accord with the proposals and standards of the Master Plan.
 - (4) Proper consideration is given to natural features, open space and recreation areas.
- B. It is not nor shall it ever be the intent of these regulations to discourage any legitimate and proper development in the Village of Malone, nor to work any arbitrary or unnecessary hardship on any potential developer. Rather, the principal purpose of these regulations is to ensure that the proper interests of the village are considered in relation to the responsibilities it will be expected to discharge in connection with any new subdivision of land.

ARTICLE II
Definitions

§ 66A-2. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

COLLECTOR STREET- A street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major street.

CUL-DE-SAC STREET-A street or a portion of a street with only one (1) vehicular traffic outlet and having a turning loop or similar arrangement of the closed end.

EASEMENT-Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

MAJOR STREET-A street which serves or is designed to serve heavy flow of traffic and which is primarily used as a route for traffic between communities and/or other heavy traffic-generating areas.

MAJOR SUBDIVISION-Any subdivision not classified as a "minor subdivision", including but not limited to subdivisions of five (5) or more lots or any size subdivision requiring any new street or extension of municipal facilities.

MASTER PLAN-A comprehensive plan, prepared by the Planning Board pursuant to § 179g of the Village Law, which indicates the general location recommended for various functional classes or public works, places and structures for general physical development of the village, and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MINOR STREET-A street intended to serve primarily as an access to abutting properties.

MINOR SUBDIVISION-Any subdivision containing not more than four (4) lots fronting any existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel of adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance or these regulations.

OFFICIAL MAP-The map, if any, established by the Village Board of Trustees pursuant to § 179e of the Village Law, showing streets, highways and parks and drainage, both existing and proposed.

PLANNING BOARD or BOARD-The Planning Board of the Village of Malone.

PRELIMINARY FLAT-A drawing or drawings clearly marked preliminary plot," showing the salient features of the proposed subdivision, as specified in Article V, § 66A-23, of these regulations, submitted to the Planning Board for the purpose of consideration prior to submission of the plot in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

SKETCH PLAN-A sketch of the proposed subdivision showing the information specified in Article V, § 66A-21, of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations

STREET-Includes streets, roads, avenues, lanes, courts, drives or other trafficways between right-of-way lines.

STREET PAVEMENT-The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH-The width of right-of-way, measured at right angles to the center line of the street

SUBDIVIDER-Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for him-/herself or others.

SUBDIVISION-The division of any parcel of land, now and hereafter, into three (3) or more lots, plots, sites or other divisions of land for the purpose of transfer of ownership or for building development, and shall include resubdivision of all or any part of any plot, filed or unfiled, which is entirely or partially undeveloped. Any division of land creating a new street shall be considered a subdivision." [Amended 3-12 1990 by LL No. 1, 1990].

SUBDIVISION PLAT or FINAL PLAT-A drawing in final form showing a proposed subdivision containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Registrar.

VILLAGE ENGINEER- A licensed engineer or other individual duly designed as Village Engineer or acting in that capacity by designation of the Village Board.

ARTICLE III

Procedure for Filing Subdivision Applications

§ 66A-3. Approval required.

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

§ 66A-4. Sketch plan.

- A. Submission of a sketch plan. Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board at least ten (10) days prior to the regular monthly meeting of the Board two (2) copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of Article V, § 66A-21, for the purpose of classification and preliminary discussion.
- B. Discussion of requirements and classification. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information. A determination is to be made at this time by the Planning Board as to whether the proposed subdivision is a minor or major subdivision as defined in these regulations. The Board may require, however, when it deems it necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with some or all of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedures outlined in Article III, § 66A-5, of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article III, § 66A-4, 66A-7 and 66A-8.
- C. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purpose of these regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Planning Board.

§ 66A-5. Approval of minor subdivision.

- A. Application. Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a minor subdivision plot. The plot shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in Article V, § 66A-22A. Failure to comply with any of the above will require a resubmission of the sketch plan to the Planning Board for consideration.
- B. Number of copies. Three (3) copies of the minor subdivision plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a scheduled monthly meeting of the Planning Commission.
- C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the minor subdivision plat.
- D. When officially submitted. The time of submission of the minor subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the application for plat approval, complete and accompanied by the required fee and all data required by Article V, § 66A-99, of these regulations, has been filed with the Secretary of the Planning Board.
- E. Public hearing. A public hearing shall be held by the Planning Commission within thirty (30) days from the time of submission of the minor subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the village at least five (5) days before such hearing.
- F. Action on minor subdivision plat. The Planning Board shall, within forty-five (45) days from the date of the public hearing, approve, modify and approve, or disapprove the minor subdivision plat.

§ 66A-6. Preliminary plat for major subdivision.

- A. Application. Prior to filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Article V, § 66A-23, hereof.
- B. Number of copies. Three (3) copies of the preliminary plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regular monthly meeting of the Planning Board.
- C. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.

- D. Study of the preliminary plat. The Planning Board shall study the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Master Plan, the Official Map and Zoning Regulations.
- E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by all data required by Article V, § 66A-23, of these regulations, has been filed with the Secretary of the Planning Board.
- F. Conditional approval of the preliminary plat.
- (1) Within forty-five (45) days after the time of submission of a preliminary plat, the Planning Board shall take action to conditionally approve, with or without modifications, or disapprove such preliminary plat, and the basis of any modification required or the basis for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such forty-five (45) days shall constitute a conditional approval of the preliminary plat.
 - (2) When granting conditional approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds, therefore which it will require as prerequisite to the approval of the subdivision plat. The action of the Planning Board, plus any conditions attached thereto, shall be noted on the three (3) copies of the preliminary plat. One (1) copy shall be returned to the subdivider, one (1) retained by the Planning Board and one (1) forwarded to the Village Board. Conditional approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval by the Planning Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 66A-7. Plat for mayor subdivision.

- A. Application for approval. The subdivider shall, within six (6) months of the conditional approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank available from the Secretary of the Planning Board. If the final plat is not submitted within six (6) months after the conditional approval of the preliminary plat, the Planning Board may require resubmission of the preliminary and final plats.
- B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Secretary of the Board with a copy of the application and three (3) prints of the plat, the original and one (1) true copy of all offers of cession, covenants and agreements and three (3) prints of all construction drawings at least ten (10) days in advance of the regular monthly Planning Board meeting at which it is to be officially submitted.
- C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article V, § 66A-24, of these regulations, has been filed with the Secretary of the Planning Board.
- D. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the Village Engineer and the State Department of Health. Applications for approval of plans for water and sewer facilities will be filed by the subdivider with all necessary village, county and state agencies. Endorsement and approval by the State Department of Health shall be secured by the subdivider after conditional approval of the subdivision plat by the Planning Board.
- E. Public hearing A public hearing shall be held by the Planning Board within forty-five (45) days after the time of submission of the subdivision plat for approval. This hearing shall be advertised in a newspaper of general circulation in the village at least five (5) days before such hearing
- F. Action on proposed subdivision plat. The Planning Board shall, within forty-five (45) days from the date of the public hearing on the subdivision plat, approve, modify and approve, or disapprove the subdivision plat. However, the- subdivision plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has complied with the provisions of § 66AZ of this Article.
- A. Improvements and performance bond. Before the Planning Board grants final approval of the subdivision plot, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) below:

§ 66A-8. Required improvements.

- (1) In an amount set by the Planning Board, the subdivider shall either file with the Village Clerk a certified check to cover the full costs of the required improvements, or the subdivider shall file with the Village Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 179-o of the Village Law and shall be satisfactory to the Village Board, Village Engineer and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year [or such other period as the Planning Board may determine appropriate, not to exceed three (3) years] shall be set forth in the bond within which required improvements must be completed.
 - (2) The subdivider shall complete all required improvements to the satisfaction of the Village Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Village Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Village Engineer. Any such bond shall be satisfactory to the Village Board, Village Engineer and Village Attorney as to form, sufficiency, manner of execution and surety.
 - (3) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Village Engineer and a map satisfactory to the Planning Board has been submitted indicating the locations of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(2), then said map shall be submitted prior to endorsement of the plot by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection A(1), such bond shall not be released until such a map is submitted.
- B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Village Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Village Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to a waiver or substantial alteration of the function of any improvements required by the Board. The Village Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

- C. Inspection of improvements. At least five (5) days prior to commencing construction of required improvements, the subdivider shall notify the Village Board, in writing, of the time when he proposes to commence construction of such improvements so that the Village Board may arrange for inspections to be made to assure that all village specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities by the Planning Board.
- D. Proper installation of improvements. If the Village Engineer finds, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Village Board, Building Inspector and Planning Board. The Village Board shall then notify the subdivider, and if necessary the bonding company, and take all necessary steps to preserve the village's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 66A-9. Filing of approved subdivision plat.

- A. Final approval and filing. Upon completion of the requirements of §§ 66A-7 and 66AZ above and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Acting Chairman) and may be filed by the applicant in the office of the County Clerk. The applicant shall submit one (1) original linen or tracing cloth copy and as many other copies as needed for filing with the county and state. Any subdivision plat not so filed or recorded within ninety (90) days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension, which shall not exceed two (2) additional periods of ninety (90) days.
- B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 66A-10. Public streets; recreation areas.

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidenced of any acceptance by the village of any street easement or other open space shown on said subdivision plat.

- B. Ownership and maintenance of recreation areas. When a park, playground or other area shall have been shown in a plat, the approval of said plat shall not constitute an acceptance by the village of such area. The Planning Commission shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Village Board covering future deed and title, dedication and provisions for the cost of grading, development, equipment and maintenance of any such recreation area.

ARTICLE IV

General Requirements and Design Standards

§ 66A-11. Adherence to standards required.

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article VI herein.

§ 66A-12. In general

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Conformity to Official Map and Master Plan. Subdivisions shall conform to the Official Map of the village, if any, and shall be in harmony with the Master Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the village specifications listed herein and any other applicable village specifications.

§ 66A-13. Street layout

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform with the Master Plan and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated as to compose a convenient system.
- B. Arrangement The arrangement of streets in the subdivision shall provide for the continuation of the principal street of any adjoining subdivision and for proper projection of the principal street into adjoining properties which are not yet subdivided in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when required later, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the

opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets or streets on an approved subdivision plot for which a bond has been filed.

- C. Minor streets. Minor streets shall be 9 laid out that their use by through traffic will be discouraged.
- D. Special treatment along arterial streets. When a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Provisions for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirement contained in these regulations.
- F. Dead-end streets. The creation of cul-de-sac or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of such streets, where needed or desirable, the Board may require the reservation of a twenty-foot-wide easement to provide the continuation of pedestrian traffic and utilities to the next street.
- G. Block size. Blocks generally shall not be less than six hundred (600) feet nor more than one thousand two hundred (1,200) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic, where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included.
- H. Intersections with collector, major or arterial streets or roads. Minor or secondary street openings into such roads shall, in general, be at least five hundred (500) feet apart.
- I. Street jogs. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be avoided.
- J. Angle of intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins.
- K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be so arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

L. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to such right-of-way at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

§ 66A-14. Street design.

A. [Amended 3-12-1990 by L.L. No. 1, 1990] Width of rights of-way and street pavements. Streets and pavements shall have the following widths. The classification of streets shall be determined by the Board.

	Minimum Right-of-Way		Minimum Pavement Width	
	With Curbs (feet)	With Shoulders (feet)	With Curbs (feet)	With Shoulders and Ditches
Major streets	66	75	38	33 feet with 2 8-foot shoulders
Collector streets	60	70	30	26 feet with 2 6-foot shoulders
Minor streets	50	50	24	20 feet with 2 5-foot shoulders

*NOTE: Major and collector streets shall have four-foot sidewalks on each side where curbs are used.

B. Required street improvements. Not later than one hundred eighty (180) days after the final approval, the subdivider shall have installed or shall have furnished adequate bond or other security for the installation of the required improvements listed and described in this section. All of the required improvements shall be made by the subdivider in full compliance with the specifications for each of the various units of work, as required by the village, county or state authorities, according to the nature of the improvements. The village shall not issue a building permit for erections of structures until these requirements are met.

- (1) Subgrade: All topsoil, muck, quicksand, spongy material and other objectionable material shall be removed from an area on each side of the center line sufficient to provide the required base course for the pavement and shoulder width called for. After it has been properly shaped to the approved profile, the subgrade should be rolled and compacted. Drainage ditches at least eighteen (18) inches below the crown of the finished pavement shall be provided on each side of the road where shoulders are used. Fills shall be properly rolled and compacted. No gravel or stone for the base course is to be placed on the subgrade until the subgrade and drainageways are approved by the Village Engineer.
 - (2) Base course: A full base course shall extend under the required pavement, curbing and/or shoulder width, consisting of not less than twelve (12) inches of gravel, which gravel is approved by the Village Engineer and compacted in layers not exceeding six (6) inches each. [Amended 3-12-1990 by LL No. 1, 1990]
 - (3) Binder course: An asphalt binder course, a minimum of three (3) inches thick for major and collector streets and two and one-half (2/2) inches thick for minor streets and corresponding to the required pavement width, shall be installed as per Section 403 of the New York State Department of Transportation Standard Specifications, 1985 or more current edition.
 - (4) Surface course: A compacted asphalt surface course, a minimum of one and one-half (1/2) inches thick for major and collector streets and one (1) inch thick for minor streets and corresponding to the required pavement width shall be installed as per Section 403 of the New York State Department of Transportation Standard Specifications, 1985 or more current edition. Amended 3-12-1990 by LL No. 1, 1990]
- C. Street drainage. Street and road culverts, headwalls or other necessary appurtenances shall be installed by the developer where necessary. Where there is no natural stream or watercourse for the drainage of surface water from a proposed street or road, the developer shall secure rights-of-way and construct ditches or install storm drains to a natural waterway as the Village Engineer directs. All street storm and sanitary sewers shall be constructed according to grades on the plot submitted at the public hearing. Any changes in grade shall require the approval of the Village Board. Driveway culverts shall be not less than twelve (12) inches in diameter and shall be of corrugated metal or reinforced concrete. Installation is to be approved by the Village Engineer.
- D. Utilities in streets. Water and sewer lines shall be placed in the street right-of-way between the street pavements and the street right-of-way line wherever possible to simplify location and repair of lines when they require attention. Electrical and telephone service, gas mains and other utility installations shall be arranged for by the developer within each subdivision. Consideration shall be given to placing these utilities underground where warranted to increase safety, enhance aesthetic values, improve practicability on curving streets and to reduce maintenance costs and utility failures due to accidents or storm damage.

- E. Grades. Grades of all streets shall conform in general to the terrain and shall not be less than one-half percent (1/2%) nor more than six percent (6%) for major, eight percent (8%) for collector or ten percent (10%) for minor streets in residential areas, but in no case more than three percent (3%) within fifty (50) feet of any intersection.
- (1) All changes in grade shall be connected by vertical curves of such length and radius to meet with the approval of the Village Engineer so that clear visibility shall be provided for a safe distance.
 - (2) A combination of steep grades and curves shall be avoided.
- F. Curves and visibility at intersections.
- (1) All street right-of-way lines at intersections shall be rounded by curves of at least twenty (20) feet radius, and roadway intersections shall be rounded by curves at least twenty-five (25) feet measured from the edge of the improved traveled surface.
 - (2) In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is within a triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at a fifty-foot distance from the point of intersection shall be cleared of all growth (except isolated trees) and obstructions more than three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.
- G. Culs-de-sac. Where cul-de-sac streets are designed to be so permanently, they should, in general, not exceed five hundred (500) feet in length and shall terminate in a circular turnaround having a minimum radius of sixty (60) feet and a pavement radius of fifty (50) feet. At the end of a temporary dead-end street, a temporary turnaround with a pavement radius of fifty (50) feet shall be provided unless the Planning Board approves an alternate arrangement.
- H. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Village Engineer.
- I. Curve radii. In general, street lines within a block deflecting from each other at any one (1) point by more than ten degrees (10°) shall be connected with a curve, the radius of which for the center line of the street shall not be less than four hundred (400) feet on major streets, two hundred (200) feet on collector streets and one hundred (100) feet on minor streets.
- J. Reserve strips discouraged. Reserve strips of land to be used to control access from a proposed subdivision to any neighboring property or to any land within the subdivision itself shall be discouraged, and the Planning Board shall negotiate an equitable arrangement with the adjacent owners, and terms for future access will be arranged.

- K. Free flow of vehicular traffic abutting commercial developments. In front of areas weed and designed for commercial use or where a change to a zone which permits commercial use is contemplated, the street width shall be increased by such an amount on each side as may be deemed necessary by the Planning Board to assure free flow of through traffic without interference by parked cars or parking vehicles and to provide adequate and safe parking space for such commercial and business district.

§ 66A-15. Street names

All names on the preliminary layout or final subdivision plot shall be approved by the Planning Commission. In general, streets shall have names and not numbers or letters. Proposed street names shall be substantially different so as not to be confused in found or spelling with present names, except that streets that join or are in alignment with streets or an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than ninety degrees (90°) without a change in street name.

§ 66A-16. Lots.

- A. Lot size. All lots shall have area and width equal to minimum requirements of the Zoning Regulations,¹ if any, and Local and State Department of Health regulations applying to the district in which they are located; provided however, that no lot shall have a road frontage of less than seventy-five (75) feet nor an average depth, measured perpendicular to the road or to the chord of a curved road, of at least one hundred (100) feet. [Amended 3-12-1990 by L.L. No. 1, 1990]
- B. Side lines. Side lines of lots shall be at right angles to straight street lines and radial to curved street lines unless a variance from this rules will give a better street or lot plan.
- C. Corner lots. In general, corner lots should be larger than interior lots to provide a desirable building site with proper setback from each street. Corner lots should have a frontage of at least one hundred (100) feet on each road. [Amended 3-12-1990 by LL No. 1, 1990]
- D. Driveway access. Driveway grades between the street and setback line shall not exceed seven percent (796).
- E. Access from private streets. Lots on private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.
- F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Village Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Village Engineer may require, and their location shall be shown on the subdivision plot.

§ 66A-17. Drainage improvements.

Adequate storm drainage systems shall be required in all new subdivisions.

¹ Editor's Note: See Ch. 66, Zoning.

- A. Removal of spring and surface water. Any spring or surface water that may exist either previous to or as a result of the subdivision shall be carried away by pipe or open ditch. Such drainage facilities shall be located in the street right-of-way where feasible or in permanent easements of appropriate width.
- B. Drainage structure to accommodate upstream area A culvert, ditch, storm sewer, catch basin, inlet or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside of the subdivision. The Village Engineer shall approve the design and size of facility based on anticipated runoff from a twenty-five-year, six-hour storm from current upstream conditions.
- C. Responsibility for drainage downstream. The subdivider's engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision, and this study shall be reviewed by the Village Engineer. When it is anticipated that the additional runoff incidental to the development of the subdivision will overload an existing downstream drainage facility during a twenty five year, six-hour storm, the Planning Board shall notify the Village Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provisions have been made for the improvement of such condition.
- D. Land subject to flooding Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other use as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plot shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions. All subdividers shall present an individual lot drainage for each lot in their proposed subdivision. Such plan shall be used in the grading of lots before a certificate of occupancy is granted. No roof leaders or footing drains which carry stormwater will be permitted to use sanitary sewer nor a so-called dry well in an area where dominant soil is hardpan but shall be adequately disposed of upon the ground surface.

§ 66A-18. Parks, open spaces and natural features.

A. Recreation areas.

- (1) Where a proposed park, playground or open space shown on the Village Plan is located in whole or in part in the subdivision, the Board shall require that such area or areas be shown on the plot in accordance with the requirements specified above. Such area or areas may be dedicated to the village by the subdivider if the Village Board approves of such dedication. A maximum of ten percent (10%) of the area of the subdivision may be required for dedication for park, playground or other recreation purpose.
- (2) In the instance of a subdivision involving the creation of twenty-five (25) lots or more, the Planning Board shall, and, in the instance of a subdivision of twenty-four

(24) lots or less, the Planning Board may, require up to ten percent (10%) of the land area of such subdivision be reserved and improved for open space recreation areas.

- B. Preservation of natural featured The Planning Board shall, whenever possible, establish the preservation of all natural or historic features which add value to residential development and to the community, such as large trees or groves, watercourses and -falls, vistas, architectural or historic sites and similar irreplaceable assets.

§ 66A-19. Revegetation of disturbed soil areas.

- A. Areas on which vegetation has been destroyed or removed, excluding areas proposed for road surfaces or shoulders, driveways, building sites or parking lots, shall be successfully revegetated or otherwise stabilized with structural measures to minimize the potential for soil erosion as soon as practicable.
- B. Revegetation measures and efforts shall be evaluated by visual inspection which shall include identification and measurement of the actual condition of new healthy vegetation. Such evaluation shall be made not sooner than one hundred eighty (180) days from the date of planting and not later than three hundred sixty (360) days from the date of planting.
- C. Corrective action shall be instituted and completed within the time specified by the enforcement officer upon determination of unsatisfactory compliance with this section. In making any determination required by this section, the enforcement officer shall consider significant rills, gullies, loss of mulch, loss of seed or failure of seed germination as evidence of unsatisfactory compliance.
- D. Construction operations requiring revegetation of an aggregate area larger than twenty thousand (20,000) square feet shall be done in stages. Each stage shall consist of no more than twenty thousand (20,000) square feet of surface area. Each stage shall receive complete treatment for revegetation or mulching as if the stages were individual constructions.
- E. Upon completion of final grading of any area, revegetation operations shall begin within seven (7) days and shall be completed within fifteen (15) days. In the event that more than seven (7) days shall elapse between any consecutive construction operations that materially disturb the soil, such areas shall be adequately mulched or otherwise stabilized with structural measures within seven (7) days of disturbance and shall be completed within fifteen (15) days to minimize potential for soil erosion.

§ 66A-20. Streetlights, trees and signs.

- A. Streetlights shall be arranged for by the subdivider where appropriate, as determined by the Planning Board, and be of the type and at such intervals as specified by the Planning Board.

- B. Street trees are to be provided by the subdivider in untreated areas at a staggered spacing of fifty (50) feet. Retention and preservation of existing trees shall be practiced wherever possible and may satisfy the street tree requirement.
- C. Street signs shall be of the type and in a location satisfactory to the Planning Board.

ARTICLE V
Documents to Be Submitted

§ 66A-21. Sketch plant

The sketch plan initially submitted to the Planning Board shall be based on an accurate base map at a scale of not less than one hundred (100) feet to the inch. The sketch plan shall show the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
- B. All roads, structures, wooded areas, streams, utilities and other physical features within the portion to be subdivided and within one hundred (100) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- C. The name of the owner and all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers, if any.
- E. The proposed pattern of lots (including width and depth), street layouts recreation areas, systems of drainage, sewerage and water supply (see §§ 66A-22 and 66A-23 below) within the subdivided area
- F. All existing restrictions on the use of land, including easements, covenants or zoning lines.

§ 66A-22. Minor subdivision plat.

In the case of minor subdivision only, the subdivision plat application shall include the following information:

- A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- B. An actual field survey of the boundary lines of the tract and all lots within the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Village Engineer and shall be referenced and shown on the plat. Lot corners shall be marked with three-fourths-inch diameter by twenty-four-inch-long steel rods.
- C. All on-site sanitation and water supply facilities, designed to meet the minimum specifications of the State Department of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- D. The proposed subdivision name, name of the village and county in which it is located.

- E. The date, North point, map scale, name and address of the record owner and subdivider.
- F. The plat to be filed with the County Clerk, printed upon linen or tracing cloth.

§ 66A-23. Major subdivision preliminary plat and accompanying data.

The following documents shall be submitted for conditional approval.

- A. Five (5) copies of the preliminary plat prepared at a scale of not more than one hundred (100) feet but preferably not less than fifty (50) feet to the inch, showing
 - (1) The proposed subdivision name, name of the village and county in which it is located, date, true North point, scale, name and address of the record owner, subdivider and engineer or surveyor, including license number and seal.
 - (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent unsubdivided property.
 - (3) The zoning district, including exact boundary lines of the district, if more than one (1) district, and any proposed changes in the zoning district lines and/or the Zoning Ordinance text applicable to the area to be subdivided.
 - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 - (5) The location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.
 - (6) The location of sewers, water mains, culverts and drains on and adjacent to the property, with pipe size, grades and direction of flow.
 - (7) Contours with intervals of five (5) feet or less as required by the Board, including elevations on existing roads, and approximate grading plan if natural contours are to be changed more than two (2) feet.
 - (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan within the area to be subdivided and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
 - (9) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment shall be as provided in the Public Health Law.
 - (10) Storm drainage plans indicating the approximate location and size of proposed lines and their profiles and connection to existing lines or alternate means of disposal.
 - (11) Plans and cross sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavement and subbase, the location of manholes, basins and underground conduits.
 - (12) Preliminary designs of any bridges or culverts which may be required.

- (13) The proposed lot lines with approximate dimensions and area of each lot.
 - (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plot shall show the boundaries of proposed permanent easements over and under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to a public highway or public open space shown on the subdivision or the Official Map.
 - (15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed surveyor. The tract corners shall also be located on the ground and marked by substantial monuments of such size and type as are approved by the Village Engineer and shall be referenced and shown on the plot.
- B. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale not less than four hundred (400) feet to the inch, showing an outline of the platted area and its proposed streets and indication of the future street system with its grades and drainage in the remaining portion of the tract and the probable-future drainage layout of the entire tract, shall be submitted. The part of the subdividers entire holding submitted shall be considered in the light of entire holdings.
- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

§ 66A-24. Major subdivision final plat and accompanying data

The following documents shall be submitted for plat approval:

- A. The plat to be filed with the County Clerk shall be printed upon linen or tracing cloth. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the North point at the top of the map. When more than one (1) sheet is required, a key map or an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show:
- (1) The proposed subdivision name or identifying title and the name of the village and county in which the subdivision is located, the name and address of the record owner and subdivider, the name, license and the seal of the licensed land surveyor.
 - (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
 - (3) Sufficient data acceptable to the Village Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.

- (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and bearings of the lines of each lot shall also be given. All dimensions shall be shown in feet and inches. The plat shall show the boundaries of the property, location, graphic scale and true North point.
 - (5) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which are reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be used and maintained and the provisions made therefore
 - (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
 - (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing village practice.
 - (8) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of the Village Engineer. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Village Engineer and their location noted and referenced on the plat.
 - (9) All lot corner markers shall be at least three fourths (3/4) inches (if metal) in diameter and at least twenty-four (24) inches in length and permanently located in the ground to existing grade in a manner satisfactory to the Village Engineer.
 - (10) Monuments of a type approved by the Village Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curves and such intermediate points as shall be required by the Village Engineer.
- B. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of street, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbases, manholes, catch basins and other facilities.

ARTICLE VI

Severability

§ 66A-25. Severability.

Should any section or provision of the regulations contained herein, or as amended, hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE VII**Variances and Waivers****[Added 3-12-1990 by L.L. No. 1, 1990]****§ 66A-26. Zoning Board of Appeals action.**

Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Ordinance.¹

§ 66A-27. Planning Board action.

Where the Planning Board finds that, due to the special circumstances of a particular plot, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the Imposed subdivision, it may waive such requirements subject to appropriate conditions.

§ 66A-28. New community, planned neighborhood or cluster development.

The standards and requirements of these regulations may be modified by the Board in the case of a plan and program for a complete new community, planned neighborhood or cluster development which, in the judgement of the Board, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

§ 66A-29. Requirements for granting.

In granting variances and waivers, the Zoning Board of Appeals and the Planning Board, as the case may be, shall require such conditions as will, in their judgment, secure substantially the objectives of the standards or requirements so varied or modified.

ARTICLE VIII**When Effective****§ 66A-30. When effective.**

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

Chapter 67

(RESERVED)

6701 - 6799

ZONING BOARD OF APPEALS

Chapter 68

ZONING BOARD OF APPEALS: ESTABLISHMENT AND PROCEDURAL RULES

Local Law

No. 2

1984

A LOCAL LAW AMENDING THE PROCEDURAL RULES OF THE ZONING
BOARD OF APPEALS OF THE VILLAGE OF MALONE, NEW YORK

- § 68-1. Continuation of existing Board.
- § 68-2. Legislative provisions governing Board.
- § 68-3. Definitions.
- § 68-4. Purpose and aims of Board.
- § 68-5. Organization.
- § 68-6. Officers.
- § 68-7. Chairman.
- § 68-8. Deputy Chairman.
- § 68-9. Secretary.
- § 68-10. Attorney.
- § 68-11. Meetings.
- § 68-12. Quorum.
- § 68-13. Attendance at public hearing before voting.
- § 68-14. Method of voting and deciding matters.
- § 68-15. Time limit for decisions; form.
- § 68-16. Authority of Board to hear appeals.
- § 68-17. Power to grant variances.
- § 68-18. Filing of appeals.
- § 68-19. Effect of appeals.
- § 68-20. Record on appeal required.
- § 68-21. Contents of record on appeal.
- § 68-22. Waivers and modifications authorized.
- § 68-23. Additional information after public hearing.
- § 68-24. Fees.
- § 68-25. Notice of hearing.
- § 68-26. Rehearings.
- § 68-27. Severability.
- § 68-28. When effective.

[HISTORY: Adopted Malone Village Board 2-6-84 as Local Law No. 2, 1984.¹
Amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch. 66.

§ 68-1. Continuation of existing Board.

There is hereby continued in the Village of Malone, New York, a Zoning Board of Appeals of the Village of Malone, New York, pursuant to the authority conferred upon the Village of Malone by § 7-712 of the Village Law of the State of New York and all laws amendatory thereof and supplementary thereto.

§ 68-2. Legislative provisions governing Board.

The Zoning Board of Appeals of the Village of Malone, New York, shall be governed by the provisions of all state statutes, local laws and these rules.

§ 68-3. Definitions.

For the purposes of this chapter, the following terms shall have the meaning indicated:

BOARD-The duly appointed Zoning Board of Appeals of the Village of Malone, New York.

BOARD OF TRUSTEES-The duly elected Board of Trustees of the Village of Malone, New York.

BUILDING INSPECTOR-The duly appointed Building Inspector of the Village of Malone, New York.

CODE-The Code of the Village of Malone, New York.

VILLAGE-The Village of Malone, New York.

§ 68-4. Purpose and aims of Board.

The Board is appointed by the Board of Trustees of the village and seeks to serve all the people of the village. The members serve without compensation. In that spirit, they will be happy at any meeting, time permitting, to discuss informally such questions relating to zoning as may be of interest to any village resident. The Board will extend every possible courtesy to those appearing before it and will, of course, demand the same treatment, not alone for itself and its members, but for others having occasion to be heard.

§ 68-5. Organization.

A. The Board shall consist of five (5) members, each of whom shall be appointed by the Board of Trustees. Each member so appointed shall serve for a term of five (5) years, and the said terms shall expire at the end of the last day of the of facial village year.

¹ Editor's Note: This local law also repealed former Ch. 68. Zoning Board of Appeals Procedural Rules, adopted 4-26-76 as L.L. No. 2, 1976.

Those three (3) members of the existing Board who remain in office as of the effective date of this chapter shall continue in office through the expiration of the terms to which they were appointed. Thereafter, the terms of their successors shall expire in accordance with the provisions of this chapter. In the event that any member of the existing Board shall resign, die or be removed from office prior to the expiration of his term, a successor shall be appointed only for a period running through the end of the last day of the official village year in which the unexpired term would normally have expired.

- B. One (1) of the two (2) new members shall be appointed for a term ending at the end of the last day of the official village year in 1987 and the other for a term ending at the end of the last day of the official village year in 1988. Thereafter, the terms of their successors shall expire in accordance with the provisions of this chapter.
- C. The Board of Trustees shall have the power to remove any member of the Board for good cause shown after a public hearing. Vacancies shall be filled by the Board of Trustees for the unexpired term of a member whose seat has been vacated for any reason.
- D. None of the members of the Board shall be members of the Board of Trustees or hold any elective office in and for the village.
- E. The Board of Trustees shall also appoint two (2) alternate members of the Board. One (1) such alternate shall serve as an acting member of the Board at any time when the Board is reduced in number for any reason. Insofar as it is practical, the alternate members should rotate assignments as acting members of the Board. The alternate members of the Board shall serve terms of five (5) years, which terms shall expire at the end of the last day of the official village year.

§ 68-6. Officers.

The officers of the Board shall consist of a Chairman, Deputy Chairman and Secretary. The officers shall be designated by the Board of Trustees annually and shall serve for a term of one (1) year.

§ 68-7. Chairman.

The Chairman shall perform all of the duties required by statute, local law or the rules of the Board and shall preside at all of the meetings of the Board. The Chairman may appoint any committees necessary to carry out the business of the Board and may administer oaths and compel the attendance of any witness necessary to carry out the business of the Board. The signature of the Chairman shall be the official signature of the Board.

§ 68-8. Deputy Chairman.

The Deputy Chairman shall serve in the absence of the Chairman. He shall also have all of the powers and responsibilities of the Chairman during the absence, disability or disqualification of the Chairman.

§ 68-9. Secretary.

The Secretary shall keep minutes of all of the meetings and proceedings of the Board, keep a record of those members of the Board present at each meeting and their votes upon any matter and shall keep minutes of all examinations of any witness appearing before the Board.

§ 68-10. Attorney.

The Village Attorney shall be the attorney for the Board. He shall render such professional services and advice as the Board may require. In the event that the Village Attorney shall disqualify himself in any proceeding before the Board for any reason, the Chairman may, at the request of the Board, so report to the Board of Trustees and request the services and advice of another attorney in such proceeding.

§ 68-11. Meetings.

- A. All meetings of the Board shall be open to the public and shall be held on the dates and at the times and places designated by the Chairman or on such other dates and at such other times and places as the Board may decide by majority decision.
- B. The Board shall, insofar as it shall not be inconsistent with this chapter or statute, determine its own rules and procedure, and ad of its deliberations, resolutions and orders shall be in accordance therewith.

§ 12. Quorum.

No hearing or meeting shall be held, nor any action taken, in the absence of a quorum. A quorum shall consist of a majority of the entire membership of the Board. However, those members of the Board present at any meeting of the Board attended by less than a quorum may request the Chairman to call a meeting on a subsequent date. All subsequent proceedings shall be readvertised in accordance with the requirements of applicable law.

§ 68-13. Attendance at public hearing before voting.

No member of the Board shall vote on the determination of any matter requiring a public hearing unless he shall have attended the public hearing.

§ 68-14. Method of voting and deciding matters.

- A. All matters shall be decided by a roll call vote. The concurring vote of a majority of the entire membership of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of Chapter 66 of the Code; to decide in favor of the applicant on any matter upon which it is required to pass under Chapter 66 of the Code or this chapter; or decide any other matter. A tie vote shall mean the rejection or denial of the appeal or application under consideration.

- B. Every order, requirement, decision or determination of the Board shall be filed in the office of the village, which shall be the office of the Board, and shall be a public record. The date of the filing of each decision shall be entered in the official records and minutes of the Board.

§ 68-15. Time limit for decisions; form.

Decisions of the Board shall be made not later than sixty-two (62) days from the date of the final hearing. The final decision on any matter before the Board shall be made in a written order signed by the Chairman. Such decision shall state the findings of fact which were the basis for the Board's determination. The decision shall also state any conditions and safeguards necessary to protect the public interest.

§ 68-16. Authority of Board to hear appeals.

- A. The Board shall hear and decide appeals from and shall review any order, requirement, decision, determination or opinion made by the Building Inspector or any other administrative official charged with the enforcement of the regulations established by Chapter 66 of the Code. The Board shall also hear and decide all matters referred to it or upon which it is required to pass under any statute or Chapter 66 of the Code.
- B. Such an appeal may be taken by any person aggrieved or by his agent or by any of his, department, board or bureau of the village.

§ 68-17 Power to grant variances.

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the provisions of Chapter 66 of the Code, the Board shall have the power, in passing upon appeals to it, to vary or modify the provisions of Chapter 66 relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of Chapter 66 shall be observed, public safety and welfare secured and substantial justice done by granting:
- (1) An area variance, where practical difficulty or unnecessary hardship is involved with regard to frontage, setback, lot size, density and yard requirement; or
 - (2) A use variance, where practical difficulty or unnecessary hardship have been proven to show that:
 - (a) The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
 - (b) The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood.
 - (c) The use to be authorized by the variance will not alter the essential character of the locality.

- (3) An area variance or use variance, as required, where the property of the applicant lies across the boundary of two (2) districts. in order to allow the applicants property to be used for any permitted use or any use permitted by special exception in either district so long as the less restrictive use does not extend into the more restricted district, more than a reasonable distance but generally not to exceed fifty (50) feet. [Added 12-15-86 by L.L. No.4,1986]
- B. In granting a variance pursuant to this section, the Board may attach such conditions to the variance as it in its judgment deems appropriate. When the Board attaches such conditions upon the granting of a variance, it shall direct that the Building Inspector monitor the adherence to such conditions and report any violations to the Board and to the Board of Trustees immediately. The said Building Inspector shall file with the Board an annual report on adherence to such conditions throughout the village.
- C. [Amended 12-15-86 by L. L No.4,1986] Special exceptions. When in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be injured thereby. the Board may in any specific case. after due notice and public hearing and subject to appropriate conditions and safeguards, determine and value the application of the regulations of Chapter 66; in harmony with its general purposes and intent, as follows:
- (1) To permit public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety or general welfare;
 - (2) To grant a permit whenever it is provided in Chapter 66 that the approval of the Board of Appeals is required; or

§ 68-18. Filing of appeals.

An appeal shall be taken within thirty (30) days of the action of the Building Inspector or other administrative official being appealed from. Any appeal not so taken shall not be entertained by the Board. An appeal shall be taken by filing with the Building Inspector or other administrative official a notice of appeal. Said notice of appeal shall identify the action of the Building Inspector or administrative official appealed from, the date of that action, and the grounds upon which the appeal is based. The Building Inspector or other administrative official Tom whom the appeal is taken shad forthwith transmit to the Chairman of the Board, through the Clerk of the Village, all of the papers constituting the record upon which the action appealed from was taken.

§ 68-19. Effect of appeals.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record upon application, on notice to the officer from whom the appeal is taken and on due cause shown.

§ 68-20. Record on appeal required.

There shall be furnished to the Chairman of the Board six (6) copies of a record on appeal, containing the required information and data, at least ten (10) days prior to the scheduled hearing upon such appeal. No appeal shall be heard unless a record on appeal is so furnished to the Chairman. If no record on appeal is so furnished within the time prescribed herein, the appeal shall be denied, subject to renewal upon supplying a sufficient record on appeal to the Chairman, or adjourned at the discretion of the Board. Upon receipt thereof, the Chairman shall distribute the record upon appeal to the members of the Board and to the Village Attorney.

§ 68-21. Contents of record on appeal.

The record on appeal shall consist of the following material in regard to the following matters:

- A. Appeals regarding any yard, court or area requirement of Chapter 66.
- (1) A copy of the letter, opinion, decision, requirement or ruling appealed from.
 - (2) A written executed petition stating in detail all of the pertinent facts relating to the appeal, including the date of construction of any building located on the subject property, and stating the grounds for the appeal.
 - (3) A plot plan, survey or diagram of the subject premises, accurately showing the dimensions of all actual or proposed structures on the subject premises, the distance of all actual or proposed side yards, rear yards, front yards, courts, driveways, abutting streets and, except for appeals involving court areas or locations, the distance from the side and rear lot lines to existing structures, if any, on adjoining properties closer than three hundred (300) feet to said lot lines. If such an appeal is based upon practical difficulties arising out of topographical conditions, such as differences in elevation, streams or outcropping of rocks or the like, the plot plan or survey should sufficiently indicate the nature and event of such conditions.
 - (4) Petitions for waiver and/or modifications of the above requirements may be submitted along with the application for review.
- B. Appeals regarding any use requirements of Chapter 66.
- (1) A copy of the letter, opinion, decision or requirement appealed from.
 - (2) A written executed petition stating in detail all the pertinent facts relating to the appeal, including the date of acquisition of the subject property by the appellant or his principal, and stating the grounds therefore
 - (3) A diagram identifying the property upon which the use will be located and the types and number of uses, if any, within a radius of one thousand (1,000) feet of proposed use.
 - (4) Petitions for waiver and/or modification of the above requirements may be submitted along with the application for review.
- C. Applications not covered by Subsections A or B of this section.
- (1) A copy of the letter, opinion, decision, requirement or ruling appealed from, if any.

- (2) A written executed petition stating in detail all pertinent facts relating to the appeal or application and the grounds or reasons for the appeal.
 - (3) Any other information or data that the Board may reasonably require after the public hearing.
 - (4) Petitions for waiver and/or modification of the above requirements may be submitted along with the application for review.
- D. Any record on appeal may be supplemented by a memorandum of law or any other information or data the applicant feels may support or explain the appeal.

§ 68-22. Waivers and modifications authorized.

The Board, upon good cause shown, may waive or modify the requirements of §§ 68-18, 68-20 and 68-21.

§ 68-23. Additional information after public hearing.

The Board may require any additional information it deems necessary to act upon any appeal or application after the public hearing thereon.

§ 68-24. Fees.

A filing fee of fifty dollars (\$50.) shall be deposited with the Village Clerk at the time of the filing of the notice of appeal or application for a use variance. A filing fee of twenty-five dollars (\$25.) shall be deposited with the Village Clerk at the time of the filing of the notice of appeal or application for any other variance or relief. If any appeal is denied, subject to renewal upon the filing with the Chairman of a sufficient record on appeal, an additional sum of fifty dollars (\$50.) for a use variance and twenty-five dollars (\$25.) for any other variance or relief shall be deposited with the Village Clerk before such appeal shall be scheduled for a rehearing.

§ 68-25. Notice of hearing.

The Board shall give notice of hearing by mailing a written notice thereof to the applicant or to his attorney by regular mail, and by publishing such notice twice in the official newspaper of the village. Additionally, such notice shall be mailed to all such property owners whose premises adjoin those of the appellant and such other property owners as the Board in its discretion deems advisable. The notice of hearing shall state the location of the building or property involved, the date, time and place of the hearing and the nature of the relief sought. Such notice shall be mailed and first publication take place at least ten (10) days prior to the scheduled hearing date.

§ 68-26. Rehearings.

- A. Upon a motion initiated by any member of the Board and adopted by unanimous vote of the members present, but not less than a majority of the entire membership of the Board, the Board shall review at a rehearing any order, decision or determination of the Board not previously reviewed. Notice shall be given as upon an original hearing. Upon such rehearing, and provided that it shall appear that no vested rights due to reliance on the original order, decision or determination will be prejudiced thereby, the Board may, upon the concurrence of all the members present, reverse, modify or annul its original order, decision or determination.
- B. An application for a rehearing may be made in the same manner as that provided for the original appeal. The application for a rehearing may be denied by the Board if, from the record, it shall appear that there has been no substantial change in facts, evidence or conditions.

§ 68-27. Severability.

If any section of this chapter or any part of a section or paragraph of this chapter is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this chapter.

§ 68-28. When effective.

This chapter shall take effect immediately.

PLANNING BOARD

Chapter 69

PLANNING BOARD

LOCAL LAW

NO. 3

1987

A LOCAL LAW KNOWN AS "CHAPTER 69, PLANNING BOARD"

- § 69-1. Policy.**
- § 69-2. Creation; membership.**
- § 69-3. Chairperson.**
- § 69-4. Staff; expenses.**
- § 69-5. Powers and duties**
- § 69-6. Transitional provision**
- § 69-7. Certificate of authorization.**
- § 69-8. (Reserved)**
- § 69-9. Severability.**
- § 69-10. Repealer.**
- § 69-11. When effective.**

**[HISTORY: Adopted Malone Village Board 7-27-87 as Local Law No. 3, 1987.
Amendments noted where applicable.]**

GENERAL REFERENCES

Zoning - See Ch. 66.

§ 69-1. Policy.

It is the policy of the Village of Malone to provide for a Planning Board with the scope and authority to adequately protect and provide for the reasonable development of all tracts of land within the Village of Malone in an orderly, efficient and economic manner, and one consistent with the village's ability to provide for essential services to all village residents. The Village Board has determined that the most efficacious means to accomplish this policy is through the appointment of a Village Planning Board, in accordance with Article 7 of the Village Law of the State of New York.

§ 69-2. Creation; membership.

The Village of Malone Planning Board is hereby created in accordance with the provisions of Village Law, Article 7. Such Board shall consist of five (6) members, to be appointed by the Board of Trustees in accordance with aforesaid statute; provided, however, that each member must be a resident of the Village of Malone.

§ 69-3. Chairperson.

The Village Board shall have the right to designate and appoint the Chairperson of the Planning Board at its regular annual meeting. Upon failure of the Village Board to appoint a Chairperson, the members of the Planning Board are to elect a Chairperson.

§ 69-4. Staff; expenses.

The Planning Board shall have the power and authority to employ its own clerk, attorney, staff and other experts, as necessary, and to pay for their services and such other expenses as may be necessary and proper, but not to exceed the annual appropriation made to the Planning Board by the Village Board of the Village of Malone. In this connection, the Village Board hereby grants to the Planning Board an appropriation of six thousand five hundred dollars (\$6,500.) for the balance of the current village fiscal year and shall include an allocation for future expenses in ensuing annual budgets.

§ 69-5. Powers and duties

The Planning Board shall have and exercise the powers and duties as follows:

- A. To prepare and change a Master Plan for the development of the entire area of the Village of Malone, to make investigations and reports relating to the planning of the village and its future growth and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.
- B. To review, approve or disapprove all plats showing lots, blocks or sites, with or without streets or highways, within the Village of Malone.
- C. To review, approve or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the County Clerk's office.
- D. To review, approve or disapprove the laying out of, closing off of or abandonment of such streets, highways or public areas under and subject to the provisions of the Village or Highway Laws.
- E. Simultaneously with the approval of any such plot, to confirm and make changes in the zoning regulations applicable to the land included in any such plot, in accordance with the provisions of § 7-738 of the Village Law and amendments thereto.
- F. Notwithstanding any provision of the Village Code to the contrary, to approve or reject any sign applications pursuant to the standards established in Chapter 66 of the Village of Malone Code.
- G. All other powers conferred upon it by the provisions of the Village Law and shall pass upon all matters which may be referred to it from time to time by resolution of the Board of Trustees. It shall conduct hearings and perform its duties in accordance with such procedure as provided in §§ 7-724 through 7-736 of the Village Law, and acts amendatory thereof.
- H. To adopt, after public hearing by the Planning Board and approval of the Board of Trustees, subdivision rules and regulations.

- I. To review and approve or disapprove site plans as required by the Village Zoning Ordinances¹ and perform such other duties required by the Board by such ordinance.²

§ 69-6. Transitional provision.

All matters presently pending before the former Village Planning Commission and not fully and finally determined by final order are hereby transferred to the Planning Board, in accordance with this local law.

§ 69-7. Certificate of authorization.

The Village Clerk of the Village of Malone shall file with the Clerk of the County of Franklin a certificate, certifying that the Planning Board of the Village of Malone has been authorized to approve plate showing new streets or highways in accordance with the provisions of § 7-732, as amended, of the Village Law.

§ 69-9. Severability.

If any provision of this local law shall be held unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this local law or the application of any provision to any other person or circumstances.

§ 69-10. Repealer.

All ordinances or local laws of said Village of Malone, or parts thereof, which in any manner conflict with the terms and provisions of this local law are hereby repealed.

§ 69-11. When effective.

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

¹ Editor's Note: See CH. 66, Zoning.

² Editor's note: Former Subsection J, which immediately followed this subsection and dealt with authority to determine applications, was repealed 7-24-89 by L.L. No. 3, 1989.

³ Editor's Note: Former § 69-8, Special exceptions, was repealed 7-24-89 by L.L. No. 2, 1989.

INOPERABLE & JUNK VEHICLES

Chapter 70

INOPERABLE, UNREGISTERED AND JUNK VEHICLES

Local Law

No. 5

1990

A LOCAL LAW ENACTING CHAPTER 70 OF THE VILLAGE OF MALONE CODE, ENTITLED "VILLAGE OF MALONE INOPERABLE, UNREGISTERED AND JUNK VEHICLE LOCAL LAW"

§ 70-1. Title.

§ 70-2. Word usage; definitions.

§ 70-3. Open storage; storage on public property.

§ 70-4. Notice of violation; inspection and determination; appeals.

§ 70-5. Permit for open storage, fee and application; license for inspection and removal.

§ 70-6. Permit for restoration of antique or classic vehicles; fee.

§ 70-7. Penalties for offenses.

§ 70-8. When effective.

[HISTORY: Adopted Malone Village Board 5-25-1990 as Local Law No. 5, 1990. Amendments noted where applicable.]

GENERAL REFERENCES

Junk dealers - See Ch. 31.

Vehicle and traffic - See Ch 59.

§ 70-1. Title.

This local law may be known and cited as the "Village of Malone Inoperable, Unregistered and Junk Vehicle Local Law."

§ 70-2. Word usage; definitions.

A. Except where specifically defined herein, all words used in this local law shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural when used herein. The term "shall" is always mandatory.

B. As used in this local law, the following terms shall have the meanings indicated

ANTIQUE MOTOR VEHICLE-A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year, which has been maintained in or restored to or will be maintained in or motored to a condition which is substantially in conformance with the manufacturer's specifications.

CLASSIC MOTOR VEHICLE-A motor vehicle, but not a reproduction thereof, manufactured more than ten (10) years prior to the current year and which, because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

COMMERCIAL GARAGE-Any business repairing motor vehicles or any part thereof

ENFORCEMENT OFFICER-The person appointed by the Village Board, or his designated deputy, to perform the duties herein conferred on the Enforcement Officer.

GASOLINE STATION-A building or land that is used for the sale of motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

INOPERABLE, UNREGISTERED OR JUNK VEHICLES-Any vehicle propelled or drawn by power other than muscular power; any motor vehicle, whether automobile, bus, trailer, truck, mobile home, motorcycle, motor bicycle, minicycle or any other contraption originally intended for travel on the public highways, which is abandoned, stored, left or located by its owner or any other person or is permitted or condoned to be abandoned, stored, left or located by its owner or any other person on public or private premises in the Village of Malone, which vehicle:

- (1) Is not registered by the State of New York for operation on public highways and which has not been registered during the preceding six (6) months.
- (2) Is not currently registered and not in a condition for legal use on the public highways (a vehicle which is in a condition to pass the requirements for the New York State motor vehicle inspection sticker shall be deemed in a condition for legal use on public highways).
- (3) Is no longer intended to be used on the public highways, the condition of the vehicle and circumstances surrounding its storage or abandonment being admissible for purposes of determining such intent.
- (4) Is being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some or all of the materials therein or for the purpose of disposing of the same.

JUNKYARD-Land or building used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, wrecking, dismantling, storage, salvaging or sale of vehicles or machinery parts.

OPEN STORAGE- Storage other than in an enclosed structure such as a garage.

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

REPAIR SETTLEMENT- Determination by whatever means, including settlement of a claim, arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

VILLAGE-Includes all areas within the Village of Malone, both publicly and privately owned.

WRECKER-Any business operating a vehicle for towing or hauling other motor vehicles.

§ 70-3. Open storage; storage on public property.

Open storage of one (1) or more inoperable, unregistered or junk vehicles shall not be permitted on private or public property within the Village of Malone, except as permitted in junkyards and by this local law, and no unlicensed motor vehicle shall be parked or stored or allowed to be parked or stored by the owner thereof or by any other person on public property.

§ 70-4. Notice of violation; inspection and determination; appeals.

A. The Code Enforcement Officer shall give written notice, by personal service or by registered or certified mail, on the owner of the inoperable, unregistered or junk vehicle or on the owner or tenant of any property on which the vehicle is openly stored. Such notice shall direct the person so served, regardless of the ownership of the vehicle, if the property owner or tenant is served, to terminate the open storage of such vehicle in the village within

- (1) Ten (10) days of personal service; or
- (2) Thirteen (13) days of the date of mailing where service is by registered or certified mail.

B. The notice shall state that if the person served contends that said vehicle is not inoperable, unregistered or a junk vehicle, as herein defined, that he shall notify the Code Enforcement Officer in writing of such contention within:

- (1) Ten (10) days of personal service; or
- (2) Thirteen (13) days of the date of mailing where service is by certified or registered mail.

C. The person served shall allow a representative of the village to inspect such vehicle with the person served or a representative of the person served within five (5) days of such notification. Within five (5) days after such inspection, the Village of Malone shall inform the person served of its findings, in writing, by personal service or by certified or registered mail. If the findings are that one (1) or more of the vehicles specified in the original notice are being stored by the person served with the original notice, said person shall terminate open storage of said vehicle within the Village of Malone within:

- C. If the applicant is the owner or tenant in possession of the property where the vehicle to be restored is stored, the applicant shall give the village and its designees a license to enter such premises for the purpose of inspection and removal of the vehicle from the premises following the expiration of the permit, if at such time said vehicle is an inoperable, unregistered or junk vehicle as herein defined.
- D. If the applicant is not the owner or tenant in possession of such premises, the application shall include a license from the owner or tenant in possession of said premises to permit such inspection and removal.
- E. Such licenses shall also state that the Village of Malone shall have the right to make such inspection and removal from any other premises owned by the applicant or the licensee to which such vehicle may be moved within the Village of Malone. Such license shall state that it is irrevocable for a period of ninety (90) days from the expiration of the permit.
- F. A separate permit shall be required for each separate vehicle to be restored. In no event shall more than two (2) compliance permits be issued for a given property at any one (1) time.
- G. No permit shall be issued after the original notice, as provided in § 70-4, has been personally served or mailed by registered or certified mail, unless the applicant supplies the Enforcement Officer with an affidavit stating that he had no knowledge of the Village of Malone Inoperable, Unregistered or Junk Vehicle Local Law.
- H. Inspection after the permit period has expired shall be at a time specified in a notice of inspection or not less than three (3) days' notice, either personally or by mail.
- I. The applicant may participate in the inspection. The procedure outlined in § 704 for the service of the determination, time for removal following such service and for stays on appeal shall apply to expired permit proceedings.

§ 70-6. Permit for restoration of antique or classic vehicles; fee.

- A. Upon written application, the Village of Malone Enforcement Officer may issue a permit for the restoration of an antique or classic vehicle, as defined by this local law. The permit shall be issued for a period not to exceed twelve (12) months and may be extended for an additional period of three (3) months, upon a satisfactory showing that the vehicle restoration will be completed with the additional three month extension period. There shall be no fee for the permit or the extension.
- B. The application for a restoration permit shall be on forms furnished by the Village of Malone and shall state:
 - (1) The name, address and telephone number of the applicant. The applicant shall be the owner of the vehicle.
 - (2) The name, address and telephone number of the owner or tenant of the property where the inoperable, unregistered or junk vehicle is stored. If the owner of the vehicle is not the owner or tenant of the property where the vehicle is stored,

- (1) Five (5) days of personal service of such findings; or
 - (2) Eight (8) days of mailing where service of such findings is by registered or certified mail.
- D. If the person so served institutes a proceeding under Article 78 of the Civil Practice Law and Rules to set aside said determination, such termination of storage shall not be required pending a decision of the proceeding. If the court's decision upholds the Village of Malone's determination, open storage of the vehicle within the village shall be terminated within five (5) days following service of notice of the entry of the court order or, if an appeal is taken and a stay of execution is granted, within five (5) days of the expiration of the stay of execution.

§ 70-5. Permit for open storage, fee and application; license for inspection and removal.

- A. Upon written application, the Village of Malone Code Enforcement Officer may issue a permit for the open storage of an inoperable, unregistered or junk vehicle, as defined by this local law, pending the making of such repairs as are - necessary to place said vehicle in a condition for legal operation for use on a public highway. The applicant must agree, in writing, that if said repairs have not been made by the end of the permit period that the applicant will terminate open storage of the vehicle within the Village of Malone. This application must be accompanied by a fee of five dollars (\$5.) Permits shall be issued for a period not to exceed six (6) months.
- B. The application must include:
- (1) The name, address and telephone number of the applicant. The applicant shall be the owner of the vehicle.
 - (2) The name, address and telephone number of the owner or tenant of the property where the vehicle is stored. If the owner of the vehicle is not the owner or tenant of the property where the vehicle is stored, written permission from the owner or tenant of the property must accompany this application to allow storage of the vehicle during the permit period.
 - (3) The make, model, year of manufacture, serial number, type (pickup truck, four-door sedan, etc.) and color of the vehicle.
 - (4) The most recent year of registration, state of registration, plate number and registration number.
 - (5) The expiration date of the most recent state inspection and serial number of the inspection sticker.
 - (6) A full description of the repairs to be made on the vehicle so that it will comply with this local law.
 - (7) The name of the person who will make the repairs.
 - (8) The place where the vehicle is presently stored.
 - (9) The place where the repairs will be made.
 - (10) Certification that the owner intends to bring said vehicle into compliance within six (6) months.

written permission from the owner or tenant of the property must accompany this application to allow storage of the vehicle during the permit period.

- (3) The make, model, year of manufacture, serial number, type (pickup truck, four-door sedan, etc.) and color of the vehicle.
 - (4) The most recent year of registration, state of registration, plate number and registration number.
 - (5) The expiration date of the most recent state inspection and serial number of the inspection sticker.
 - (6) The name of the person who will make the repairs.
 - (7) The place where the vehicle is presently stored.
 - (8) The place where the repairs will be made.
 - (9) Certification that the owner intends to restore said vehicle within twelve (12) months from the date of the application.
- C. In the case of an application to restore a classic motor vehicle, the applicant must establish, by satisfactory evidence, that his vehicle complies with the definition in § 70-2.

§ 70-7. Penalties for offenses.

A violation of this local law shall be punishable by a fine of up to two hundred fifty dollars (\$250.) per violation or by imprisonment for up to fifteen (15) days, or by both. A violation of this local law shall also subject the violator to a civil penalty of the greater of one hundred dollars (\$100.) per separate violation or the village's cost of inspection, service of notices, removal, towing and permanently disposing of such vehicles, less any criminal monetary fine which may have been imposed. Each inoperable, unregistered or junk vehicle stored in violation of this local law shall constitute a separate violation. Each week that such separate violation shall continue or be carried on shall constitute an additional separate violation.

§ 70-8. When effective

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

Index

The index is a guide to information. Index references are made to particular code sections, to enable users to locate specific subjects.

Other aids for locating ordinances and ordinance sections are as follows:

- A. Table of contents. The listing of chapters details the arrangement of material alphabetically by subject as a means of identifying specific areas of legislation.
- B. Scheme. The scheme, which precedes the text of each chapter, is a listing of the section titles. For ease and precision of reference, the titles are repeated as section headings in the text.
- C. Cross-references. A system of cross-references has been provided whereby the user is directed to other areas of related or similar interest.

Accessory uses

Business Districts, §§ 66-280, 66-34A
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, §§ 66-10H,
66-16A, 66-20A
Zoning, §5 G6-IOH, 66-16A, 66-20A,
66-280, 66-34A, 66-39A

Adults curfew, §§ 16-2, 16-4

Alarms; fire prevention, § 22-6

Alterations

Nonconforming uses, § 66-66
Streets and sidewalks, § 47-18

Amendments

Board of Trustees, §§ 66-70 - 66-74
Chief of Police, App. Pt. II § 16
Grievances, App. Pt. I § 6
Petition, § 66-73
Planning Board, §§ 66-70, 66-71
Protests, § 66-74
Public hearing, §§ 66-71, 66-72
Zoning, §§ 66-70 - 66-74

Analyses, see Tests, *infra*

Animals

At large, § 4-1
Calves, § 4-5
Dogs, § 4-3
Impounding, § 4-2
Police Department, App. Pt. II § 24
Swine, § 4-4
Violations and penalties, §§ 4-1, 4-3 -
4-6
See also Horses, *infra*

Appeals

Board of Appeals, § 66-76
Grievances, App. Pt. I § 5
“Area, building” defined, § 66-3

Arrests

Curfew § 16-6
Police Department, App. Pt. II § 48

Arson inspection, App. Pt. II § 40

Auctioneers

Bidding, § 5-11
Board of Trustees, § 5-2
Bond, § 5-3
Chief of Police, § 5-5
Effective date, § 5-19
Executions, § 5-14
Fees, § 5-2
Labeling, § 5-12
License application, § 5-2
Licenses, § 5-2
Mayor, §§ 5-2, 5-3, 5-6, 5-7
Misrepresentation, §§ 5-9, 5-10
Nighttime sales § 5-8
Records, §§ 5-4, 5-6
Restrictions, § 5-1
Sale limitations, § 5-6
Time limit, § 5-7
Validity, § 5-18
Village Clerk, § 5-2
Village Treasurer, § 5-2
Violations and penalties, § 5-13
Auto mufflers, § 39-11

Banks

Business Districts, §§ 66-28D, 66-34D
Industrial District, g 66-39A
Zoning, §§ 66-28D, 66-34D 66-39A

Barber shops

Applicability, § 7-6
Beauty parlors, § 7-1
Posting, § 7-2
Registration, § 7-3
Violations and penalties, § 7-4

Bathing, § 39-1

Beauty Parlors, § 7-1

Bicycles

Chief of Police, §§ 9-8, 9-9
Fees, § 9-7
License plates, § 9-3

-B-

Bicycles (Cont'd)

Licenses, §§ 9-1 - 9-3, 9-6, 9-7, 9-9
Police Department, §§ 9-1 - 9-6
Reports, § 9-4
Revocation of license, § 9-9
Suspension of license, § 9-9
Transfers, § 9-6
Violations and penalties, § 9-8

Bingo

Chief of Police, § 10-2
Licenses, § 10-2
Purpose, § 10-1
Referendum, § 10-3

Boardinghouses

Business Districts, §§ 66-28A, 66-34A
Defined, § 66-3
Industrial District § 66-39B
Residential Districts, §§ 66-15C,
66-20C
Zoning, §§ 66-16C, 66-20C, 66-28A,
66-34A, 66-39A

Board of Appeals

Appeals, § 66-76
Establishment, § 66-76
Powers, § 66-77
Zoning, §g 66-76 - 66-77

Board of Health

Garbage and rubbish, §§ 26-4, 26-9
Milk Inspection, § 32-1

Board of Trustees

Amendments, §§e 66-70 - 66-74
Auctioneers, § 5-2
Electrical Code, § 20-11
Parking lots, § 69-42
Parking meters, §§ 69-23, 59-
Public hearing, §§ 38-1, 38-2
Signs, § 48-1
Streets and sidewalks. §§ 47-9, 47-13 -
47-19, 47-21
Theaters and shows, § 54-1
Trailers and trailer camps §§ 28-8, 28-9
Trees, § 55-3

-B-

Board of Trustees - (Cont'd)

Unsafe buildings and structures, §§
57-2, 57-3, 67-7
Vehicle and traffic, § 69-2
Water, §§ 63-3, 63-7, 63-8, 63-12,
63-19, 63-21, 63-22

Bond; auctioneers § 53

Bowling alleys

Business Districts, §§ 66-28G, 66-34E
Hours, § 11-1
Industrial District, § 66-39A
Restrictions, § 11-1
Zoning, §§ 66-28G, 66-34E, 66-39A

"Building drain" defined, § 46-1

"Building, front line of" defined, § 66-3

Building, height of

Business Districts, §§ 66-29, 66-36
Defined, § 66-3
Industrial District, § 66-41
Residential Districts, §§ 66-11, 66-16,
66-21
Zoning, §§ 66-11, 66-16, 66-21, 66-29,
66-36, 66-41

Building Inspector

Certificate of occupancy § 66-44, 66-46,
66-48, 66-50, 66-61

Unsafe buildings and structures, § 57-2

"Building, main" defined, § 66-3

Building permits, §§ 66-47, 66-49

Building, principal

Defined, § 66-3
Residential Districts, § 66-24
Zoning, § 66-24

Buildings

Defined § 66-3
See also Unsafe buildings and structures,
infra

Buildings, accessory

Business Districts, § 66-28O,
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, §§ 66-10H,
66-16A, 66-20A

-B-

Buildings, accessory - (Cont'd)

Zoning, §§ 66-10H, 66-16A, 66-20A,
66-280, 66-34A, 66-39A

Building sewers

Connections, §§ 45-21 - 45-23

Excavations, § 45-24

Exceptions, § 46-19

Old building sewers, § 45-20

Owner, § 46-18

Permits, §§ 45-16, 45-17

Sewers, §§ 45-16 - 45-24

Superintendent §§ 45-16, 45-17,
45-20, 45-23

Burning, § 39-4

Business Districts § 66-3

Accessory uses, §§ 66-280, 66-34A

B District, §§ 66-26 - 66-31

Banks, §§ 66-28D, 66-34D

Boardinghouses, §§ 66-28A, 66-34A

Bowling alleys, §§ 66-28G, 66-34E

Building, height of, §§ 66-29, 66-35

Buildings, accessory, §§ 66-28O,
66-34A

Churches, §§ 66-28A, 66-34A

Clubs, §§ 66-28A, 66-34D

Dwellings, multi-family, §§ 66-28A,
66-34B

Dwellings, one-family, §§ 66-28A,
66-34A

Dwellings, two-family, §§ 66-28A,
66-34A

Filling stations, § 66-28J

Gardening, §§ 66-28A, 66-34A

Home occupations, §§ 66-28A, 66-34A

Launderette, § 66-28C

LB District, §§ 66-32 - 66-36

Lodging houses, §§ 66-28H, 66-34B

Lot, § 66-30

Motor-vehicle sales, § 66-28I

Parking lots, §§ 66-28L, 66-34

Public institutions, §§ 66-28A, 66-34A

-B-

Business districts-(Cont'd)

Purpose, §§ 66-26, 66-32

Recreational areas, §§ 66-28A, 66-34A

Restaurants, § 66-28F

Retail stores, § 66-28B

Schools, §§ 66-28A, 66-34A

Signs, § 66-28P

Undertaking establishments, §§
66-28ES, 66-34D

Wholesale stores, § 66-28M

Yards, front, §§ 66-31, 66-36

Yards, rear, §§ 66-31, 66-36

Yards, side §§ 66-31, 66-36

Zoning, §§ 66-26 - 66-36

-C-

Calves, § 4-6

"Camp" defined, § 66-3

"Camping ground" defined, § 66-3

**"Camp unit" defined, § 28-2 Pt. II §§
1, 6, 8, 10, 11**

"Cellar" defined, § 66-8

Certificate of occupancy

Application for certificate, § 66-46

Building Inspector, §§ 66-44, 66-45,
66-48, 66-60, 66-51

Building permits, §§ 66-47, 66-49

Conforming uses, § 66-44

Construction, § 66-51

Existing uses, § 66-50

Fees, §§ 66-47, 66-48, 66-50, 66-51

Nonconforming uses, § 66-46

Records, § 66-48

Requirements, §§ 66-44, 66-46

Temporary, § 66-62

Zoning, §§ 66-44 - 66-62

"Change of name sale" defined, § 6-1

Chief Building Inspector, § 20-6

Chief Engineer

Authority, §§ 22-14-22-16, 22-19

Duties, §§ 22-12, 22-0, 22-24

Electrical Inspector, § 20-6

Chief Engineer - (Cont'd)

Equipment, § 22-2
Fire hazards, §§ 22-10, 22-20
Fire hoses, § 22-18
Fire prevention, §g 22-2, 22-3, 22-10,
22-12, 22-14 - 22-16, 22-18 -
22-20, 22-24, 22-28, 22-32
Fireworks, § 23-1, 23-2
Permits. §§ 22-28. 22-32
Water. § 63-17

Chief of Fire Department, see Chief
Engineer, supra

Chief of Police

Amendments. App. Pt. II § 15
Auctioneers. § 5-5
Bicycles, §§ 9-8, 9-9
Bingo, § 10-2
Duties, App. Pt. II §§ 10, 12, 14
Parking lots, § 69-48
Parking meters, § 59-29
Police blotter, App. Pt. II
Police Department, App. Pt. II
Powers, § 69-3
Reports, App. Pt. II § 11
Taxicabs, §§ 63-2, 53-3, 53-6, 53-7
Traffic Bureau, §§ 59-54, 59-55, 59-59
Vehicle and traffic, § 59-3

Churches

Business Districts, §§ 66-28A, 66-34A
Industrial District, § 66-39A
Residential Districts, §§ 66-10B,
66-15A, 66-20A
Zoning, §§ 66-10B, 66-15A, 66-20A
66-28A 66-34A 66-39

Clerks, Traffic Bureau, § 69-69

Clubs

Business Districts, §§ 66-28A, 66-34D
Industrial District, § 66-39A
Residential Districts, §§ 66-20D,
66-20E
Zoning, §§ 66-20D, 66-20E, 66-28A,
66-34D, 66-39A

Coin substitutes

Parking lots, § 59-46
Parking meters, § 59-32

Complaints

Garbage collectors, § 26-10
Police Department, App. Pt. II § 30

Conduct; Police Department, App. Pt. II
§§ 18, 19

Confidential information, App. Pt. II §
21

Conforming uses, § 66-44

Connections

Building sewers, §§ 46-21 - 46-23
Private sewage disposal, § 46-13
Public sewers, § 46-5

Construction

Certificate of occupancy, § 66-51
Nonconforming uses, § 66-58
Water, § 63-20

"Convalescent home" defined § 66-3

"Coverage" defined, § 66-3

Crossings; railroads, § 42-2

Crowds, App. Pt. II § 39

Curfew

Adults, §§ 16-2, 16-4
Arrests, § 16-6
Minors, §§ 16-1, 16-6
Police Department, §§ 16-S, 16-6
Violations and penalties, §§ 16-3 - 16-6

Damages

Fire prevention, § 22-7
Trees § 66-1

"Days" defined, App. Pt. I § 1

Definitions

Accessory use, § 66-3
Boardinghouse, § 66-3
Building, § 66-3
Building, accessory, § 66-3
Building, drain, § 45-1
Building, front line of, § 66-3

-D-

Definitions - (Cont'd)

Building, height of, § 66-3
Building, main, § 66-3
Building, principal, § 66-3
Camp § 66-3
Camping ground, § 66-3
Camp unit, § 28-2
Cellar, § 66-3
Change of name sale, § 6-1
Convalescent home, § 66-3
Coverage, § 66-3
Days, App. Pt. I § 1
Department, App. Pt. I § 1
Dwelling, § 66-3
Dwelling, multi-family, § 66-3
Dwelling, one-family, § 66-3
Dwelling, two-family, § 66-3
Employee, App. Pt. I § 1
Family, §§ 63-16, 66-3
Filling station, § 66-3
Fire sale, § 6-1
Garage, private, § 66-3
Garage, public, § 66-3
Gasoline station, § 66-3
Going-out-of-business sale, § 6-1
Goods, § 6-1
Grievance, App. Pt. I § 1
Gross income, § 52-2
Home occupation, § 66-3
Hospital, § 66-3
Hotel, § 66-3
House trailer, § 28-2
Industrial wastes, § 45-1
Junk yard, § 66-3
Launderette, § 66-3
Line, street, § 66-3
Lodging house, § 66-3
Lot, § 66-3
Lot lines, § 66-3
Motor-fuel filling station, § 66-3
Motor-vehicle repair shop § 66-3
Nonconforming use, § 66-3
Nursing home, § 66-3

-D-

Definitions - (Cont'd)

Operator, § 69-21
Park, § 59-21
Parked, § 59-21
Parking, § 59-21
Parking space, § 66-3
Person, §§ 6-1, 31-2, 52-2, 59-21
pH, § 45-1
Public sewer, § 45-1
Removal of business sale, § 6-1
Residential hotel, § 66-3
Sanitarium, § 66-3
Sanitary sewer, § 45-1
Sanitorium, § 66-3
Sewage, § 45-1
Sewage treatment plant, § 45-1
Sewer, § 45-1
Sign, § 66-3
Slug, § 45-1
Storm drain, § 45-1
Story, § 66-3
Story, height of, § 66-3
Street, §§ 59-21, 66-3
Structure, § 66-3
Superintendent, § 45-1
Supervisor, App. Pt. I § 1
Taxicab, § 53-1
Theater, moving picture, § 66-3
Theater, outdoor drive-in, § 66-3
Tourist cabins, § 66-3
Tourist home, § 66-3
Trailer camps, § 28-2
Use, § 66-3
Uses, accessory, § 66-3
Utility, § 52-2
Vehicle, §§ 59-21, 59-39
Vehicle and traffic, § 59-1
Village employee, App. Pt. III § 2
Yard, § 66-3
Yard, front, § 66-3
Yard, rear, § 66-3
Yard, side, § 66-3
"Department" defined, App. Pt. I § 1

-D-

Department of Public Health, § 46-9
Detective force, App. Pt. II § 2
Dirt removal, § 47-19
Discipline- Police Department, App. Pt. II § 6
Disorderly conduct
Junk dealers, § 31-4
Vehicle and traffic, § 59-64
Disorderly houses
Peace and good order, § 39-9
Police Department, App. Pt. II
District boundaries
Nonconforming uses, § 66-64
Zoning, § 66-6
Districts designated, § 66-4
Disturbances, § 39-2
Ditches, § 47-16
Dogs, § 4-3
Drains, § 47-20
Dress; Police Department, App. Pt. II §§ 26, 36, 42
Dumping, § 26-4
Dutch Elm disease, § 55-3
Duties
Chief Engineer, §§ 22-12, 22-20, 22-24
Chief of Police, App. Pt. II §§ 10, 12, 14
Electrical Inspector, § 20-6
Inspectors, §§ 22-12, 22-24, 32-1, 46-34
Licensee, § 6-6
Police Department, App. Pt. II § 29
Superintendent, § 63-2
“**Dwelling**” defined, § 66-3
Dwellings, multi-family
Business Districts, §§ 66-28A, 66-34B
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, § 66-20B
Zoning, §§ 66-20B, 66-28A, 66-34B, 66-39A
Dwellings, one-family
Business Districts, §§ 66-28A, 66-34A

-D-

Dwellings, one family - (Cont'd)
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, §§ 66-10A, 66-16A, 66-20A
Zoning, §§ 66-10A, 66-16A, 66-20A, 66-28A, 66-34A, 66-39A
Dwellings, two-family
Business Districts, §§ 66-28A, 66-34A
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, §§ 66-15
Zoning, §§ 66-15B, 66-20A, 66-28A, 66-34A, 66-39A

-E-

Electrical Code
Board of Trustees, § 20-11
Effective date, § 20-13
Electrical Inspector, §§ 20-4 - 20-6
Exceptions, § 20-9
Liability, § 20-10
National Electrical Code, § 20-3
New York Board of Fire Underwriters, §§ 20-4, 20-6, 20-7, 20-10
Purpose § 20-2
Repeals § 20-12
Separability clause, § 20-11
Title, § 20-1
Violations and penalties, §§ 20-7, 20-8
Electrical Inspector
Chief Building Inspector, § 20-6
Chief Engineer, § 20-6
Duties, § 20-6
Electrical Code, §§ 20-4 - 20-6
Powers, § 20-6
Emergency vehicles, § 59-16
“**Employee**” defined, App. Pt. I
Enforcement; zoning, § 66-67
Equipment
Chief Engineer, § 22-2
Police Department, App. Pt. II § 9

-E-

Excavations, § 46-24
Existing uses
Certificate of occupancy, § 66-50
Nonconforming uses, § 66-54
Explosives, §§ 22-9, 22-25, 22-27

-F-

"Family" defined, §§ 63-16, 66-3
Fares; taxicabs, § 53-8
Fees
Auctioneers, § 5-2
Certificate of occupancy, §§ 66-47, 66-48, 66-50, 66-51
Going-out-of-business sale § 6-4
Hawkers and peddlers, § 5-15
Junk dealers, § 31-1
Parking lots, §§ 59-43, 59-50
Parking meters, § 59-34
Private sewage disposal, § 45-7
Sunday sports, § 50-1
Taxicabs, § 53-4
Theatres and shows, § 54-2
Traffic Bureau, § 59-61
Trailers and trailer camps, § 28-5
Felonies, App. Pt. II § 32
Filling stations
Business Districts, § 66-28J
Defined, § 66-3
Industrial District, § 66-39A
Zoning, §§ 66-28J, 66-39A
Fines, see Fees, supra
Fire apparatus, § 22-8
Firearms, § 39-3
Fire Department, § 28-8
Fire escapes § 22-13
Fire hazards, § 22-10, 22-20
Fire hoses, § 22-18
Fire prevention
Alarms, § 22-6
Ashes, § 22-22
Chief Engineer, §§ 22-2, 22-3, 22 18 - 22-20, 22-24, 22-28, 22-32

-F-

Fire prevention - (Cont'd)
Damages, § 22-7
Explosives, §§ 22-9, 22-26, 22-27
Fire apparatus, § 22-8
Fire escapes, § 22-13
Garbage and rubbish, § 22-21
Hydrants, §§ 22-3 - 22-5
Inflammable liquids, § 22-31
Inspectors, §§ 22-12, 22-24
Obstructions, §§ 22-4, 22-17
Restrictions, § 22-25
Storage, §§ 22-9, 22-26, 22-27, 22-29, 22-30
Superintendent of Water Works, § 22-5
Violations and penalties, §§ 22-3, 22-4, 22-6, 22-7, 22-9, 22-11, 22-13C, 22-16 - 22-18, 22-33
Wastes, oily, § 22-23
Water, § 22-1
"Fire sale" defined, § 6-1
Fireworks
Chief Engineer, §§ 23-1, 23-2
Peace and good order, § 39-3
Repeals, § 23-4
Restrictions, § 23-1
Sales, § 23-2
Violations and penalties, § 23-3
Food Handlers, § 40-2

-G-

"Garage, private" defined, § 66-3
"Garage, public" defined, § 66-3
"Garbage" defined, § 45-1
Garbage and rubbish
Board of Health, §§ 25-4, 25-9
Expiration of licenses, § 25-2
Fire prevention. § 22-21
Garbage collectors, §§ 25-4 - 26-7, 26-9, 26-10
Health Officer, §§ 26-6, 26-9
Licenses, §§ 25-1 - 25-3
Nuisances, § 25-8

Garbage - (Cont'd)

Records, § 25-1
Village Board, §§ 25-2, 25-4, 25-9
Village Clerk, §§ 25-1, 25-3, 25-10
Violations and penalties, § 25-11
See also Junk dealers, *infra*

Garbage cans, see Receptacles, *infra*

Garbage collectors

Complaints, § 25-10
Dumping, § 25-4
Garbage and rubbish, §§ 25-4 - 25-7,
25-9, 25-10
Receptacles, § 25-6
Requirements, § 25-7
Rules and regulations, § 25-9
Vehicle and traffic, § 25-5

Gardening

Business Districts, §§ 66-28A,
Industrial District, §§ 66-39A
Residential Districts, §§ 66-10F,
66-16A, 66-20A
Zoning, §§ 66-10F, 66-16A, 66-20A,
66-28A, 66-34A, 66-39A

"Gasoline station" defined, § 66-3

General fund, § 52-13

General provisions

Adoption of Code, § 1-1
Effective date, § 1-2

Gifts; Police Department, App.

Going-out-of-business sale

Defined, § 6-1
Effective date, § 6-9
Effect of license, § 6-5
Fees, § 6-4
License application, § 6-3. 6-4
Licensee, § 6-6
Licenses, §§ 6-2 - 6-5
Separability, § 6-8
Violations and penalties, § 6-7

"Goods" defined, § 6-1

Grievance Board, App. Pt. I § 4,5

Amendments, App. Pt. I § 6
Appeals, App. Pt. I § 6

Grievance Board - (Cont'd)

Defined, App. Pt. I § 1
Effective date, App. Pt. I § 7
Grievance Board, App. Pt. I §§ 4, 5
Presentation, App. Pt. I § 3
Rights, App. Pt. I § 2
"Gross income" defined, § 62-2

-H-

Hawkers and peddlers

Effective date, § 5-19
Fees, § 5-15
Licenses, § 5-15
Mayor, § 5-15
Restrictions, § 5-16
Validity, § 5-18
Violations and penalties, § 5-17

Headquarters; Police Department, App.
Pt. II § 3

Health, see Public health, *supra*

Health Officer

Garbage and rubbish, §§ 25-5, 25-9
Private sewage disposal, § 45-12
Public health, § 40-2
Trailers and trailer camps, §§ 28-8, 28-9

Height

Poles and wires § 35-1
See also Building, height of, *supra*

Height exceptions, § 66-53

Home occupations

Business Districts § 66-28A, 66-34A
Defined, § 66-3
Industrial District, § 66-39A
Residential Districts, §§ 66-10G,
66-15A, 66-20A
Zoning, §§ 66-10G, 66-15A 66-20A,
66-28A, 66-34A, 66-39A

Horses

Streets and sidewalks, §§ 47-1, 47-3,
47-4, 47-7

See also Animals, *supra*

"Hospital" defined, § 66-3

"Hotel" defined, § 66-3

-H-

Hours

- Bowling, § 11-1
- Parking meters, § 59-27
- Sunday sports, § 50-1
- Traffic Bureau, § 59-58

House trailers

- Defined, § 28-2
- See also Trailers and trailer camps, *infra*

Houses of ill fame, see Disorderly

houses, *supra*

Hydrants

- Fire prevention, §§ 22-3-22-5
- Tampering, § 63-17
- Water, § 63-17

-I-

Impounding; animals, § 4-2

Industrial District

- Accessory uses, § 66-39A
- Banks, § 66-39A
- Boardinghouses § 66-39B
- Bowling alleys, § 66-39A
- Building, height of, § 66-41
- Buildings, accessory, § 66-39A
- Churches, § 66-39A
- Dwellings, multi-family, § 66-39A
- Dwellings, one-family, § 66-39A
- Dwellings, two-family, § 66-39A
- Filling stations, § 66-39A
- Gardening, § 66-39A
- Home occupations, § 66-39A
- Launderette, § 66-39A
- Loading, § 66-43 B
- Lodging houses, § 66-39A
- Motor-vehicle sales, § 66-39A
- Parking lots, § 66-39A
- Parking space, § 66-43
- Prohibited uses, § 66-40
- Public institutions, § 66-39A
- Purpose § 66-37
- Recreational areas, § 66-39A
- Restaurants, § 66-39A

-I-

Industrial District - (Cont'd)

- Retail stores, § 66-39A
- Signs, § 66-39C
- Undertaking establishment, § 66-39A
- Warehouses, § 66-39B
- Wholesale stores, § 66-39A
- Yards, front, § 66-42
- Yards, rear, § 66-42
- Yards, side, § 66-42
- Zoning, §§ 66-37 - 66-43

Industrial wastes

- Defined, § 45-1
- Public sewers, §§ 45-27, 45-32
- Inflammable liquids, § 22-31

Inspections

- Private sewage disposal, § 45-8
- Trailers and trailer camps, § 28-8
- Water, § 63-6

Inspectors

- Duties, §§ 22-12, 22-24, 32-1, 45-34
- Fire prevention, § 22-12, 22-24
- Milk inspection, §§ 32-1, 32-2
- Powers, § 45-34
- Sewers, § 45-34
- Superintendent, § 45-34
- See also Building Inspector and Electrical Inspector, *supra*

-J-

Junk dealers

- Definitions, § 31-2
- Disorderly conduct. § 31-4
- Fees, § 31-1
- Licenses, § 31-1
- Validity, § 31-5
- Village Clerk, § 31-1
- Violations and penalties. § 31-3
- "Junk yard" defined, § 66-3
- Jurisdiction**; Traffic Bureau. § 59-56

-L-

Launderette

Business Districts, § 66-28C

Industrial District, § 66-39A

Zoning, §§ 66-28C, 66-39A

Leaves of absence; Police Department,
App. Pt. II § 7

Legal holidays; Village employees, App.
Pt. III § 5A

Liability

Electrical Code, § 20-10

See also Village liability, *infra*

Licensee

Duties, § 6-6

Going-out-of-business sale, § 6-6

Licenses

Auctioneers, § 5-2

Bicycles, §§ 9-1 - 9-3, 9-6, 9-7, 9-9

Bingo, § 10-2

Garbage and rubbish §§ 25-1 - 25-3

Going-out-of-business sale, §§ 6-2 - 6-5

Hawkers and peddlers, § 5-15

Junk dealers, § 31-1

Taxicabs, §§ 53-2 - 53-6

Theatres and shows, §§ 54-1, 54-2

Liens, § 52-11

"Line, street" defined, § 66-3

Littering

Owner, § 39-7

Peace and good order, §§ 39-5 - 39-7

Loading

Industrial District, § 66-43B

Zoning, § 66-43B

Local Law No. 1, 1947

Public hearings, §§ 38-1 - 38-4

Local Law No. 1, 1953

Village liability, §§ 61-1 - 61-3

Local Law No. 1, 1965

Utility tax §§ 52-1 - 52-14

Local Law No. 3, 1965

General provisions, §§ 1-1, 1-2

Lodging houses

Business Districts, §§ 66-28H, 66-34B

Defined; § 66-3

-L-

Lodging houses - (Cont'd)

Zoning, §§ 66-28 H, 66-34B, 66-39A

Loitering, § 39-12

Lot

Business Districts, § 66-30

Defined, § 66-3

Residential Districts, § 66-22

Zoning, §§ 66-22, 66-30

"Lot depth" defined, § 66-3

"Lot lines" defined, § 66-3

"Lot width" defined, § 66-3

-M-

Manhole, § 45-30

Mayor

Auctioneers, § 5-2, 5-3, 5-5, 5-7

Hawkers and peddlers, § 5-16

Police Department, App. Pt. II § 4

Trailers and trailer camps, §§ 28-8, 28-9

Measurements, see Tests, *Infra*

Milk Inspection

Board of Health, § 32-1

Inspector, §§ 3 2-1, 3 2-2

Refusal, § 3 2-2

Violations and penalties, § 32-3

Minors, curfew. §§ 16-1, 16-6

Misrepresentations

Auctioneers, §§ 6-9, 6-10

Water, § 63-6

"Motor-fuel filling station" defined, §
66-3

"Motor vehicle repair shop" defined, §
66-3

Motor vehicle sales

Business Districts, § 66-28I

Industrial District, § 66-39A

Zoning, §§ 66-28I, 66-39A

-N-

National Electrical Code. § 20-3
New York Board of Fire Underwriters, §§ 20-4, 20-6, 20-7, 20-10
Nighttime sales, § 6-8
Nonconforming uses
Abandonment, § 66-60
Alterations, § 66-66
Certificate of occupancy, § 66-46
Changes, §§ 66-61, 66-62
Construction, § 66-68
Defined. § 66-3
District boundaries. § 66-64
Existing uses, § 66-64
Extension, § 66-67
Restoration, § 66-69
Restrictions, § 66-63
Unsafe buildings and structures, § 66-66
Zoning, S5 66-64 - 66-64
Notice
Public hearing, S5 38-1, 38-3
Unsafe buildings and structures, § 66-63
Utility tax, § 62-7
Vehicle removal, § 69-11c
Water, § 63-3
Nuisances
Garbage and rubbish, § 26-8
Peace and good order, § 39-8
"Nursing home" defined, 5 66-3

-O-

Obstructions
Fire prevention, §5 22-4, 22-17
Streets and sidewalks, SS 47-2, 47-3, 47-20
Old building sewers, § 46-20
One-way streets, § 69-4
"Operator" defined, § 69-21
Overtime, village employees, App. Pt. III § 6B

-O-

Owners
Building sewers, § 4S-18
Littering, § 39-7
Private sewage disposal, § 45-11
Water, § 63-11

-P-

"Parks" defined, § 59-21
"Parked" defined, § 69-21
Parking
Defined, § 59-21
Repeals, § 59-19
Restrictions, § 59-18
Vehicle and traffic, §§ 59-10, 59-17 - 59-20
Violations and penalties, 5 59-20
Zones, § 59-17
Parking lots
Board of Trustees, § 59-42
Business Districts, §§ 66-28L, 66-34E
Chief of Police, § 59-48
Coin substitutes, § 59-46
Definition, § 59-39
Effective date, § 59-62
Establishment, § 59-40
Fees, 5§ 59-43, 59-60
Industrial District, § 66-39A
Parking meters, §§ 59-41, 59-42, 59-47, 59-50
Separability, § 59-51
Spaces, § 59-43
Tampering, § 59-47
Time, maximum, § 59-45
Vehicle and traffic, §§ 59-39
Violations and penalties, §§ 59-44, 59-48, 59-49
Zoning, §§ 66-28L, 66-34E, 66-39A
Parking meters
Board of Trustees, §§ 59-23, 59-24, 59-31
Chief of Police, § 59-29
Coin substitutes, § 59-32

-P-

Parking meters - (Cont'd)

Compliance, S 59-28
Definitions, § 59-21
Effective date, § 59-38
Fees, § 59-34
Hours, § 59-27
Markings, § 59-31
Parking lots §§ 59-41, 59-42, 59-47,
59-50
Rates, § 59-24
Repeals, § 59-37
Separability, § 59-36
Spaces, § 59-30
Tampering, § 59-33
Time, maximum, §§ 59-26 - 59-27
Vehicle and traffic, §§ 59-21 - 59-38
Violations and penalties, §§ 59-29,
59-35
Zones, § 59-22

Parking space

Defined, § 66-3
Industrial District, § 66-43
Residential Districts, § 66-25
Zoning, §§ 66-26, 66-43

Peace and good order

Auto mufflers, S 39-11
Bathing, S 39-1
Burning, § 39-4
Disturbances, § 39-2
Firearms, § 39-3
Fireworks, § 39-3
Littering, §§ 39-5 - 39-7
Loitering, § 39-12
Nuisances, § 39-8
Throwing objects, § 39-10
Violations and penalties, §§ 39-1 -
39-13
Disorderly houses, § 39-9

Peddlers, see Hawkers and peddlers,
supra

Pedestrian crossings, § 59-5

Penalties, see Violations and penalties,
infra

-P-

Permits

Building sewers, §§ 45-16, 45-17
Chief Engineer, §§ 22-28, 22-32
Private sewage disposal, §§ 45-6, 45-7
Trailers and trailer camps, §§ 28-3,
28-6, 28-9
Water, § 63-3
"Person" defined, g § 6-1, 31-2, 52-2,
59-21

"pH" defined § 45-1

Planning Board, §§ 66-70, 66-71

Playgrounds

Effective date, § 34-5
Restrictions, §§ 34-1, 34-2
Violations and penalties, §§ 34-3, 34-4

Poles and wires

Height, § 35-1
Violations and penalties, §§ 35-1, 35-2

Police blotter, App. Pt. II §§ 13, 43

Police Court, §§ 59-61, 59-62

Police Department

Animals, App. Pt. II § 24
Arrests, App. Pt. II § 48
Arson inspection, App. Pt. II § 40
Authority, App. Pt. II § 49
Bicycles, SS 9-1 - 9-6
Captain, App. Pt. II §§ 1, 5, 8, 10, 11
Complaints, App. Pt. II § 30
Conduct, App. Pt. II § 18, 19
Confidential information, App. Pt. II §
Cooperation, App. Pt. II § 22
Crowds, App. Pt. II § 39
Curfew, §§ 16-3, 16-6
Detective force, App. Pt. II § 2
Discipline, App. Pt. II § 6
Disorderly houses, App. Pt. II § 37
Dress, App. Pt. II §§ 25, 36, 42
Duties, App. P4. II § 29
Equipment, App. Pt. II § 9
Establishment, App. Pt. II § 1
Felonies, App. Pt. II § 32
Gifts, App. Pt. II § 20
Headquarters, App. Pt. II § 3

Police Department - (Cont'd)
Leaves of absence, App. Pt. II § 7
Leaving village, App. Pt. II § 34
Mayor, App. Pt. II § 4
Preservation of order, App. Pt. II § 41
Prevention of crime, App. Pt. II § 33
Prisoners, App. Pt. II §§ 35, 44
Publicity, App. Pt. II § 26
Pursuit, App. Pt. II § 47
Reports, App. Pt. II § 28
Requirements, App. Pt. II § 16
Responsibilities, off-duty, App. Pt. II §
27
Rules and regulations, App. Pt. II §§ 17,
23
Street lights, App. Pt. II § 38
Summons, App. Pt. II § 46
Trailers and trailer camps, §§ 28-8, 28
-9
Vacations, App. Pt. II § 8
Vehicle and traffic, App. Pt. II § 31
Witnesses, App. Pt. II § 45
Pollution
Air, § 37-2
Exceptions, § 37-2
Streams, § 37-1
Violations and penalties, §§ 37-1, 37-2
Water, § 63-18
Posters, see Signs, *infra*
Posting
Barber shops, § 7-2
Unsafe buildings and structures, §§
57-4, 57-5
Powers
Board of Appeals, § 66-77
Chief of Police, § 59-3
Electrical Inspector, § 20-6
Inspectors, § 45-34
Preservation of order, App. Pt. II § 41
Prevention of crime, App. Pt. II § 33
Prisoners, App. Pt. II §§ 35, 44
Private sewage disposal
Connection, § 45-13

Private sewage disposal - (Cont'd)
Department of Public Health, § 45-9
Fees, § 45-7
Health Officer, § 45-12
Inspection, § 45-8
Owner, § 45-11
Permits, §§ 45-6, 45-7
Public sewers, § 45-10
Sewer rents, § 45-15
Sewers, §§ 45-6 - 45-15
Superintendent, §§ 45-7, 45-8
Tappage fees, §§ 45-14, 45-15
Privies, §§ 45-4, 45-5
Prohibited uses
Industrial District, § 66-40
Zoning, § 66-40
Prostitution, see Disorderly houses,
supra
Public health
Food handlers, § 40-2
Health Officer, § 40-2
Public sewers, § 40-1
Violations and penalties, § 40-2
Public hearing
Amendments, §§ 66-71, 66-72
Board of Trustees, §§ 38-1, 38-2
Effective date, § 38-4
Notice, §§ 38-1, 38-3
Village Attorney, § 38-1
Village Clerk, §§ 38-1, 38-3
Public institutions
Business Districts, §§ 66-28A, 66-34A
Industrial District, § 66-39A
Residential Districts, §§ 66-10E,
66-15A, 66-20F
Zoning, §§ 66-10E, 66-15A, 66-20F,
66-28A, 66-34A, 66-39A
Publicity, App. Pt. II § 26
Public safety, see Peace and good order,
supra
Public sewers
Connection, § 45-6
Defined, § 45-1

-P-

Public sewers - (Cont'd)

Industrial wastes, §§ 45-27, 45-32
Manhole, § 45-30
Private sewage disposal, § 45-10
Privies, §§ 45-4, 45-5
Public health, § 40-1
Remedies, § 45-29
Restrictions, §§ 45-2, 45-3, 45-25,
45-27
Septic tanks, § 45-4
Storm water, §§ 45-25, 45-26
Superintendent, §§ 45-26, 45-28 - 45-30
Tests, § 45-31
Pursuit, App. Pt. II § 47
Pyrotechnics, see Fireworks, supra

-R-

Railroads

Crossings, § 42-2
Speed limit, § 42-1
Violations and penalties, §§ 42-1, 42-2

Rates

Parking meters, § 59-24
Water, §§ 63-7, 63-8, 63-21, 63-22

Receptacles; garbage collectors, g 25-6

Records

Auctioneers, §§ 5-4, 5-5
Certificate of Occupancy, § 66-48
Garbage and rubbish, g 25-1
Traffic Bureau, § 59-60
Utility tax, § 52-3

Recreational areas

Business Districts, §§ 66-28A, 66-34A
Industrial District, §§ 66-39A
Residential Districts, §§ 66-10C,
66-15A, 66-20A
Zoning, §§ 66-10C, 66-15A, 66-20A,
66-28A, 66-34A, 66-39A

Refunds; utility tax § 52-9

Removal of business sale defined, § 6-1

Rents; water, §§ 63-9, 63-10

Repairs; streets and sidewalks, § 47-21

-R-

Reports

Bicycles § 9-4
Chief of Police App. Pt. II § 11
Police Department, App. Pt. II § 28

Residential Districts

Accessory uses, §§ 66-10H, 66-15A,
66-20A
Boardinghouses, §§ 66-15C, 66-20C
Building, principal, § 66-24
Buildings, accessory, §§ 66-10H,
66-15A, 66-20A
Churches, §§ 66-10B, 66-15A,
Clubs, §§ 66-20D, 66-20E
Dwellings, multi-family, § 66-20B
Dwellings, one-family, §§ 66-10A,
66-15A, 66-20A
Dwellings, two-family, §§ 66-15B,
66-20A
Gardening, §§ 66-10F, 66-15A, 66-20A
Home occupations, §§ 66-10G, 66-15A,
66-20A
Lot, § 66-22
Parking space, § 66-25
Public institutions, §§ 66-10E, 66-15A,
66-20F
Purpose, §§ 66-8, 66-13, 66-18
R-1 District, §§ 66-8 - 66-12
R-2 District, §§ 66-13 - 66-17
R-3 District, §§ 66-18 - 66-25
Recreational areas, §§ 66-10C,
Schools, §§ 66-10D, 66-15A, 66-20A
Yard; front, §§ 66-12A, 66-17, 66-23A
Yards, rear, §§ 66-12C, 66-17, 66-23C
Yards, side, §§ 66-12B, 66-17,
66-23B
Zoning, §§ 66-8 - 66-25
"Residential hotel" defined, § 66-3
Restaurants
Business Districts, § 66-28F
Industrial District, § 66-39A
Retail stores
Business Districts § 66-28B
Industrial District § 66-39A

-R-

Retail stores - (Cont'd)

Zoning, §§ 66-28B, 66-39A

Returns; utility tax, §§ 52-4 - 52-6

Revenues, see Fees, supra

Rubbish, see Garbage and rubbish,
supra

Rules and regulations

Garbage collectors, § 25-9

Police Department, App. Pt. II §§ 17, 23

Trailers and trailer camps, §§ 28-6, 28-7

Utility tax, § 52-12

Zoning, § 66-7

-S-

Sales

Fireworks, § 23-2

See also Change of name sale,
Going-out-of-business sales,
Nighttime sales, and Removal of
business sale, supra

“Sanitarium” defined, § 66-3

“Sanitary sewer” defined, § 45-1

Sanitorium defined, § 66-3

Schools

Business Districts, §§ 66-28A, 66-34A

Residential Districts, §§ 66-10D,
66-16A, 66-20A

Zoning, §§ 66-10D, 66-15A, 66-20A,
66-28A, 66-34A

Septic tanks, § 45-4

“Sewage” defined, § 45-1

“Sewage treatment plant” defined,

Sewer rents, S 46-16 66-23 C

Sewers

Building sewers, §§ 45-16 - 45-24

Damages, § 45-33

Defined, § 45-1

Effective date, § 45-40

Inspectors, § 45-34

Private sewage disposal, §§ 45-2 - 45-5,
45-25 - 45-32

Repeals, § 45-38

-S-

Sewers - (Cont'd)

Separability, § 45-39

Superintendent, § 45-34

Violations and Penalties §§ 45-33,
45-36 - 45-37

See also, Building sewers, Old building
sewers, and Public sewers, supra

Shows, see Theaters and shows, Infra

Sidewalks, see Streets and sidewalks,
Infra

Signs

Board of Trustees, § 48-1

Business Districts, § 66-28P

Defined, § 66-3

Exceptions, § 48-1

Industrial District, § 66-39C

Restrictions, § 48-1

Streets and sidewalks, § 47-13

Violations and penalties, g 48-2

Zoning, §§ 66-28P, 66-39C

Slaughterhouses

Restrictions, § 49-1

Violations and penalties, § 49-2

Slugs

Defined, § 45-1

See also Coin substitutes, supra

Snow removal §§ 47-22, 47-23

Spaces

Parking lots, § 68-43

Parking meters, § 69-30

Speed limits

Obedience, § 59-9

Railroads, § 42-1

Vehicle and traffic, §§ 59-8, 59-9

Stop streets, § 59-7B

Storage

Fire prevention, §§ 22-9, 22-26, 22-27,
22-29, 22-30

Vehicle and traffic § 59-11B

“Storm drain” defined, § 45-1

Storm water, §§ 45-25, 45-26

“Story” defined, § 66-3

“Story, height of” defined, § 66-3

Streams; pollution, § 37-1
"Street" defined, §§ 59-21, 66-3
Street Commissioner, §§ 47-9, 47-15, 47-16, 47-18, 47-20
Street lights, App. Pt. II § 38
Streets and sidewalks
Alterations, S 47-18
Board of Trustees, §§ 47-9, 47-13 - 47-19, 7-21
Damages, § 47-16
Dangerous articles, § 47-12
Defacing, § 47-24
Dirt removal, § 47-19
Ditches, § 47-16
Drains, § 47-20
Horses, §§ 47-1, 47-3, 47-4, 47-10
Materials, §§ 47-9, 47-10
Obstructions, §§ 47-2, 47-3,
Repairs § 47-21
Restrictions, § 47-17
Signs, § 47-13
Snow removal, §§ 47-22 47-23
Street Commissioner, §§ 47-9, 47-16, 47-16, 47-18, 47-20
Structures, § 47-14
Superintendent, § 47-22
Vehicle and traffic, §§ 47-1, 47-2, 47-4 - 47-6, 47-8
Violations and penalties, §§ 47-9, 47-12 - 47-16, 47-18 - 47-24, 47-26
Wood, § 47-11
See also Stop streets, supra; Through streets, infra
Structures
Defined, § 66-3
Streets and sidewalks, § 47-14
See also Unsafe buildings and structures, infra
Summons, App. Pt. II § 46
Sunday sports
Fees, § 50-1
Hours, § 50-1

Superintendent
Building sewers, §§ 45-16, 45-17, 45-20, 45-23
Defined, § 45-1
Duties, § 63-2
Inspectors, § 45-34
Private sewage disposal §§ 45-7, 45-8
Public sewers, §§ 45-26, 45-28 - 45-30
Sewers, § 46-34
Streets and sidewalks, § 47-22
Water, §§ 63-1 - 63-3
Superintendent of Water Works, § 22-5
"Supervisor" defined, App. Pt. I § 1
Swine, § 4-4

Tampering
Hydrants, § 63-17
Parking lots, § 59-47
Parking meters, § 59-33
Tappage fees, §§ 45-14, 45-15
Taxicabs
Application for license, § 53-6
Chief of Police, §§ 53-2, 53-3, 53-6, 53-7
Defined, § 53-1
Fares, g 53-8
Fees, § 53-4
License duration, § 53-5
Licenses, §§ 53-2 - 53-6
Reviews, § 53-7
Violations and penalties, § 53-9
See also Vehicle and traffic, infra
Tax on utility services, see Utility tax, infra
Tests; public sewers, § 46-31
"Theater, moving picture" defined, § 66-3
"Theater, outdoor drive-in" defined, § 66-3

-T-

Theaters and shows

Board of Trustees, § 54-1
Fees, § 54-2
Licenses, §§ 54-1, 64-2
Village Clerk, § 64-1
Violations and penalties, §§ 54-1, 54-2

Through streets, § 59-7A

Time, maximum

Parking lots, § 59-45
Parking meters, §§ 59-25 - 59-27

Toilets, see Privies, supra

Tourist cabins defined, § 66-3
Tourist home defined, § 66-3

Traffic Bureau

Chief of Police, §§ 59-54, 59-55, 59-59
Clerk, § 59-59

Effective date, § 59-63

Establishment, § 59-54

Fees, § 59-61

Hours, § 59-58

Jurisdiction, § 59-56

Police Court, §§ 59-61, 58-62

Procedure, § 59-56

Records, § 59-60

Supplies, § 59-60

Title, § 59-53

Trials, § 59-57

Vehicle and traffic, §§ 59-53 - 59-63

Violations and penalties, § 59-61

Traffic-control devices, § 59-2

Traffic, see Vehicle and traffic, infra

"Trailer camps" defined, § 28-2

Trailers and trailer camps

Board of Trustees, §§ 28-8 - 28-9

Definitions, § 28-2

Exceptions, § 28-11

Fees, § 28-5

Fire Department, § 28-8

Health Officer, §§ 28-8, 28-9

Inspections, § 28-8

Mayor, §§ 28-8, 28-9

Permits, §§ 28-3, 28-5, 28-9

Police Department, § 28-8,

-T-

Trailers and trailer camps - (Cont'd)

Purpose, § 28-1

Restrictions, § 28-4

Revocation of permit, § 28-9

Rules and regulations, §§ 28-6 - 28-7

Village Clerk, §§ 28-5, 28-9

Violations and penalties, § 28-10

Trees

Board of Trustees, § 55-3

Damages, § 55-1

Dutch Elm disease, § 55-3

Violations and penalties, § 55-2

Trials; Traffic Bureau, § 59-57

Turning restrictions, § 59-6

-U-

Undertaking establishments

Business Districts, §§ 66-28K, 66-34D

Industrial District, § 66-39A

Zoning, §§ 66-28K, 66-34D, 66-39A

Unsafe buildings and structures

Board of Trustees, §§ 57-2, 57-3, 57-7

Building Inspector, § 57-2

Costs, § 57-6

Nonconforming uses, § 66-55

Notice, § 57-3

Posting, §§ 57-4, 57-5

Purpose, § 57-1

Survey, §§ 57-3, 57-5

Village Clerk, §§ 57-3, 57-7

Uses

Defined, § 66-3

See also Accessory uses, Conforming
uses, Existing uses, Nonconforming
uses, Prohibited uses

Uses, accessory defined, § 66-3

"Utility" defined, § 62-2

Utility tax

Definitions, § 52-2

Effective date, § 52-14

General fund, § 52-13

Liens, § 52-11

-U-

Utility tax - (Cont'd)

Notice, § 52-7
Operating costs, § 52-10
Records, § 52-3
Refunds, § 52-9
Returns, §§ 52-4 - 52-6
Rules and regulations, § 52-12
Village Attorney, § 52-11
Village Treasurer. §§ 52-3, 52-5, 52-6,
52-8, 52-9, 52-11 - 52-13
Violations and penalties § 52-8

-V-

Vacancy credit; water, § 63-4

Vacations

Police Department, App. Pt. II § 8
Village employees, App. Pt. III §
"Vehicle" defined, §§ 59-21, 59-3g

Vehicle and traffic

Board of Trustees, § 69-2
Chief of Police, § 59-3
Constitutionality, § 59-14
Definitions, § 59-1
Disorderly conduct, § 59-64
Effective date, § 59-15
Emergency vehicles, § 59-16
Garbage collectors, § 25-6
One-way streets, § 59-4
Parking, §§ 59-10, 59-17 - 59-
Parking lots §§ 59-39 - 69-52
Parking meters, §§ 59-21- 69-
Pedestrian crossings, § 59-5
Police Department, App. Pt. II § 31
Repeals, § 59-13
Speed limits, §§ 69-8, 69-9
Stop streets, § 69-7B
Storage, § 69-11B
Streets and sidewalks, §§ 47-1, 47-2,
47-4 - 47-6, 47-8
Through streets, § 69-7A
Traffic Bureau. §§ 59-53 - 69-63
Traffic-control devices. § 59-2

-V-

Vehicle and traffic - (Cont'd)

Turning restrictions, § 69-6
Vehicle removal, § 69-11A
Violations and penalties, §§ 59-12,
59-64
See also Taxicabs, supra
Vehicle removal
Notice, § 59-11C
Vehicle and traffic. § 59-11A
Village Attorney
Public hearing, § 38-1
Utility tax, § 52-11
Village Board, §§ 26-2, 25-4, 25-9
Village Clerk
Auctioneers, § 5-2
Garbage and rubbish, §§ 25-1, 25-3,
25-10
Junk dealers, § 31-1
Theaters and shows, § 54-1
Trailers and trailer camps, §§ 28-5, 28-9
Unsafe buildings and structures, §§
57-3, 57-7
Village employees
Defined, App. Pt. III § 2
Legal holidays, App. Pt. III § 5A
Overtime, App. Pt. III § 6B
Purpose, App. Pt. III § 1
Vacations, App. Pt. III § 4
Working hours, App. Pt. III § 3
Village liability
Effective date, § 61-3
Retroactivity, § 61-2
See also Liability, supra
Village Treasurer
Auctioneers, § 6-2
Utility tax, §§ 62-3, 62-6, 62-6, 62-8,
62-9, 62-11- 62-13
Violations and penalties
Animals, §§ 4-1, 4-3 - 4-6
Auctioneers, § 5-13
Barber shops, § 7-4
Bicycles, § 9-8
Curfew, §§ 16-3 - 16-6

-V-

Violations and penalties - (Cont'd)

Electrical Code, §§ 20-7, 20-8
Fire prevention, §§ 22-3, 22-4 22-6,
22-7, 22-9, 22-11, 22-13C, 22-16 -
22-18, 22-33
Fireworks, § 23-3
Garbage and rubbish, § 25-11
Going-out-of-business sale 16-7
Hawkers and peddlers, § 6-17
Junk dealers, § 31-3
Milk inspection, § 32-3
Parking, § 69-20
Parking lots, §§ 59-44, 59-48, 59-49
Parking meters, §§ 59-29, 59-36
Peace and good order, §§ 39-1 - 39-13
Playgrounds, §§ 34-3, 34-4
Poles and wires, §§ 35-1, 35-2
Pollution, §§ 37-1, 37-2
Public health § 40-2
Railroads, §§ 42-1, 42-2
Sewers, §§ 45-33, 45-35 - 45-37
Signs. § 48-2
Slaughterhouses, § 49-2
Streets and sidewalks, §§ 47-9, 47-12 -
47-16, 47-18 - 47-24, 47-26
Taxicabs, § 63-9
Theaters and shows, g§ 54-1, 54-2
Traffic Bureau, § 59-61
Trailers and trailer camps § 28-10
Trees, § 55-2
Utility tax, § 52-8
Vehicle and traffic, §§ 59-12, 59-64
Water, §§ 63-8, 63-23
Zoning, §§ 66-65, 66-66

-W-

Warehouses

Industrial District, g 66-39B
Zoning § 66-39B

Water

Application for service, §§ 63-1, 63-2,
63-4, 63-22

-W-

Water - (Cont'd)

Board of Trustees, §§ 63-3, 63-7, 63-8,
63-12, 63-19, 63-21, 63-22
Chief Engineer, § 63-17
Construction, § 63-20
Definitions, § 63-16
Fire prevention, § 22-1
Hydrants, § 63 -17
Inspections, § 63-6
Interruptions, § 63-12
Modification, § 63-19
Notice, § 63-3
Owners, § 63-11
Permits, § 63-3
Pollution, § 63-18
Property transfer, § 63-16
Rates, §§ 63-7, 63-8, 63-21,
Rents, §§ 63-9, 63-10
Repeals, § 63-24
Superintendent, §§ 63-1 - 63-3
Vacancy credit, § 63-4
Village liability, § 63-13
Violations and penalties, §§ 63-8, 63-23
Wholesale stores
Business Districts, § 66-28M
Industrial District, § 66-39A
Zoning, §§ 66-28M, 66-39A
Wires, see Poles and Wires, supra
Witnesses, App. Pt. II § 45
Working hours; village employees, App.
Pt. III § 3

-Y-

"Yard" defined, § 66-3

Yards, front

Business Districts, §§ 66-31, 66-36
Defined, § 66-3
Industrial District, § 66-42

Yards, front-(Cont'd)

Residential Districts, §§ 66-12A, 66-17,
66-23A

-Y-

Yards, front - (Cont'd)

Zoning, §§ 66-12A, 66-17, 66-23A,
66-31, 66-36, 66-42

Yards, rear

Business Districts, §§ 66-31, 66-36

Defined, § 66-3

Industrial District, § 66-42

Residential Districts, §§ 66-12C, 66-17,
66-23C

Zoning, §§ 66-12C, 66-17, 66-23C,
66-31, 66-36, 66-42

Yards, side

Business Districts, §§ 66-31, 66-36

Defined, § 66-3

Industrial District, § 66-42

Residential Districts, §§ 66-12B, 66-17,
66-23B

Zoning, §§ 66-12 B, 66-17, 66-23B,
66-31, 66-36, 66-42

-Z-

Zones

Parking, § 59-17

Parking meters, § 59-22

Zoning

Accessory uses, §§ 66-10H, 66-15A,
66-20A, 66-280, 66-34A, 66-39A

Amendments, §§ 66-70 - 66-74

Banks, §§ 66-28D, 66-34D, 66-39A

B District, §§ 66-26 - 66-31

Boardinghouses, §§ 66-15C, 66-20C,
66-28A, 66-34A, 66-39B

Board of Appeals, §§ 66-75 - 66-77

Bowling alleys, §§ 66-28G, 66-34E,
66-39A

Building, height of, §§ 66-11, 66-16,
66-21, 66-29, 66-35, 66-41

Building, principal, § 66-24

Buildings, accessory, §§ 66-10H,
66-15A, 66-20A, 66-28O, 66-34A,
66-39A

-Z-

Zoning - (Cont'd)

Business Districts, §§ 66-44 - 66-62
66-26 - 66-36

Certificate of Occupancy, §§ 66-44 -
66-52

Churches, §§ 66-10B, 66-15A, 66-20A,
66-28A, 66-34A, 66-39A

Clubs, §§ 66-20D, 66-20E, 66-28A,
66-34D, 66-39A

Definitions § 66-3

District boundaries, § 66-6

Districts designated, § 66-4

Dwellings, multi-family, §§ 66-20B,
66-28A, 66-34B, 66-39A

Dwellings, one-family, §§ 66-10A,
66-15A, 66-20A, 66-28A, 66-34A,
66-39A

Dwellings, two-family, §§ 66-15B,
66-20A, 66-28A, 66-34A, 66-39 A

Effective date, § 66-79

Enforcement, § 66-67 66-39A

Gardening, §§ 66-10F, 66-15A, 66-20A,
66-28A, 66-34A, 66-39A

Height exceptions, § 66-53

Home occupations, §§ 66-10G, 66-15A,
66-20A, 66-28A,

I District, §§ 66-37 - 66-43

Industrial District, §§ 66-37 - 66-43

Interpretation, § 66-68

Launderette, §§ 66-28C, 66-39A

LB District, §§ 66-32 - 66-36

Loading, § 66-43B

Lodging houses, §§ 66-28H, 66-34B,
66-39A

Lot, §§ 66-22, 66-30

Motor-vehicle sales, §§ 66-28I, 66-39A

Nonconforming uses, §§ 66-54 - 66-64

Parking lots, §§ 66-28L, 66-34E,
66-39A

Parking space, §§ 66-26, 66-43

Prohibited uses, § 66-40

Public institutions, §§ 66-10E, 66-15A,
66-20F, 66-28A, 66-34A, 66-39A

Zoning - (Cont'd)

- Purpose, §§ 66-2, 66-8, 66-13, 66-18,
66-26, 66-32, 66-37
- R-1 District, §§ 66-8 - 66-12
- R-2 District, §§ 66-13 - 66-17
- R-3 District, §§ 66-18 - 66-25
- Recreational areas, §§ 66-10C, 66-15A,
66-20A, 66-28A, 66-34A 66-39A
- Repeals, § 66-78
- Residential Districts, §§ 66-8 - 66-25
- Restaurants, §§ 66-28F, 66-39A
- Retail stores, §§ 66-28B, 66-39A
- Rules and regulations, § 66-7
- Schools, §§ 66-10D, 66-15A, 66-20A,
66-28A, 66-34A
- Signs, §§ 66-28P, 66-39C
- Title, § 66-1
- Undertaking establishment, §§ 66-28K,
66-34D, 66-39A
- Validity, § 66-69
- Violations and penalties, §§ 66-65,
66-66
- Warehouses, § 66-39B
- Wholesale stores, §§ 66-28M, 66-39A
- Yards, front, §§ 66-12A, 66-17,
66-23A, 66-31, 66-36, 66-42
- Yards, rear, §§ 66-12C, 66-17, 66-23C,
66-31, 66-36, 66-42
- Yards, side, §§ 66-12B, 66-17, 66-23B,
66-31, 66-36, 66-42
- Zoning Map, § 66-5
- Zoning Map, § 66-5**

Appendix

GRIEVANCE PROCEDURES

- § 1. Definitions.
- § 2. Declaration of basic principle.
- § 3. Initial presentaffon.
- § 4. Grievance Board.
- § 5. Appeals to Grievance Board.
- § 6. Amendment.
- § 7. Effective date.

[HISTORY: Adopted Malone Village Board 8-12-63.]

§ 1. Definitions.

As used herein the following terms shall have the following meanings:

EMPLOYEE-Any person directly employed and compensated by the Village of Malone, except persons employed in the legislative or judicial branch thereof.

GRIEVANCE - Any claimed violation, misinterpretation or inequitable application of the existing laws, rules, procedures, regulations, administrative orders or work rules of the Village of Malone or a department thereof which relate to or involve employee health or safety, physical facilities, materials or equipment furnished to employees, or supervision of employees; provided, however, that such term shall not include any matter involving an employee's rate of compensations, retirement benefits, disciplinary proceeding or any other matter which is otherwise reviewable pursuant to law or any rule or regulation having the force and effect of law.

DEPARTMENT - Any office, department, board, commission or other agency of the government of the Village of Malone.

SUPERVISOR - An employee or officer on a higher level of authority above the employee in the department wherein the grievance exists and who assigns and supervises the employee's work and approves his time record or evaluates llis work performance.

DAYS - All days other than Saturdays, Sundays and legal holidays. Saturdays, Sundays and legal holidays shall be excluded in computing the number of days within which action must be taken or notice given within the terms of tile resolution

§ 2. Declaration of basic principle.

Every employee of this village shall have the right to present his grievance in accordance with the procedures provided herein, free from interference, coercion, restraint, discrimination or reprisal, and shall have the right to be represented by a person of his own choosing at all stages of the grievance procedure.

§ 3. Initial presentation.

- A. An employee who claims to have a grievance shall present his grievance to his supervisor orally within two (2) days after the grievance occurs.
- B. The supervisor shall discuss the grievance with the employee, shall make such investigation as he deems appropriate and shall consult with his superiors to such extent as he deems appropriate, all on an informal basis.
- C. Within three (3) days after presentation of the grievance to him the supervisor shall make his decision and communicate the same to the employee presenting the grievance, and to the employee's representative, if any.

§ 4. Grievance Board.

- A. A Grievance Board of four (4) members is hereby established to hear appeals from decisions of supervisors on grievances.
- B. The members of this Board shall be appointed by the Mayor to serve at the pleasure of the Mayor.
- C. A hearing of any matter before the Grievance Board may be conducted by any one (1) or more members of the Board, designated by the Board to act on its behalf; provided, that if less than the full Board presides at such a hearing, the member or members thereof conducting such hearing shall render a report thereon to the full Board and the full Board shall thereupon make its report.
- D. Two (2) concurring votes shall be necessary to determine any official report or action of the Grievance Board.
- E. Necessary funds, supplies, facilities and personnel to implement the operation of the Grievance Board shall be provided by the Board of Trustees.
- F. The Grievance Board may make and amend rules and regulations for the conduct of its proceedings not inconsistent with the provisions of this resolution. A complete and up-to-date set of such rules and amendments shall be kept on file in the Village Clerk's office.

§ 5. Appeals to Grievance Board.

- A. An employee may appeal from the decision of the supervisor within fifteen (15) days after notice of such decision. The appeal shall be taken by submitting to the Grievance Board a written statement signed by the employee taking the appeal, containing:
 - (1) The name, residence address and department of employment of the employee presenting the grievance.
 - (2) The name, residence address and department of employment of such other employee or official involved in the grievance.
 - (3) The name and address of the employee's representative, if any, and his department of employment if he be a fellow employee.
 - (4) A concise statement of the nature of the grievance, the facts relating to it and the proceedings and decisions on the grievance up to the time of the appeal.
 - (5) A request for a review of the decision of the supervisor.

- B. The Grievance Board may request the supervisor to submit a written statement of facts, including a summary of the record of the hearing, if there was a hearing, and the original or a true copy of any other record or document used by the supervisor in making his decision. Such written statement shall be submitted within three (3) days after request by the Grievance Board.
- C. The Grievance Board shall hold a hearing within ten (10) days after receiving the written request for review. It shall give at least three (3) days notice of the time and place of such hearing to the employee, the employee's representative, if any, and the supervisor, all of whom shall be entitled to be present at the hearing.
- D. The hearing on the appeal may be held in public or in private as determined by the Grievance Board.
- E. New evidence, testimony or argument, as well as any documents, exhibits or other information submitted to the supervisor at the hearing held by him may be introduced at the hearing by the employee, by the supervisor or upon the request of the Grievance Board.
- F. The hearing may be adjourned from time to time by the Grievance Board if in its judgment such adjournment is necessary in order to obtain material evidence. The total of all such adjournments, however, shall not exceed ten (10) days, except that adjournments consented to by both the Employee and the supervisor shall not be counted in determining the total days of adjournments as herein limited.
- G. The grievance Board shall not be bound by formal rules of evidence.
- H. A Written summary shall be kept of each hearing held by the grievance Board.
- I. The Grievance Board shall make its report in writing within five (5) days after the close of the hearing. It shall immediately file its report and the written summary of the proceedings with the Village Clerk and shall at the same time send a copy of its report to the employee, the employee's representative, if any, the supervisor, the Mayor and the local Civil Service Commission if appropriate. The report shall include a statement of the Board's findings of fact, conclusions and advisory recommendations.
- J. The report of the Grievance Board shall be final.

§ 6. Amendment.

This resolution may be amended at any time in accordance with the general procedures and requirements in effect at such time for the amendment of a resolution.

§ 7. Effective date.

This resolution shall take effect immediately.

POLICE REGULATIONS

APPENDIX, PART II

POLICE REGULATIONS

ARTICLE I
Organization

- § 1. Duties and responsibilities.
- § 2. Chief of Police.
- § 3. Temporary absence or disability of Chief of Police.
- § 4. Order of rank.
- § 5. Seniority.

ARTICLE II
Duties of Chief of Police

- § 6. General duties.
- § 7. Specific duties.
- § 8. Excuse of member from tour of patrol; report.
- § 9. Suspension of member or employee from duty.

ARTICLE III
Duties of Assistant Chief

- § 10. General duties.
- § 11. Specific duties.

ARTICLE IV
Duties of Supervisory Personnel

- § 12. General duties.
- § 13. Specific duties.

ARTICLE V
Desk Officer

- § 14. Designation.
- § 15. Post.
- § 16. Duties and responsibilities.

MALONE CODE

**ARTICLE VI
Duties of Members of the Force**

- § 17. General duties.
- § 18. Specific duties.

**ARTICLE VII
Duties of Civilian Members**

- § 19. General duties.
- § 20. Specific duties.

**ARTICLE VIII
Patrol Division**

- § 21. Responsible to commanding officer.
- § 22. Duties and responsibilities.

**ARTICLE IX
Authority and Command**

- § 23. General provisions.

**ARTICLE X
Rules of Conduct**

- § 24. Prohibited conduct; violations.

**ARTICLE XI
General Rules**

- § 26. Enumeration of general rules.

**ARTICLE XII
Penalties**

- § 26. Penalties for offenses; additional cawed for action.

**ARTICLE XIII
Terminology**

- § 27. Definitions and word wage.

POLICE REGULATIONS

[HISTORY: Adopted by the Malone Village Board 6-24-1993.¹ Amendments noted where applicable.]

ARTICLE I Organization

§ 1. Duties and responsibilities.

The Police Department and its police force have the power and it is their duty to:

- A. Protect life and property.
- B. Prevent crime.
- C. Detect and arrest offenders.
- D. Preserve the public peace.
- E. Enforce all laws and ordinances over which the Police Department has jurisdiction.
- F. Execute all criminal processes in accordance with law.

§ 2. Chief of Police.

- A. The Chief of Police is the chief executive officer of the Police Department subject to the rules and regulations prescribed by the Board of Trustees, two (2) members of such Board acting as a Police Committee. The government and control of the Police Department and its members is vested in the Chief of Police.
- B. The Chief of Police shall be designated in accordance with law by the Board of Trustees of the Village of Malone, Franklin County, New York, acting as a Police Committee to exercise command of the Police Department and its members.
- C. It shall be the duty of the Chief of Police, under the direction and supervision of the Police Committee, to administer the Police Department of the Village of Malone, of which Department he shall be the chief executive officer, and he shall have full control of the members thereof.
- D. He shall cause accurate and secure records to be kept of all arrests, services and investigations performed by members of the Department and property taken from persons arrested or seized on a warrant or otherwise, together with the disposition thereof.
- E. As administrator of the Department he shall enforce discipline at all times, shall demand that all divisions of the Department cooperate and that maximum efficiency be constantly maintained, shall have the power to prescribe regulations to govern members and employees of the Department and shall hold command officers strictly accountable for the enforcement of the rules and regulations. He shall, at least once each month, report to the Police Committee the condition of the Department and whether the members of his Department are delinquent in their duties.

¹ Editor's Note: These regulations also superseded former Appendix, Part II, Police Regulations 10-14-1940.

§ 3. Temporary absence or disability of Chief of Police.

During the temporary absence or disability of the Chief of Police, when no special designation is made by competent authority, the command automatically devolves upon the senior ranking member of the command. He shall possess all the powers and perform all the duties of the Chief of Police, except the power of making any changes in the rules and regulations, appointments, promotions, changes of assignment or detail, and he shall carry out the orders previously given, and such orders shall not, except in cases of extreme emergency, be countermanded nor set aside; however, when such action is taken, a report shall be made to the Chief of Police, in writing, stating the reasons therefore in such instances.

§ 4. Order of rank.

Order of rank shall be as follows:

- Chief of Police
- Assistant Chief
- Sergeant
- Patrolman

§ 5. Seniority.

Seniority is determined:

- A. First, by rank.
- B. Second, by continuous service in rank.
- C. Third, by date of appointment to previous rank or ranks.
- D. Fourth, by date of appointment to Department.
- E. Fifth, by highest score on civil service list from which appointments were made.

ARTICLE II
Duties of Chief of Police

§ 6. General duties.

Within the boundaries of the village, the Chief of Police shall be charged with and responsible for:

- A. The enforcement of all laws, ordinances and regulations, and is especially charged with enforcement of laws relating to vice, gambling, narcotics and dangerous drugs, public morals and intoxicating liquors.
- B. The regulation and movement of vehicular and pedestrian traffic in streets, roads, places and highways, as described in the Vehicle and Traffic Law of the State of New York and village ordinances.

§ 7. Specific duties.

- A. The Chief of Police will:

- (1) Enforce the rules and regulations of the Police Department and is charged with and responsible for the discipline and efficiency of the members of the force and Department.
- (2) Provide each member with a copy of the rules and regulations and see that he is properly instructed in his duties and that he performs them in such a manner as to render effective police service and also that he is instructed with regard to his conduct, on and off duty, so that his conduct will not be detrimental to the good order and efficiency of the Police Department.
- (3) Assure the accurate preparation, maintenance and forwarding of reports and records.
- (4) Carefully examine frequently all books and records required to be kept in conformity with the laws of the State of New York and the rules and regulations of the Department and see that entries therein are properly made.
- (5) As directed, take inventory, inspect and maintain the Department building, property and equipment and for vary a report to the Police Committee.
- (6) Account for the property assigned to and issued for the use of members of the Department, and is responsible for the proper care, economical use, sufficiency and serviceability thereof and shall make frequent inspections thereof.
- (7) Submit the annual budget to the Police Committee, as directed.
- (8) Frequently visit every building or parts thereof assigned to his Department and all parts of the territory within the boundaries of the village at intervals of the day and night and take, or direct to be taken, such actions as may be required to render effective police service and to maintain proper discipline. He shall frequently test the knowledge of subordinates as to conditions upon their posts.
- (9) Communicate frequently with the desk officer when on patrol and, when absent, except with leave, shall keep the desk officer informed where he may be found.
- (10) Carefully investigate the following occurring within his Department, and shall forward a written report in full detail to the Police Committee:
 - (a) The reported death of any member of the Department while acting in the discharge of duty.
 - (b) Cases of special faithfulness to duty, exceptional skill and bravery in the performance of duty and where first aid of an exceptional nature has been rendered by any member of the force or Department.
 - (c) Cases of civilians who render assistance to the Police Department, or any member thereof, in the apprehension of a criminal or in an emergency.
- (11) Carry out the following, in addition to all other reports, when a member of the force is injured:
 - (a) He shall make a careful investigation of the circumstances of the injury and shall, where possible, interview and obtain a signed statement from each witness.

- (b) He shall make a report of the results of such investigation. This report shall show whether or not, in his opinion, such injury was sustained in the performance of police duty, whether or not negligence on the part of the injured member contributed to the injury and the names and addresses of all witnesses.
- (c) He shall forward a written report of his findings to the Police Committee.
- (12) At least once each week, personally inspect the uniform and equipment of members of the Department at an outgoing roll call of the platoon to which the member is assigned, making written record of such inspection. He shall at all times give particular attention to the uniforms, equipment and general appearance of the members of the force.
- (13) Carefully observe the police duty performed by probationary patrolmen and shall report to the Police Committee, prior to the expiration of the probationary period, the manner in which such duty was performed.
- (14) Obtain all Police Department property and all revolvers and pistols in the possession of a member of the force who resigns, retires, is dismissed or enters active military service, and shall obtain all Police Department property and all revolvers and pistols from among the effects of a member who dies.
- (15) Divide into posts the territory within the police jurisdiction of the village. A post shall be designated as indicated below:
- (a) A patrol post includes the public thoroughfares within the boundaries of the post. It does not include the interior of buildings, except as otherwise specified.
 - (b) A traffic post includes the portion of the public thoroughfare necessarily included in the regulation of vehicular and pedestrian traffic.
 - (c) A hospital post shall include that portion of the hospital in which a prisoner or prisoners are confined under police jurisdiction.
 - (d) A special post is a temporary post. The purpose, location, boundaries and time during which it is to be covered must be specified and approved by the Chief of Police or Acting Chief of Police.
- (16) Issue written and verbal orders to attain Department goals.
- (17) When a burglary or other serious crime is committed or a serious accident occurs under circumstances which indicate that the member of the force on post might have prevented it, cause an investigation to be made, and if the investigation reveals neglect on the part of the member, he shall prefer written charges against the member.
- (18) With the approval of the Police Committee, establish duty charts; such charts have the force and effect of rules and regulations when authenticated with the original signature of the Chief of Police.
- (19) Evaluate programs.
- (20) Draft specifications for equipment, uniform and insignia.
- (21) Develop plans to meet Department needs.
- (22) Control Department expenditures.
- (23) Maintain suitable relations with mass communications media.

- (24) Cooperate with all law enforcement agencies and officers in matters of mutual interest.
- (25) Provide leadership and guidance in developing loyalty and dedication to the police profession.
- (26) Train, direct, supervise and evaluate members in their assigned duties and recommend remedial or disciplinary action for inefficient, incompetent or unsuitable members.
- (27) Sustain a member of his command who is properly performing his duty.
- (28) Correct subordinates in a dignified manner.
- (29) Ensure the security and care of prisoners and sick, injured or unconscious persons and obtain medical care when needed.
- (30) Deal fairly and equitably with subordinates.
- (31) Conduct formal parades and roll calls in a professional manner.
- (32) At all times conduct himself in a manner which will provide leadership and guidance to the members of his Department and enhance the public image of police in general.
- (33) Prepare the vacation list for the following year by the 15th of December.

§ 8. Excuse of member from tour of patrol; report.

The Chief of Police may excuse for one (1) tour of patrol duty a member of the Department who performs any exceptionable act or deed of particular merit which in his opinion deserves recognition, provided that the exigencies of the service permit. A brief but comprehensive report of the act or deed for which he rewards such member will be forwarded to the Police Committee, and he shall file a copy in the member's service record.

§ 9. Suspension of member or employee from duty.

The Chief of Police may, in his discretion, suspend from duty and report to the Police Committee any member or employee of the Department for any violation of the rules and regulations or for any insubordination.

**ARTICLE III
Duties of Assistant Chief**

§ 10. General duties.

Within the boundaries of the village, the Assistant Chief shall be charged with and responsible for:

- A. The enforcement of all laws, ordinances and regulations, and is especially charged with enforcement of laws relating to vice, gambling, public morals and intoxicating liquors.

- B. The regulation and movement of vehicular and pedestrian traffic in streets, roads, places and highways, as described in the Vehicle and Traffic Law of the State of New York and village ordinances.

§ 11. Specific duties.

The Assistant Chief will:

- A. Be responsible to and under the supervision of the Chief of Police.
- B. Have such hours of duty as the Chief of Police may prescribe.
- C. Be acquainted with and enforce all laws of the State of New York and the ordinances of the village that the Police Department is charged with the responsibility of enforcing.
- D. Familiarize himself with administrative policy and be responsible for the enforcement of all Department orders and the rules and regulations, and he shall maintain discipline and efficiency in every branch of the Department.
- E. Investigate thoroughly during his tour of duty any complaints of misconduct or laxity made against any member of the Department and submit a written report without delay to the Chief of Police.
- F. (Reserved)
- G. Require the accurate preparation, maintenance and forwarding of reports and records by Department members.
- H. At intervals, patrol the village in a radio-equipped vehicle observing, inspecting and supervising the performance of duty by subordinates assigned to patrol.
- I. During such patrol he shall maintain radio contact with the radio dispatcher.
- J. In the event of a serious emergency (extensive fire, explosion, heavy snow, plane crash, major holdup, etc.) during his tour of duty, immediately exercise his command function in the disposition of men and equipment. He shall immediately cause the Chief of Police to be notified and those village departments whose operations would be effected by such emergency. This will also include notifying the Mayor of the Village of Malone.
- K. Be subject to any other duties assigned by the Chief of Police.

ARTICLE IV

Duties of Supervisory Personnel

§ 12. General duties.

A supervisory member will be responsible for the enforcement of all laws and ordinances, Department rules and regulations, orders, procedures, discipline, punctuality and attendance, appearance, good order and efficiency of members within his assigned jurisdiction.

§ 13 Specific duties.

A supervisory member will:

- A. Perform specific duties and functions as assigned by the Chief of Police or Assistant Chief of Police.
- B. Obey all lawful orders.
- C. Perform assigned tasks.
- D. Provide leadership and guidance in developing loyalty and dedication to the police profession.
- E. Train, direct, supervise and evaluate members in their assigned duties. Recommend remedial or disciplinary action for inefficient, incompetent or unsuitable members.
- F. Communicate orders, information and instructions.
- G. Inform his relief of all necessary police matters.
- H. Be present at prescribed roll calls.
- I. At established intervals, inspect personnel, vehicles and equipment.
- J. Report to his superior officer absentees and any deficiencies in his men and equipment.
- K. Ensure that recovered property is handled in accordance with Department orders.
- L. Ensure that Department resources are used efficiently and effectively.
- M. Account for all moneys and valuables received, processed and disbursed in conformance with Department orders.
- N. Inquire into the circumstances of all arrests to assure that all persons are handled in conformance with the Department policy and orders.
- O. Know and conform to the current bail provisions of the Criminal Procedure Law, State of New York.
- P. Report promptly matters of police importance to his superior officers.
- Q. Ensure that all appropriate village departments are informed of emergencies which require their attention.
- R. Direct activities of subordinate members for the purpose of achieving the objectives of the Police Department.
- S. Perform those duties of the members of the force that are applicable to him.
- T. When in uniform, maintain a professional bearing and - render professional courtesy to superior officers.
- U. Assemble and remove details and parades in a professional manner.

ARTICLE V **Desk Officer**

§ 14. Designation.

The desk officer shall be designated by the Chief of Police.

§ 15. Post.

The post of the desk officer is within the confines of the area designated for the use of the Department operational and complaint reception function.

§ 16. Duties and responsibilities.

- A. Upon beginning his tour of duty and at the conclusion of it, a desk officer shall immediately sign his name in the Department record provided for such purpose and give the correct time of each signing. He shall make prompt, accurate and necessary entries of official business in Department records in a manner prescribed for making and keeping such records.
- B. A desk officer shall not leave the desk during his tour of duty except for personal necessity, meal period, official duty within the Departmental building or upon urgent police business. When required to leave his post for any reason, he shall do so only in the manner prescribed by the Chief of Police.
- C. A desk officer shall be responsible during his tour of duty for all telephone and teletypewriter and radio messages received and the necessary action thereon and the transmission of all orders and instructions from competent authority affecting any member of the force or Department.
- D. A desk officer shall not permit anyone behind the desk except a superior officer or other member of the Department in the line of duty or as otherwise directed by the Chief of Police.
- E. A desk officer shall make proper entries whenever a member of the Department or force reports to him either for or from duty.
- F. A desk officer shall have charge of all teletype, telephone, radio and electrical equipment used in the administration of the desk officer's functions.
- G. The desk officer shall inspect or cause to be inspected supplies delivered to his command for quantity and quality and shall note receipt of the same in the prescribed Department records.
- H. During his tour of duty, a desk officer is responsible for the courteous receipt of all complaints and their proper entry in prescribed Department records and instituting proper police action with respect thereto.
- I. When a burglary or other serious crime is committed or a serious accident occurs under circumstances which indicate that the member of the force on post might have prevented it, the desk officer shall notify the patrol supervisor immediately.
- J. The desk officer shall, without unnecessary delay, refer to the detectives an arrest or other case for other authorities.
- K. The desk officer shall bring to the attention of the Chief of Police, or his immediate commanding officer, all matters of importance, such as unusual occurrences, any exceptional act or deed of particular merit performed by members of the force or Department and important messages or conditions requiring his attention.
- L. The desk officer shall record on the authorized books and forms all police business affecting the Department occurring or reported during his tour. He shall take proper action with respect thereto.
- M. The desk officer shall know and conform to the current bail provisions of the Criminal Procedure Law, State of New York.

ARTICLE VI
Duties of Members of the Force

§ 17. General duties.

A member of the force will be responsible at all times for the prevention of crimes, enforcement of all laws and ordinances, preservation of the public peace, protection of life and property, arrest and prosecution of law violators and professional adherence to Department rules and regulations.

§ 18. Specific duties.

A. A member of the force will:

- (1) Know and conform to Department rules and regulations, orders and procedures.
- (2) Perform assigned duties in a professional manner.
- (3) Obey all lawful orders.
- (4) Be in attendance for those hours specifically assigned and will be considered on duty at all times for the purpose of rendering emergency police service.
- (5) Participate in formal parades and roll calls in a professional manner.
- (6) When in uniform, maintain a professional bearing and render professional courtesy to superior officers.
- (7) Treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times with their relationship with one another. When on duty, and particularly in the presence of other members, employees or the public, officers will be referred to by rank.
- (8) Identify self by name, rank and shield number when so requested.
- (9) Have a residence as provided in the laws of the State of New York and the village.
- (10) Report immediately any incapacity or inability to perform Department duties in the manner prescribed by the rules and regulations.
- (11) Report any change of marital status, address, selective service rating or other matter affecting the administration of the Department.
- (12) Receive, record and service immediately all complaints and requests for service. Refer and transfer complaints and requests only in accordance with Department orders.
- (13) Possess a valid New York State operator's license. If revoked or suspended, he shall immediately report the same to the Chief of Police.
- (14) Remain on his duty assignment and leave only for a police or personal necessity. If required to leave, he will record the time of his departure and the reason and report this information to the desk officer as soon as possible.
- (15) Provide security and care for prisoners and others delivered in his custody.
- (16) Search all male prisoners.
- (17) Have female police officers conduct search of female prisoners, unless during street arrest confrontation warrants a limited search in order to secure the safety of the officers involved.

- (18) Help secure medical attention for all sick and injured persons.
- (19) When assigned to a motor vehicle:
 - (a) Inspect it for damage or defects.
 - (b) Report to supervisory officers any defects observed or incurred.
 - (c) Protect it from possible damage or theft.
- (20) When operating a motor vehicle:
 - (a) Use skill, good judgment and care for the safety of persons and property.
 - (b) Obey all traffic regulations unless on emergency assignment.
- (21) Submit transfer requests in conformance with Department procedures.
- (22) Give a minimum of one (1) week's notice of intention to resign from the Department.
- (23) Wear the regulation uniform in the prescribed manner when assigned to uniform duty.
- (24) Report immediately the loss or damage of any Departmental equipment.
- (25) Notify the Fire Department when a fire is discovered. Assist and cooperate with the Fire Department.
- (26) Attend court promptly when required or ordered.
- (27) Report the reason for court absence or tardiness to the Chief of Police through the desk officer.
- (28) Appear in court in the regulation uniform unless assigned in civilian dress and then in suitable business attire.
- (29) When subpoenaed or requested to testify in behalf of the defense in any criminal prosecution or in behalf of the plaintiff or defendant in a civil matter in which the village, town, county or state is a party thereto, report immediately the receipt of such subpoena or request to the Chief of Police before appearing at any hearing or before entering into any discussion of the matter with anyone other than the legal representative of the village, town, county or state.
- (30) Report to the Chief of Police any information of a police nature, including offenses involving himself or others and offenses with which he has been charged, except minor traffic offenses.
- (31) Give evidence before the Grand Jury, court or other governmental administrative bodies and the Board of Trustees when requested.
- (32) Investigate any person suspected of operating a motor vehicle while in an intoxicated condition and/or under the influence of drugs and direct the administration of a chemical test to said person in accordance with the procedure prescribed by the Police Department.
- (33) Immediately notify the desk officer of an unusual occurrence, important casualty, serious crime or unsafe public condition on his post. The first superior officer at the scene shall also immediately notify the desk officer of all the facts that he has gathered and shall thereafter personally inform the desk officer of all new developments.
- (34) Obey the laws and ordinances which he is obligated to enforce.

ARTICLE VII
Duties of Civilian Members

§ 19. General duty.

A civilian member will be responsible for the proper and efficient performance of his assigned duties.

§ 20. Specific duties.

A civilian member will:

- A. Obey all lawful orders of a superior.
- B. Be bound by the rules and regulations, orders and procedures of the Department insofar as they apply.
- C. Report promptly to superior officers any violation of any law or rules and regulations of which they have knowledge.

ARTICLE VIII
Patrol Division

§ 21. Responsible to commanding officer.

Patrol officers shall be under the direction and command of, and shall be responsible to, the member of the force designated as commanding officer of the Patrol Division by the Chief of Police.

§ 22. Duties and responsibilities.

- A. Patrol officers shall be responsible for the diligent and conscientious performance of the duties imposed upon them by law, by the rules, regulations and procedures of the Department and the lawful orders of their superior officers.
- B. Patrol officers, unless otherwise directed, shall constantly and alertly patrol their areas, giving particular attention to those locations most vulnerable to the commission of crime.
- C. Patrol officers shall thoroughly acquaint themselves with their assigned area of patrol and do all in their power to prevent any breach of the peace or violation of law.
- D. Patrol officers shall familiarize themselves with the location of all police, fire and other communication facilities in the village.
- E. Patrol officers shall continually check the security of the business places on their posts after closing hours.
- F. Patrol officers shall continually inspect their patrol areas, carefully noting any condition requiring police attention, and shall take whatever action is necessary in the situation.
- G. Frequent occurrence of crime on any post may indicate lack of ability or attention to duty by the officer assigned and shall be the subject of review and possible disciplinary action.

- H. Patrol officers shall make a memorandum of current complaints and all matters of police interest relating to their posts and give proper attention to the same.
- I. Patrol officers shall keep a memorandum of all occurrences or information received which may be of interest to any branch of the Department or other agency or upon which he may be required to report and promptly transmit the same.
- J. Patrol officers shall give particular attention to premises where narcotics, dangerous drugs, liquor, vice or gambling laws may be violated and shall do all in their power to prevent such activity. They shall promptly report their observations and action taken to their supervising officer or desk officer.
- K. Patrol officers shall carefully observe conditions which could lead to the development of crime or criminal opportunities, take such preventive action as the condition may indicate and report their observations, actions or recommendations to their supervising officer or desk officer.
- L. Patrol officers shall give particular attention to streets of heavy traffic, signalized intersections and traffic control signs. The responsibility of the patrol officers in the enforcement of traffic violations is as great as in the enforcement of other laws. Members failing to take appropriate action upon view of a traffic violation are subject to the disciplinary action as for any other neglect of duty.

ARTICLE IX Authority and Command

§ 23. General provisions.

- A. Command is exercised by virtue of office or special assignment of officers who are eligible by law to exercise command. Subject to direction from higher command, a commanding officer has direct control over all members and employees within his command.
- B. When officers of equal rank are present and in the performance of the same operation, the senior ranking officer shall be in command, unless otherwise directed.
- C. A member who succeeds to any command or duty stands in regard to his duties in the same situation as his predecessor. The member relieved shall turn over to his successor all orders relating to that position in force at the time and all funds and properties pertaining to it. He shall receive, upon request, receipts showing the condition of each article so transmitted.
- D. An officer relieving or temporarily filling the position of a superior in an acting capacity shall be vested with all the authority and responsibilities of the superior, but the acting officer shall not interfere with, countermand or modify the orders previously issued by the superior, except in extreme emergency.
- E. Members acting in the capacity of a higher rank shall be accorded the same obedience and respect as the permanent ranking officer.

- F. Should an order conflict with any previous order issued by any other ranking officer or with any Department or provision of the Department rules and regulations, the member to whom such order is issued shall respectfully call attention to the conflict; responsibility for countermanding the original order then rests with the individual issuing the second order. If so directed, the latter command shall be obeyed.
- G. Issuance of orders to a subordinate does not relieve a ranking officer from the responsibility to see that the orders are obeyed.
- H. Ranking officers shall not perform the duties regularly assigned to a subordinate when the subordinate is available to perform them.
- I. Adherence to the chain of command shall not be bypassed except in an emergency.
- J. Ranking officers may exercise command over subordinates not of their regular command whenever, in his judgment, such action is necessary in order not to jeopardize the police purpose or the reputation of the Department.
- K. Ranking officers in command of the various branches of the Department shall establish methods, techniques and procedures best suited for the accomplishment of the functional objectives of their particular bureaus. Such procedures and techniques shall be subject to the approval of the Chief of Police and shall not be in conflict with the law or any rule or order of the Department.
- L. Whenever authority is delegated to a member of the Department, he shall be held accountable for the proper use of such authority.
- M. In order to maintain a proper chain of command, a member will, as a general rule, be required to take direct orders from, and be responsible to, a ranking officer. Ranking officers, however, shall exercise direct command over lower ranks outside their usual command in all situations where the police purpose or the reputation of the Department is jeopardized or if no other provision is made for personnel temporarily unsupervised. If a ranking officer requires a subordinate not of his command to leave a regular assignment, the ranking officer so directed will inform the subordinate's superior as soon as possible.

ARTICLE X Rules of Conduct

§ 24. Prohibited conduct; violations.

A. A member of the Department shall not violate, either by commission or omission, any of the following acts:

- (1) Conduct which brings discredit upon the Department.
- (2) Failure to perform a duty.
- (3) Disobedience of an order.
- (4) Insubordination or disrespect toward a superior officer.
- (5) Inattention to duty.
- (6) Lounging or sleeping on duty.
- (7) Being absent from duty without proper authorization.

- (8) Leaving duty assignment without being properly relieved or without proper authorization.
- (9) Incompetency or inefficiency in the performance of duty.
- (10) Entering any tavern, liquor store or bar in uniform or any part thereof except when it is necessary for inspection or for the immediate performance of a police duty.
- (11) Drinking alcoholic beverages while on duty. Members in plain clothes may drink alcoholic beverages while on duty only when necessary to accomplish a police purpose while acting under specific orders of a superior officer.
- (12) Drinking alcoholic beverages while in uniform or any part thereof whether on or off duty.
- (13) Intoxication whether on or off duty.
- (14) Violation of any duly constituted law.
- (15) Disorderly conduct.
- (16) Immoral conduct.
- (17) Using coarse, profane or insolent language to any person.
- (18) Failure to treat any person civilly and respectfully.
- (19) Willful maltreatment of any person.
- (20) Knowingly make a false report, written or oral.
- (21) Failure to wear the regulation uniform when on duty or on official business unless otherwise authorized by the Chief of Police or commanding officer.
- (22) Failure to maintain a neat and clean appearance of self, uniform and equipment.
- (23) The use of any tobacco or chewing gum while in uniform in public except while on meal period or authorized break.
- (24) Standing or walking with hand in pocket of uniform.
- (26) Receiving or attempting to receive a fee, gift, present or other thing of value from a person under arrest or from someone else on behalf of the arrested person.
- (26) Receiving, soliciting or attempting to solicit a bribe in any form.
- (27) Publicly criticizing the official actions of a Department member.
- (28) Disseminating or releasing any information contained in a Department record except in conformance with Department procedures.
- (29) Failure to pay a just indebtedness within a reasonable time.
- (30) Failure to identify self by name, rank and shield number when requested.
- (31) Failure to seize, record, process and dispose of recovered or prisoner's property in conformance with Department orders and procedure.
- (32) Failure to handle stray or dead animals in conformance with Department orders and procedure.
- (33) Failure to notify a superior officer that a member of the Department is violating a rule or order of the Department.

- (34) Deliberate violation of civil service laws or regulations pertaining to police management and control.
- (35) Possessing or transporting, when on duty or on Department property, any intoxicating liquor, dangerous drug or narcotics except when in performance of police duty or when authorized by competent medical authority. In the latter instance the Chief of Police will be notified, in writing, of the need for such prescription by the member concerned.
- (36) Defacing or neglecting to protect and preserve Department property.
- (37) Failure to obey Department orders concerning other employment, occupations or professions.
- (38) Engaging directly or indirectly in the forbidden ownership, maintenance or operation of a taxicab, tavern or retail liquor establishment.
- (39) Allowing the publication of any photograph of oneself in the regulation uniform which advertises any commodity or commercial enterprise without the permission of the Chief of Police.
- (40) Communicating or corresponding with other police agencies or individuals concerning police matters except as provided by Departmental procedures.
- (41) (Reserved)
- (42) Failure to keep a Department vehicle in public view while assigned to general patrol duty except when authorized by a superior officer.
- (43) Concealing a Department vehicle for the sole purpose of apprehending traffic violators except when authorized by a superior officer.
- (44) Permitting any person not on official business to ride in a Department vehicle unless specifically authorized.
- (45) Riding in or on a non-Department vehicle during duty hours except when authorized by a superior officer or in pursuit of official police business.
- (46) Operating a Department vehicle out of the village except in immediate pursuit of law violators or when on official police business authorized by the Chief of Police or his immediate supervisor.
- (47) Operating a Department vehicle without proper authorization or on other than official police business.
- (48) Peking, pushing or towing any vehicle with a Department vehicle except as authorized by the Chief of Police.
- (49) Altering Department equipment in any way except as authorized by the Chief of Police.
- (50) Carrying any rifle, shotgun, machine gun or gas gun or substituting for the regulation service revolver any weapon, not authorized by the Chief of Police, or adding a concealed auxiliary hand gun while on duty not authorized by the Chief of Police.
- (51) Unlawful or unnecessary use or display of a weapon.
- (52) Failure to report any discharge of a weapon:
 - (a) Orally and immediately to a superior officer.

- (b) In writing to the Chief of Police without unnecessary delay.
- (53) Selling, giving, lending or disposing of a dangerous weapon as outlined in § 265.05 of the Penal Law of the State of New York contrary to the provision of § 265.10 of the Penal Law and the rules and regulations of the Department.
 - (54) Giving an opinion as to fine or penalty to a violator or suspect.
 - (55) Giving an opinion as to bail except by those specifically authorized to admit to bail.
 - (56) Failure to take, record and act upon complaints except as prescribed by Department orders.
 - (67) Removing, altering or changing any official Department record except as provided for in Department orders.
 - (58) Issuing any device which purports to grant special privileges to the holder.
 - (59) Displaying in any manner nondepartmental or departmental posters or pictures in or on any Department property or equipment except in conformance with Department orders or procedures.
 - (60) Obligating the Department financially in any manner except as authorized by the Chief of Police or the Police Committee.
 - (61) Recommending to any citizen any bondsman, lawyer, undertaker, physician, hospital, towing or repair service or other professional or commercial service.
 - (62) Failure to report any information of a police nature in conformance with Department orders and rules and regulations.
 - (63) Failure to obtain official permission to participate in public discussions of police or Department business except as provided for in Department orders.
 - (64) Interviewing, questioning or interrogating any person in a cell.
 - (65) Entering any police lockup except on official police business.
 - (66) Associating or fraternizing with known criminals or persons of in repute except in the immediate discharge of official duties or with authorization of the Chief of Police.
 - (67) Soliciting or accepting a gift, present, reward, gratuity or other thing of value for any service rendered as a Department member, excluding gifts received from relatives or close friends upon appropriate occasions, without the consent, in writing, of the Chief of Police.
 - (68) Seeking or soliciting contributions of any kind from anyone, by any means, for any purpose, under any circumstances, including collections for charitable purposes by any member, group of members or their agent, except as specifically authorized by the Chief of Police.
 - (69) Failure to submit a written report that he is under investigation by another law enforcement agency to the Chief of Police within twenty-four (24) hours of becoming aware of such investigation.
 - (70) Refusal to sign an immunity waiver when so ordered in a matter connected with his official duties.
 - (71) Refusal to testify on the grounds of possible self incrimination.

- (72) Participation by Department members or urging the participation by other members in any strike, slowdown or other concerted action which is in any degree adverse to the maintenance of the public safety or welfare.
 - (73) Affiliation with any organization or body, the constitution or regulations of which would in any way exact prior consideration and prevent him from performing his Departmental duties. However, membership in any union or other organization in connection with and relating solely to approved secondary employment of members of the Department and required membership in military reserve units is specifically excepted from this regulation.
 - (74) No member of the Department may seek the influence or intervention of any person outside the Department for the purpose of personal preferment, advantage, transfer or advancement.
 - (75) No member or members of the Department shall initially contact the Board of Trustees on police problems except through regular channels or by permission of the Chief of Police.
 - (76) No member of the force, unless authorized by the Chief of Police, shall possess keys to any premises not his own on or near his beat.
 - (77) No member of the Department shall use habit forming or dangerous drugs or narcotics unless properly prescribed by a dentist or physician. In such instance, the Chief of Police will be notified in writing of such need.
 - (78) No member of the Department shall play games of cards or chance in a Department building or engage in illegal gambling anywhere.
- B. A member violating any of the provisions of this Article shall be subject to disciplinary action as provided by law.

ARTICLE XI General Rules

§ 25. Enumeration of general rules.

- A. All members of the Police Department shall be subject to the rules and regulations. Members of the Department are not merely employees but are officers of this state and village charged with specific duties in maintaining public order and administering justice. Therefore, every member's sole responsibility must be to the Chief of Police and through him to the public.
- B. It is the duty of the Police Department and the members of the force, at all times of the day and night, to protect life and property, prevent crime, detect and arrest offenders, preserve the public peace and enforce all laws and ordinances over which the Police Department has jurisdiction.
- C. Patrolman.

- (1) A patrolman, regularly performing patrol duty, shall proceed to his designated post or relieving point without unnecessary delay, inspect his post immediately, remain constantly alert and observant, note any condition thereon requiring police attention and take appropriate action.
 - (2) He is charged with the enforcement of all laws and ordinances, especially with those relating to vice, gambling, narcotics and dangerous drugs, public morals and intoxicating liquors, and also with the proper condition and maintenance of Departmental equipment, traffic control equipment of all types, streetlights and public highway, curb and sidewalk conditions within the boundaries of the post to which he is assigned; he shall promptly report through official channels any condition requiring attention and shall provide safeguards when necessary.
- D. A member of the force or Department shall be fit for duty and subject to duty at all times except when on sick report. He shall not engage in any other occupation except when suspended from duty without pay or when, having filed his application for retirement, he is on continuous vacation or other authorized leave or when, having made application on the prescribed form, he has been granted a work permit by the Chief of Police.
- E. Members of the force shall be held strictly accountable for all information acquired by them on or off duty regarding all suspicious persons or places within the village.
- F. A member of the force or Department shall treat as confidential the official business of the Police Department. He shall not talk for publication, nor be interviewed, nor make public speeches, nor shall he impart information relating to the official business of the Department to anyone except under due process of law and as directed or with the permission of the Chief of Police.
- G. Firearms.
- (1) The indiscriminate and careless use of firearms is strictly prohibited.
 - (2) The following rules for the proper use of firearms will be adhered to:
 - (a) Unauthorized use of firearms will be cause for disciplinary action.
 - (b) No officer shall fire so-called "warning shots."
 - (c) Dry firing or snapping the action of a firearm is forbidden in or on any Departmental premises except when authorized during a firearms training program.
 - (d) No officer shall fire at a vehicle, conveyance or structure when the identity of the occupants is not known to him, except in defense of himself or others as permitted by law.
 - (a) The responsibility for any use of a firearm shall be borne by the officer who fires the weapon.
 - (f) Officers shall discharge firearms only in self-defense or in defense of the life of another and always only to the extent permitted by law. Firearms shall be fired only when their use is permitted by § 35.30 of the Penal Law or in accordance with the provisions of the Criminal Procedure Law and Agriculture and Markets Law dealing with the destruction of Animals.

- (g) Except as set out in Subsection G(2)(c), (d) and (f), officers shall draw their firearm only for cleaning and official supervisory inspection or, when in the judgment of the officer to whom the firearm is assigned, readiness to fire is essential to the protection of life.
 - (h) Only an officially approved revolver shall be carried on and off duty.
 - (i) Members shall be responsible for the security of their firearms at all times.
 - (j) While on duty, members shall wear their sidearms in the prescribed manner.
 - (k) Members shall report the loss or theft of a firearm capable of being concealed on the person or the discharge of their weapon in accordance with the provisions of § 24A(52).
- H. A member of the Department found guilty of violating a rule or regulation of the Department or of the provisions of any order or orders or of disobedience of orders or of intoxication while on duty or while in uniform or of conduct unbecoming an officer or of making a false official communication, record or statement or a member of this Department convicted in a court having criminal jurisdiction may be dismissed from the Department or suffer such other punishment as the Police Committee may direct.
- I. Disorder or neglect to the prejudice of good order, efficiency or discipline, though not specifically mentioned in the rules and regulations, shall be taken cognizance of by the Department, and members of the Department found guilty thereof will be punished at the discretion of the Police Committee.

ARTICLE XII

Penalties

§ 26. Penalties for offenses; additional causes for action.

A. A member of the Department found guilty of violating the rules and regulations and orders of the Department is subject to one of the following actions:

- (1) Reprimand.
- (2) Fine.
- (3) Suspension with or without pay.
- (4) Reduction in grade.
- (5) Dismissal or removal from the force or Department.

B. Separation of a member by the Board of Trustees is warranted for incompetent, inept or inefficient performance of duty. Repeated disciplinary actions, even for minor infractions, will be considered prima fade evidence of unsuitability for police service.

ARTICLE XIII

Terminology

§ 27. Definitions and word usage.

A. The following definitions govern the use of these terms in the rules and regulations of the Department:

BOARD OF TRUSTEES-The Mayor and the Trustees of the Village of Malone shall constitute the "Board of Trustees" thereof. The "Board of Trustees", acting as Police Commissioners, may make, adopt and enforce rules, orders and regulations for the government, discipline, administration and disposition of the Police

Department of such village and the members thereof (§ 188-e of the Village Law)⁹

DEPARTMENT- The Department of Police of the Incorporated Village of Malone, Franklin County, New York, and such term includes the term "police force."

FORCE-Includes all members of the Police Department who have taken the oath of office and who possess the police power of arrest.

LAWS AND ORDINANCES-Those laws, both state and local, and ordinances, the enforcement of which is the responsibility of the Department.

MEMBER-Any employee of the Department.

OFF DUTY-All hours other than when on duty.

OFFICER-A member of the police force possessing the power of arrest.

ON DUTY-Hours specifically assigned to a member or any time involved serving during an a police emergency even though a member was not specifically assigned.

REGULATION EQUIPMENT- Equipment which meets specifications established by a Department order.

SUPERVISORY OFFICER-Any member, other than the Chief of Police, who is authorized to direct the activities of others.

B. All pronouns include the masculine and feminine gender unless otherwise specified.

⁹ Editor's Note: See also Village Isle § 8404.

VILLAGE EMPLOYEE VACATION RULES

§ 1. Purpose.

§ 2. Definition.

§ 3. Working hours.

§ 4. Vacations.

§ 5. Sundays and legal holidays and overtime.

[HISTORY: Adopted Malone Village Board 12-29-59.]

§ 1. Purpose.

The purpose of this resolution is to establish uniform provisions for vacations and sick leaves, applicable to employees of all departments in the Village of Malone.

§ 2. Definition.

VILLAGE EMPLOYEE-Shall include all employees of the village except elected officials, department heads, members of boards and commissions and seasonal or temporary employees.

§ 3. Working hours.

The working hours will be arranged by the head of each department involved.

§ 4. Vacations.

- A. All village employees who have been in the continuous service of the village for at least one (1) year, shall be entitled to five (5) working days vacation. Those in continuous service for at least two (2) years shall be entitled to ten (10) working days vacation. Those in continuous service for at least fifteen (15) years shall be entitled to fifteen (15) working days vacation with pay at the regular rate.
- B. All vacations shall be taken in the calendar year during which the employee becomes entitled thereto and no part of such vacation will be carried over from one (1) year to another.
- C. Employees who are separated from the service and who have accrued vacation leave to their credit at the time of separation shall be paid the salary equivalent to the unused vacation leave.
- D. Vacations shall be taken only at a time fixed and approved by the department head under whom such employee works.
- E. A holiday falling in the vacation period shall be considered part of the vacation.
- F. Continuous service rendered prior to the effective date of this resolution shall be credited in determining the length of the vacation period.
- G. All employees who have been in service prior to January 1, 1960 shall have credit for accumulative vacation which they have earned, but in no case to exceed fifteen (15) working days.

§ 6. Sundays and legal holidays and overtime.

- A. All Sundays and legal holidays during the year shall be observed by the various village departments, where working assignments arranged by the heads of the departments do not conflict or are of a nature that do not require regular protection twenty-four (24) hours per day.
- B. If a village employee is required to work the whole or part of any said holidays because of pressure of business and upon direction of the department head, such employee shall be allowed the whole or part of the extra day of vacation for each holiday or part thereof that he is required to work and such vacation day must be taken within thirty (30) days of the holiday so worked.

CODE OF ETHICS

§ 1. Standards of conduct.**§ 2. Exception for certain claims.****§ 3. Distribution.****§ 4. Penalties.****§ 6. Effective date.**

[HISTORY: Adopted Malone Village Board 12-28-70. Amendments noted where applicable.]

§ 1. Standards of conduct.

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

- A. Gifts. He shall not directly or indirectly, solicit any gift; or accept or receive any gift having a value of twenty five dollars (\$25.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action or his part.
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive, or enter into any agreement, express or implied for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Board of Trustees and any officer or employee of the Village of Malone, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation before the Board of Trustees shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.

- F. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Malone in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§ 2. Exception for certain claims.

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

§ 3. Distribution

The Mayor of the Village of Malone shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the village within fifteen (15) days after the effective date of this resolution.

§ 4. Penalties.

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

§ 5. Effective date.

This resolution shall take effect January 1, 1971.

PROCUREMENT POLICY

- § 1. Purpose
- § 2. Determination of competitive bidding requirement.
- § 3. Alternative proposals required; statutory exceptions.
- § 4. Methods of purchase.
- § 5. Documentation required.
- § 6. Award to other than lowest bidder.
- § 7. Exemptions from solicitation of alternative proposals.
- § 8. Officers' input solicited.
- § 9. Annual review.
- § 10. Unintentional failure to comply.

[HISTORY: Adopted by the Malone Village Board 4-27-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics-See Appendix Part IV.

§ 1. Purpose.

Goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys, in the best interests of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the governing board is adopting internal policies and procedures governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law § 103 or of any other general, special or local law.

§ 2. Determination of competitive bidding requirement

Generally, the official(s) responsible for making the particular procurement will make the initial determination of whether competitive bidding is required. Steps involved in making this determination, among other things, include:

- A. A policy for determining whether it is expected that, over the course of the fiscal year, the Village of Malone will spend in excess of the competitive bidding thresholds for the same or similar items or services (e.g. checking budgetary appropriations; prior years' expenditures). Meetings of all officials authorized to make purchases will be held periodically to ensure that the objectives of this statute are met.

- B. A procedure that legal issues regarding the applicability of competitive bidding requirements are presented, as appropriate, to the Village of Malone's legal counsel.
- C. In the case of an emergency, analyzing that the statutory criteria are met.
- D. In the case of a lease, analyzing that a document is a true lease and not an installment purchase contract.
- E. In the case of a sole source, verifying that the item is required in the public interest, has no reasonable equivalent and is in fact available only from one (1) source.
- F. In the case of a combination of professional services and a purchase, analyzing whether the professional service is the predominate part of the transaction and is inextricably integrated with the purchase.

§ 3. Alternative proposals required; statutory exceptions.

Except for procurements made pursuant to General Municipal Law § 103, Subdivision 3 (through county contracts, or § 104 (through state contract), State Finance Law § 17ab (from agencies for the blind or severely handicapped), Correction Law § 186 (articles manufactured in correctional institution) or the items excepted herein, alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals, written quotations, verbal quotations or any other method of procurement which furthers the purposes of General Municipal Law § 104-b.

§ 4. Methods of purchase.

- A. The methods of procurement to be used are as follows:
 - (1) Verbal quotations. The telephone log or other record should record, at a minimum, the date, item or service desired, the price quoted, the name of the vendor and the name of the vendor's representative.
 - (2) Written quotations. Vendors should provide, at a minimum, the date, the description of the item or details of the service to be provided, the price quoted and the name of the contact.
 - (3) Requests for proposals. A way to award contracts for professional services is to award them only after a minimum number of professionals are contacted and asked to submit written proposals. Requests for proposals (RFPs) are traditionally used as a means of obtaining all types of professional services. RFPs are used to obtain the services of architects, engineers, accountants, lawyers, underwriters, fiscal consultants and other professionals.
- B. A request for proposals and evaluation of proposals may consider price plus other factors like experience, staffing and suitability for needs and may include negotiations on a fair and equal basis. The award shall be the most advantageous to the Village of Malone.

§ 5. Documentation required.

Documentation of actions taken in connection with each such method of procurement is required as follows:

A. Emergencies.

- (1) An exception to the competitive bidding requirements exists for emergency situations. There are three (3) basic statutory criteria to be met in order to fall within this exception:
 - (a) That the situation arises out of an accident or unforeseen occurrence or conditions;
 - (b) That public buildings, public property or the life, health, safety or property of the political subdivision's residents are affected; and
 - (c) That the situation requires immediate action which cannot await competitive bidding
- (2) Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances
- (3) Documentation should include verbal quotes, etc.

B. True leased

- (1) True lease agreements are neither purchases nor contracts for public work and thus are not subject to bidding under General Municipal Law § 103.
- (2) Documentation should include written quotes, cost-benefit analysis of leasing versus purchasing.

C. Secondhand equipment from other governments.

- (1) There is a statutory exception to competitive bidding requirements which permits the purchase of surplus and secondhand supplies, materials or equipment without competitive bidding from the federal or state government or from any other political subdivision or public benefit corporation within the state. However, purchases of used items from any other source (e.g. private sources like auctions or going-out-of-business sales) are not exempt from bidding requirements.
- (2) Documentation should include market price comparisons (verbal or written quotes) and the name of government.

D. Sole source

- (1) Competitive bidding is not required under § 103 of the General Municipal Law in those limited situations when there is only one (1) possible source from which to procure goods and services required in the public interest, such as in the case of certain patented goods or services or public utility services. Thus, for example, if the Village of Malone, acting in good faith and without intent to arbitrarily inhibit or restrict competition, determines that a particular patented item is required in a public interest and it is further determined that such item is available only from one (1) source so that no possibility of competition exists, competitive bidding may not be required for the procurement of the item.

- (2) In making these determinations, the Village of Malone should document, among other things, the unique benefits of the patented item as compared to other items available in the marketplace; that no other item provides substantial equivalent or similar benefits; and that, considering the benefits received, the cost of the item is reasonable, when compared to conventional methods. In addition, the Village of Malone should document that, as a matter of fact, there is no possibility of competition for the procurement of the goods.
- E. Insurance. Insurance coverage is not subject to formal competitive bidding. The Village of Malone still has the option, however, of requiring formal bidding in its policies and procedures. Documentation would include bid advertisements, specifications and awarding resolution. Alternatively, written or verbal quotation forms could serve as documentation if formal bidding is not required. Requests for proposals (RFPs) documented as indicated above may also be used.

§ 6. Award to other than lowest bidder.

Whenever any contract is awarded to other than the lowest responsible dollar offer, the reasons such an award furthers the purpose of General Municipal Law § 104-b as set forth hereinabove shall be documented as follows. Specific examples of why the contract should not be awarded to the lowest bid follow:

- A. Untimely delivery history.
- B. Inferior quality.
- C. The contract does not meet specifications.

§ 7. Exemptions from solicitation of alternative proposals.

The Board sets forth the following circumstances and/or types of procurements that it determines would not be in the best interests of the Village of Malone to solicit alternative proposals or quotations:

- A. In emergencies, where time is a crucial factor.
- B. For procurements for which there is no possibility of competition (sole-source items).
- C. For procurements of professional services, which because of the confidential nature of the services do not lend themselves to procurement through solicitation.
- D. For very small procurements for which solicitations of competition would not be cost-effective.

§ 8. Officers' input solicited

Comments concerning the policies and procedures shall be solicited from officers of the Village of Malone involved in the procurement process prior to the enactment of the policies and procedures and will be solicited from time to-time hereafter.

§ 9. Annum review.

The governing board shall annually review these policies and procedures. The designated person shall be responsible for conducting an annual review of the procurement policy and for an evaluation of the internal control structure established to ensure compliance with the procurement policy.

§ 10. Unintentional failure to comply.

The unintentional failure to fully comply with the provisions of General Municipal Law § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Village of Malone or any officer or employee thereof

SEXUAL HARASSMENT POLICY**§ 1. Purpose.****§ 2. Sexual harassment defined.****§ 3. Grievance procedure.**

[HISTORY: Adopted by the Malone Village Board 2-6-1995. Amendments noted where applicable.]

§ 1. Purpose.

Sexual harassment in the workplace is not only an offensive working condition, it is against the law. The New York State Human Rights Law prohibits discrimination in employment on the basis of age, race, creed, color, national origin, sex, disability or marital status. Sexual harassment is also recognized as an unlawful employment practice under Title VII of the Civil Rights Act of 1964, imposing legal responsibilities upon every village employee as well as the village itself as an employer. Sexual harassment in the employment environment is a condition which is not only obnoxious to its victims, but potentially costly to the employer in its impact on employee productivity and morale. Every village employee is entitled to a workplace free from sexual harassment, and all village officials and employees are hereby advised that sexual harassment will not be tolerated within the village workplace. Disciplinary sanctions will be enforced upon any village employee who is found to have engaged in prohibited conduct as defined herein and against any supervisor or department head who knowingly permits such conduct by employees under his or her supervision.

§ 2. Sexual harassment defined.

A. Following the Federal Equal Employment Opportunity Commission guidelines, "sexual harassment", for the purpose of this directive, is hereby defined as any unwelcome:

- (1) Sexual advances;
- (2) Requests for sexual favors; and
- (3) Other verbal or physical contact of a sexual nature when:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (b) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
 - (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

B. "Sexual harassment" shall include conduct as described above by any village official or employee, whether or not in a supervisory position over the victim. The conduct need not be a condition or requirement for continued employment, promotion or other

tangible employee benefit; "sexual harassment" shall include conduct which interferes with an individual's job performance by creating an offensive working condition.

§ 3. Grievance procedure.

A. Complaints.

- (1) Complaints of sexual harassment may be directed to the appropriate department head or in writing to the Village Attorney. Complainants are strongly encouraged to consult initially with their department head to attempt informal resolution, but failure to do so will in no way limit the right to utilize the grievance procedure initially or anytime thereafter if resolution cannot be accomplished through the department head. Complaints shall be made within six (6) months after the alleged prohibited conduct.
- (2) All complaints of sexual harassment and information and investigations thereof shall be kept in strict confidence.

B. Investigation.

- (1) The Village Attorney shall in a timely fashion conduct an investigation, interviewing appropriate persons and examining relevant records.
- (2) If the Attorney deems it appropriate, the parties to the complaint may be brought together to attempt an informal resolution of the complaint in a manner that is satisfactory to both parties.
- (3) Both the complainant and the person against whom the complaint is made shall be permitted to have counsel present at any interview or other proceeding.

C. Attorney's recommendation.

- (1) Upon conclusion of the investigation, the Village Attorney shall make a written recommendation to the Mayor and the Village Board of Trustees, which shall be one (1) of the following:
 - (a) A recommendation of a finding that no prohibited conduct has occurred;
 - (b) A recommendation that material facts in dispute be resolved by conducting a formal hearing; or
 - (c) A recommendation of a finding that no facts are in dispute and that prohibited conduct has occurred.
- (2) Copies of the recommendation shall be mailed to the complainant and the party against whom the complaint was made.

D. Actions by the Mayor and the Board. The Mayor and the Board may, but not necessarily, accept the attorney's recommendation. They may accept the recommendation of a finding that prohibited conduct occurred and proceed to remedies listed in Subsection G of this section. They may accept the recommendation of no cause and issue a written determination dismissing the complaint. They also shall be free to pursue mediation of the complaint themselves, including requiring appearance by the parties or witnesses.

- E. Hearing. Upon the acceptance of the attorney's recommendation to conduct a hearing, the Village Board of Trustees shall conduct a formal hearing. The hearing shall provide a fair opportunity for parties and witnesses to be heard. At the conclusion of such hearing the Board shall issue a written statement of finding of fact and a determination as to whether or not prohibited conduct has occurred.
- F. Record. The record maintained with respect to the complaint, investigation, recommendation, action of the Board, hearing, etc., shall be available to both parties.
- G. Remedies. If the Village Board determines that prohibited conduct has occurred, the remedies available shall be:
- (1) Oral censure of the offender.
 - (2) Written censure of the offender, to be included in their personnel file.
 - (3) Transfer, suspension or discharge of the offender or any other action which may be deemed appropriate under the circumstances.
 - (4) If the offender is a member of a collective bargaining unit, remedies available will be those outlined in their respective bargaining agreement.

LITTERING

Chapter 31A

LITTERING

- § 31A-1. Definitions.
- § 31A-2. Deposit prohibited.
- § 31A-3. Placement of receptacles in public places; village responsibility.
- § 31A-4. Deposit of off-site or recyclable litter prohibited.
- § 31A-5. Deposit in bodies of water.
- § 31A-6. Deposit from vehicles.
- § 31A-7. Waste generated outside of premises; property maintenance.
- § 31A-8. Deposit in parks.
- § 31A-9. Deposit on vacant lots.
- § 31A-10. Sweeping into gutters and streets.
- § 31A-11. Sidewalks; entrances; parking areas.
- § 31A-12. Prevention of spillage from vehicles and parking of vehicles.
- § 31A-13. Construction sites.
- § 31A-14. Commercial establishments; residences.
- § 31A-15. Enforcement.
- § 31A-16. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 7-25-1994 as L.L. No. 2, 1994. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and rubbish collection — See Ch. 25.

Recreation park regulations — See Ch. 44.

Sidewalks and streets — See Ch. 47.

§ 31A-1. Definitions.

Certain words, as used in this chapter, are defined as follows:

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — Any used or unconsumed substance or waste material which has been discarded, whether made of aluminum, glass, plastic, rubber, paper or other natural or synthetic material or any combination thereof, including but not limited to any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, any unlighted or lighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material.

PARK — A park, reservation, recreation center or any other area in the Village of Malone owned and used by the public and devoted to active or passive recreation.

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

PRIVATE PREMISES — Any dwelling, house, building or other structure used either wholly or in any part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging to or appurtenant to such dwelling, house, building or other structure.

PRIVATE RECEPTACLES — A receptacle for the deposit of litter, garbage, refuse or rubbish that is privately owned, rented or leased. Trash cans and dumpsters shall be included in the definition of private receptacles.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, parking areas open to the public, alleys and any and all public parks, squares, spaces, grounds and public buildings.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including ashes, street cleanings, dead animals, abandoned automobiles, dismantled vehicles, other abandoned personal property and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as circulars, leaflets, pamphlets, wrappers, handbills, newspapers and all and any other printed material, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, building materials and other like materials.

VILLAGE — The Village of Malone.

§ 31A-2. Deposit prohibited.

It shall be unlawful for any person to throw, drop, discard or otherwise place litter, garbage, refuse or rubbish of any nature upon any public or private property, other than in a proper receptacle. It also shall be unlawful to deposit any material which by law should be recycled.

§ 31A-3. Placement of receptacles in public places; village responsibility.

- A. Receptacles and their servicing shall be required at the following public places: buildings held out for use by the public, including schools, government buildings and bus

stations; drive-in restaurants; all street vendor locations; construction sites; gasoline service station islands; self-service refreshment areas; shopping plazas; and special events to which the public is invited, including sporting events, parades, carnivals, circuses and festivals. The proprietors of these places, or the sponsors of these events, shall be responsible for providing and servicing the receptacles such that adequate containment of the material is available.

- B. The village shall be responsible for the placement and servicing of receptacles in the active retail area and public parks. If, in the opinion of the Superintendent of Public Works and/or the Village Trustees, the public becomes abusive of the receptacles, the village may provide for their removal and the institution of a carry-in carry-out policy for litter, garbage, refuse or rubbish in public places.

§ 31A-4. Deposit of off-site or recyclable litter prohibited.

It shall be unlawful to deposit litter generated off-site or any litter which by law should be recycled.

§ 31A-5. Deposit in bodies of water.

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

§ 31A-6. Deposit from vehicles.

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

§ 31A-7. Waste generated outside of premises; property maintenance.

- A. No person shall throw or deposit litter, garbage, refuse or rubbish on any private property within the village, whether owned by such person or not, except the owner or person in control of private property may maintain authorized private receptacles for collection.
- B. Such owner or person in control of private property shall at all times maintain the premises free of litter, garbage, refuse or rubbish; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collections.
- C. Such receptacles are to be kept clean and from public view except on collection day(s).

§ 31A-8. Deposit in 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, all such litter, garbage, refuse or rubbish shall be carried away from the park by the person responsible for its presence and shall be properly disposed of elsewhere.

§ 31A-9. Deposit on vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the village, whether or not owned by such person.

§ 31A-10. Sweeping into gutters and streets.

No person shall sweep into or deposit into any gutter or street within the village any accumulation of litter as defined

herein, including but not limited to leaves, grass clippings or other land or garden waste, except that a person may deposit leaves into the gutter or street immediately in front of his/her property during periods announced by the village for pickup or collection thereof.

§ 31A-11. Sidewalks; entrances; parking areas.

Persons owning or occupying a place of business or a place of residence shall keep the sidewalks, entrance walks and parking areas in front of or upon their premises free of litter.

§ 31A-12. Prevention of spillage from vehicles and parking of vehicles.

It shall be unlawful for any vehicle to be driven, moved, stopped or parked on any public roadway unless such a vehicle is constructed, covered or loaded to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom. Any person operating a vehicle from which any material which constitutes litter, garbage, refuse or rubbish has fallen or escaped, which could cause an obstruction, damage a vehicle or otherwise endanger travelers or public property, shall immediately cause the public property to be cleaned of all such material and shall pay the cost thereof. It also shall be unlawful to park any vehicle used for the commercial collection of garbage, litter, refuse or rubbish in any residentially zoned area or on any village street except as necessary for the actual collection of said materials.

§ 31A-13. Construction sites.

It shall be unlawful for any owner, agent or contractor in charge of a construction or demolition site to permit the accumulation of litter, garbage, refuse or rubbish before, during or immediately following completion of any construction or demolition project. It shall be the duty of the owner, agent or contractor in charge of a construction site to furnish containers

adequate to accommodate flyable or nonflyable debris or trash at areas convenient to construction areas and to maintain and empty the receptacles in such a manner and with such a frequency as to prevent spillage of refuse.

§ 31A-14. Commercial establishments; residences.

It shall be the duty of the owner, lessee, tenant, occupant or person in charge of any structure to keep and cause to be kept the sidewalk and curb abutting the building or structure free from obstruction or nuisances of every kind and to keep sidewalks, areaways, front yards, side yards, back yards, courts and alleys free from accumulation of litter, garbage, refuse or rubbish.

§ 31A-15. Enforcement.

The provisions of this chapter shall be administered and enforced by the Code Enforcement Office, and said office is charged with the duty to enforce this chapter and, to that end, to make and sign complaints for violations in the Village Court of the Village of Malone.

§ 31A-16. Penalties for offenses.

Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a minimum fine of fifty dollars (\$50.) for the first offense and a maximum fine of one hundred dollars (\$100.) for each subsequent offense. Any person convicted of illegally depositing more than five (5) pounds of litter, garbage, refuse or rubbish shall be guilty of a misdemeanor and shall be fined a minimum of five hundred dollars (\$500.), or imprisoned for a term not to exceed fifteen (15) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Chapter 33A

NUISANCES

- § 33A-1. Nuisances enumerated.
- § 33A-2. Air pollution prohibited.
- § 33A-3. Smokestacks.
- § 33A-4. Grass cutting; weeds.
- § 33A-5. Noxious liquids or matter.
- § 33A-6. Abatement of nuisance by owners.
- § 33A-7. Penalties for offenses.
- § 33A-8. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 1-28-2002 by L.L. No. 4-2002. Amendments noted where applicable.]

GENERAL REFERENCES

- Garbage and rubbish collection — See Ch. 25.
- Littering — See Ch. 31A.
- Pollution — See Ch. 37.
- Property maintenance — See Ch. 37B.
- Zoning — See Ch. 66
- Inoperable, unregistered and junk vehicles — See Ch. 70.

§ 33A-1. Nuisances enumerated.

Whatever is dangerous to human life or health; whatever building or part or cellar thereof is overcrowded or not provided with adequate means of egress, or is not sufficiently supported, ventilated, sewerred, drained, lighted or cleaned; and whatever renders soil, air, water or food impure or unwholesome is declared to be a nuisance and to be illegal; and every person having aided in creating or contributing to the same, or who

may support, continue or retain any of them, shall be deemed guilty of a violation of this chapter and shall also be liable for the expenses of the abatement or remedy required.

§ 33A-2. Air pollution prohibited.

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

§ 33A-3. Smokestacks.

Any wood stove, hot air or boiler stack must be at least two feet above the highest point of the roofline of the structure, or it must (in the event it protrudes from a lower roof of any structure or outside stove) be at least two feet above any higher part of the structure which is within 50 feet of the stack.

§ 33A-4. Grass cutting; weeds.

The owner or occupant of all property within the Village shall cut or cause to be cut all weeds and unsightly growths at least three times during the summer months and at such other times as may be required by order of the Board of Trustees or the Code Officers.

§ 33A-5. Noxious liquids or matter.

Swill, brine, urine of animals or any stinking, noxious or offensive liquid of any kind, or any foul, filthy matter whatever, shall not be allowed to drip, run or fall from or out of any

building, structure or vehicle into or upon any street, land or public place.

§ 33A-6. Abatement of nuisance by owners.

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the Village of Malone upon which such storage is made, and also the owner, owners and/or lessees of said personalty involved in such storage (all of whom are hereinafter referred to collectively as "owners") shall jointly and severally abate said nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes if within the corporate limits of the Village of Malone, or otherwise remove it to a location without said corporate limits.

§ 33A-7. Penalties for offenses.

Any person who shall violate any of the provisions of this chapter shall be punishable by a fine of not more than \$50, and every such violation shall constitute disorderly conduct. If such offending person shall have received notice to abate any nuisance and shall neglect to do so, the continuance of the same each day after notice shall constitute a separate violation of this chapter.

§ 33A-8. When effective.

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

Chapter 37B

PROPERTY MAINTENANCE

- § 37B-1. Title.
- § 37B-2. Legislative findings and purpose.
- § 37B-3. Definitions and word usage.
- § 37B-4. Outdoor deposit or storage of waste.
- § 37B-5. Inspection.
- § 37B-6. Notice of violation.
- § 37B-7. Emergency actions.
- § 37B-8. Judicial relief.
- § 37B-9. Junkyards.
- § 37B-10. Severability.
- § 37B-11. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 1-28-2002 by L.L. No. 3-2002. Amendments noted where applicable.]

GENERAL REFERENCES

- Fire prevention and building code — See Ch. 22.
- Rental property — See Ch. 44A.
- Unsafe buildings and structures — See Ch. 57.
- Inoperable, unregistered and junk vehicles — See Ch. 70.

§ 37B-1. Title.

This chapter shall be known as the "Property Maintenance Law of the Village of Malone."

§ 37B-2. Legislative findings and purpose.

The Village Board of the Village of Malone hereby finds that the outdoor storage, accumulation, deposit or placement of abandoned, junked, discarded, wholly or partially dismantled motor vehicles, rubbish, debris, or solid waste upon private property threatens the health, safety and welfare of Village residents. Outdoor storage, accumulation, deposit or placement of such items creates a significant fire hazard, endangers the environment and groundwater, leads to infestation by insects, vermin or rodents, depreciates property values, and has a deteriorating and blighting effect upon the neighborhood and community.

§ 37B-3. Definitions and word usage.

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

DEBRIS — Includes all materials resulting from the construction, excavation, renovation, equipping, remodeling, repair or demolition of structures, property or roads as well as materials consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such materials include but are not limited to bricks, concrete and other masonry material, asphaltic pavement, glass, window frames, electrical wiring and components, plastics, carpeting, foam padding, linoleum, metals, or any combination thereof which are incidental to construction, excavation, renovation, equipping, remodeling, repair or demolition.

GARBAGE — Includes all putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including the container in which packaged.

MOTOR VEHICLE — Includes all vehicles as defined by New York State Vehicle and Traffic Law § 125, and snow

sleds, four-wheelers, three-wheelers, lawn mowers, snow blowers, and any piece of equipment powered by electricity, gas or fuel of any kind; also includes all-terrain vehicles as defined by New York State Vehicle and Traffic Law § 2281 and snowmobiles as defined by New York State Vehicle and Traffic Law § 2221.

RUBBISH — Includes all discarded or worthless nonputrescible solid wastes consisting of both combustible and noncombustible wastes, including but not limited to paper and paper products, rags, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, metals, plastics, tires, bedding, cloth, crockery, furniture, appliances and similar items

SOLID WASTE — Includes all putrescible and nonputrescible materials and substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection, including but not limited to household and commercial garbage, industrial waste, rubbish, debris, litter and ashes.

- B. All other terms as used in this chapter shall have their common and ordinary meaning.

§ 37B-4. Outdoor deposit or storage of waste.

- A. No person, as owner, occupant, lessee or agent, or in any capacity, shall store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any abandoned, junked, discarded, wholly or partially dismantled, unlicensed or unregistered motor vehicles, or any solid waste, rubbish, or debris, upon any private property within the Village for more than five days. This section shall not apply to any solid waste, rubbish or debris temporarily stored or placed in a container for collection or disposal. All appliances must have their doors either secured or removed while stored outside in preparation for removal.

- B. Violation of this section is punishable by a fine, the minimum of which shall be \$100 and the maximum of which shall not exceed \$500, and/or up to 15 days in jail, for each offense.

§ 37B-5. Inspection.

Whenever it shall appear that the provisions of this chapter are violated, the Code Enforcement Officer, or any such other officer or employee authorized by the Village to have jurisdiction thereof, shall make an inspection of the property involved and shall prepare a written report of the conditions found, which report shall be filed with the Village Board five days after the inspection.

§ 37B-6. Notice of violation.

- A. If conditions existing on the inspected property violate the provisions of this chapter, the Code Enforcement Officer, or other designated officer or employee, shall serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said premises.
- B. Said notice shall contain substantially the following:
- (1) The name of the owner, lessee or occupant of the premises;
 - (2) The said address or location of the premises;
 - (3) The identification of the premises as the same appears on the current assessment roll;
 - (4) A statement of the conditions on the property deemed upon inspection to be in violation of this chapter;
 - (5) Demand that the motor vehicle, solid waste, rubbish, or debris determined to be in violation of

this chapter be removed from the property on or before five days after the service or mailing of such notice;

- (6) A statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Village entering upon the property and removing such motor vehicle, solid waste, rubbish or debris and causing the same to be disposed of or otherwise destroyed; and
- (7) That the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

§ 37B-7. Emergency actions.

- A. Nothing in this chapter shall prohibit a municipality from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish or debris whenever there exists an imminent threat to the life or safety of persons.
- B. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety.
- C. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation.

§ 37B-8. Judicial relief.

Nothing contained in this chapter shall prevent the Village from seeking judicial or equitable relief to abate violations of this chapter.

§ 37B-9. Junkyards.

This chapter shall not apply to any junkyard as defined in the Village Code.¹

§ 37B-10. Severability.

If any clause, sentence, subdivision, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 37B-11. When effective.

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

¹ Editor's Note: See Ch. 70, Inoperable, Unregistered and Junk Vehicles.

ANIMALS

Chapter 4

ANIMALS

ARTICLE I
Purpose

§ 4-1. Legislative intent.

ARTICLE II
Dogs

§ 4-2. Definitions.

§ 4-3. Restrictions.

§ 4-3.1. Seizure of dogs.

§ 4-3.2. Dog Control Officers.

§ 4-3.3. Removal of feces.

§ 4-3.4. Contract for enforcement.

§ 4-3.5. Officers empowered to issue tickets.

ARTICLE III
Other Animals

§ 4-4. Keeping of fowl, rabbits and pigeons.

§ 4-5. Certain animals prohibited.

§ 4-5.1. Fishing prohibited.

9/13/04
9/22/04

§ 4-1

MALONE CODE

§ 4-1

ARTICLE IV
Impoundment

§ 4-6. Impounding of running animals.

ARTICLE V
Treatment

§ 4-7. Humane treatment of animals.

ARTICLE VI
Penalties

§ 4-8. Penalties for offenses.

ARTICLE VII
When Effective

§ 4-9. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 5-12-1980 by L.L. No. 2-1980.¹ Amendments noted where applicable.]

ARTICLE I
Purpose

§ 4-1. Legislative intent.

- A. The purpose of this local law shall be to preserve the public peace and good order in the Village of Malone and to contribute to the public welfare and good order of its people by enforcing certain regulations and restrictions

¹ Editor's Note: This local law superseded former Ch. 4, Animals, adopted 2-14-1947.

on the activities of animals that are consistent with the rights and privileges of the owners of animals and the rights and privileges of other citizens in the Village of Malone.

- B. This local law is adopted pursuant to the authority of §§ 1 to 6 of the Agriculture and Markets Law of the State of New York.

ARTICLE II²

Dogs

[Added 1-14-2002 by L.L. No. 1-2002]

§ 4-2. Definitions.

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

AT LARGE — Any dog that is unleashed and on property open to the public or is on private property not owned by or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be “at large” if it is:

- A. Accompanied by and under the immediate control and supervision of the owner or other responsible person.
- B. A police work dog in use for police work.
- C. Accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.
- D. A guide or hearing dog trained to aid the blind or the deaf and is actively being used for such purpose.
- E. In control by an electronic device.

² Editor's Note: Former Art. II, Dogs, as amended, was repealed 8-8-1994 by L.L. No. 3-1994.

DOG CONTROL OFFICER — Any individual appointed by a municipality to assist in the enforcement of this article, or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with a municipality to assist in the enforcement of this article.

HABITUALLY — That any employee of the Village of Malone shall have received three official complaints within a seven-day period; five official complaints within a fourteen-day period; or eight official complaints within a thirty-day period.

HARBOR — To provide food or shelter to any dog, including a dog claimed to be a stray by a person providing food or shelter.

OWNER — Any person who harbors or keeps any dog. In the event that any dog found in violation of this local law shall be owned by a person under 18 years of age, the owner shall be deemed to be the parent or guardian of such person or the head of the household in which said person resides.

§ 4-3. Restrictions.

It shall be unlawful for any owner of any dog to permit or allow such dog, in the Village of Malone, New York, to:

- A. Be at large.
- B. Habitually engage in loud howling, barking, crying or whining or to conduct itself in such a manner so as to unreasonably annoy any person at any time of day.
- C. Cause damage or destruction to property, or commit a nuisance by defecating or urinating upon the premises of a person, other than the owner of such dog.
- D. Chase or otherwise harass any person or other animal in such a manner as reasonably to cause intimidation or to

put such person or animal in reasonable apprehension of bodily harm or injury.

- E. Habitually chase, run alongside of or bark at motor vehicles or bicycles.
- F. It shall be unlawful for the owner or person harboring any female dog to permit such dog to run at large when in heat, and such dog shall be confined inside the premises of such person during such period.
- G. Dogs will not be allowed to be confined within 10 feet of a neighbor's property line or within three feet of a public sidewalk.

§ 4-3.1. Seizure of dogs.

- A. Any Dog Control Officer or peace officer, acting pursuant to his special duties, in the employ of or under contract to a municipality shall seize:
 - (1) Any dog which is not identified and which is not on the owner's premises;
 - (2) Any dog which is not licensed, whether on or off the owner's premises;
 - (3) Any licensed dog which is not in the control of its owner or custodian or not on the premises of the dog's owner or custodian, if there is probable cause to believe the dog is a dangerous dog; and
 - (4) Any dog which poses an immediate threat to the public safety.
- B. Any Dog Control Officer or peace officer, acting pursuant to his special duties, or police officer in the employ of or under contract to a municipality may seize any dog in violation of any local law or ordinance relating to the control of dogs adopted by any municipality pursuant to the provisions of this article.

§ 4-3.2. Dog Control Officers.

Every Dog Control Officer or peace officer, when acting pursuant to his special duties, shall promptly make and maintain a complete record of any seizure and subsequent disposition of any dog. Such record shall include, but not be limited to, a description of the dog, the date and hour of seizure, the official identification number of such dog, if any, the location where seized, the reason for seizure, and the owner's name and address, if known.

§ 4-3.3. Removal of feces.

No person who owns, possesses, harbors, keeps or is in any charge or control of a dog shall cause, suffer, allow or permit any such animal to soil, defile, defecate on or commit any nuisance on any public highway, street, thoroughfare or walk used in common by the public, or any place where people congregate, or on any private property without the permission of the owner of the property. In the event this happens, the dog owner or handler shall remove the feces and dispose of it in a proper manner.

§ 4-3.4. Contract for enforcement.

The Village of Malone will contract with the Town of Malone for the enforcement of this law by the Town Dog Control Officer.

§ 4-3.5. Officers empowered to issue tickets.

The Malone Village Police and Malone Village Code Officers are empowered to issue tickets for habitually barking dogs.

ARTICLE III
Other Animals

§ 4-4. Keeping of fowl, rabbits and pigeons.

No person shall raise, keep, harbor or maintain any chickens, roosters, turkeys, pigeons or any other type of fowl or birds, hereinafter referred to as "fowl or birds," or rabbits, for commercial purposes within the limits of the Village of Malone. Such fowl or birds shall not be kept within 100 feet of any residence or place of business, except by the consent of all of the owners of adjoining property.

§ 4-5. Certain animals prohibited.

No person shall raise, keep, harbor or maintain any cattle or calves, foxes, minks, sheep, skunks or swine within the limits of the Village of Malone.

§ 4-5.1. Fishing prohibited. [Added 8-13-1984 by L.L. No. 8-1984]

It shall be illegal for any person to remove fish or to attempt to remove fish, by any means whatsoever, from the Village fish pond, located adjacent to the Department of Public Works garage off College Avenue, without the prior consent of the Board of Trustees of the Village of Malone, New York, unless such person shall be less than 16 years of age or more than 62 years of age.

ARTICLE IV
Impoundment

§ 4-6. Impounding of running animals.

It shall be lawful for any police officer or other individual designated by the Village of Malone to restrain and seize any dog, calves or other cattle, swine, fowl or birds or rabbits found

running at large contrary to the provisions of this local law within the limits of the Village of Malone. Any animal so restrained or seized shall be turned over for impounding to the Village of Malone or any other person or agency designated by village officials or authorized by law to impound animals pursuant to Article 7, § 120, of the Agriculture and Markets Law of the State of New York, as amended.³

ARTICLE V Treatment

§ 4-7. Humane treatment of animals.

It shall be unlawful for any person within the Village of Malone to torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature. Any animal so treated shall be impounded by the Police Department of the Village of Malone, pursuant to the provisions of § 4-6 of this local law. The owner thereof shall be notified, in writing and by personal service or by regular mail, of the alleged violation, and the matter shall be referred to the Village Justice for hearing and determination.

ARTICLE VI Penalties

§ 4-8. Penalties for offenses.

- A. The Town Dog Control Officer of the Town of Malone, New York, is hereby instructed to issue a warning citation to any person he believes would be guilty of violating any of the provisions of this local law as a first offense. Any person subsequently found guilty of violating any of the provisions of this local law shall be

³ Editor's Note: Former Article 7 of the Agriculture and Markets Law was repealed by Chapter 220 of the Laws of 1978. Said chapter reenacted a new Article 7. For current provisions pertaining to Dog Control Officers and pounds, see §§ 114 and 115.

guilty of an offense against this local law and shall, upon conviction thereof as a first offense, be punished by a fine of not less than \$25 nor more than \$50. Upon any subsequent convictions within a three-month period from the date of the first conviction under this chapter, a person shall be punished by a fine of not less than \$75 nor more than \$150. Upon the third such conviction within a six-month period from the date of the first conviction under this chapter, a person shall be punished by a fine of not less than \$150 nor more than \$200. Upon the fourth such conviction within one year from the date of the first conviction under this chapter, a person shall be punished by a mandatory fine of \$300. [Amended 1-23-1984 by L.L. No. 1-1984; 1-14-2002 by L.L. No. 1-2002]

- B. In addition to the fine imposed by Subsection A of this section of this local law, the Village Justice before whom any violator of this local law is convicted shall have the power and the authority to order such person to compensate the owner of any private property for the damage done to such property by the animal of the violator.

ARTICLE VII When Effective

§ 4-9. When effective. [Amended 1-14-2002 by L.L. No. 1-2002]

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

Chapter 24A

GARAGE, YARD AND BARN SALES

§ 24A-1. Purpose.

§ 24A-2. Intent.

§ 24A-3. Definitions.

§ 24A-4. Days and hours of operation.

§ 24A-5. Presence of owner or occupant required.

§ 24A-6. Advertising and signs.

§ 24A-7. Enforcement.

§ 24A-8. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 8-12-1996 as L.L. No. 3, 1996. Amendments noted where applicable.]

GENERAL REFERENCES

**Auctioneers, hawkers and peddlers — See Ch. 5.
Junk dealers — See Ch. 31.
Signs — See Ch. 48.
Zoning — See Ch. 66.**

§ 24A-1. Purpose.

This chapter is established to control, regulate and license the conducting of sales, commonly referred to as “garage sales,” “yard sales,” “porch sales,” “barn sales,” etc., within the limits of the Village of Malone, in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only in keeping with the character of the neighborhood where this activity is carried on. The further purpose of this chapter is to eliminate the

perpetual, prolonged and extended garage sales in residential areas.

§ 24A-2. Intent.

It is not the intent of this chapter to change or amend the Zoning Law of the Village of Malone.¹

§ 24A-3. Definitions.

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

GARAGE SALES, YARD SALES, PORCH SALES or BARN SALES — Includes all general sales, open to the public, conducted from or on a residential premise for the purpose of disposing of personal property or other property, including but not limited to all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market" or "rummage sale." This definition shall not include a situation where no more than five (5) specific items are held out for sale and where all advertisement of such sale specifically names those items to be sold.

PERSONAL PROPERTY — Property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

¹ Editor's Note: See Ch. 66, Zoning.

§ 24A-4. Days and hours of operation.

- A. Sales, as defined and regulated by this Article, may be held for three (3) consecutive days no more than four (4) times per year per household property.
- B. Said sale may commence no earlier than 8:00 a.m. and must terminate no later than 6:00 p.m.

§ 24A-5. Presence of owner or occupant required.

A resident of the premises where the sale is being held must be present on the premises during the sale.

§ 24A-6. Advertising and signs.

- A. Garage sales may be advertised through the newspaper or other media.
- B. A sign, no larger in size than four (4) square feet, may be installed on the property where the sale is being conducted. The sign shall be displayed only during the sale and shall be removed within twenty-four (24) hours after the sale is concluded.
- C. No sign or other display advertising the sale shall be placed on the public right-of-way or on private property other than where the sale is conducted. No lighted or illuminated signs shall be used. Any other sign posted elsewhere, other than on the premises where the sale is to be held, shall be presumptive evidence of an illegal sign placed by the holder of the sale and shall constitute a violation of this chapter.

§ 24A-7. Enforcement.

This chapter shall be enforced by the Building Inspector or Code Enforcement Official of the Village of Malone.

§ 24A-8. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not less than fifty dollars (\$50.) nor more than two hundred dollars (\$200.) or by imprisonment for a term not exceeding fifteen (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.

GENERAL CODE

INSTRUCTIONS

Village of Malone Code Supplement No. 86

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

REMOVE

Table of Contents,
vii - viii
46A03 - 46A04
5701 - 5704
6307 - 6308
7001 - 7009
DL:1

INSERT

Table of Contents,
vii - viii
46A03 - 46A04
5701 - 5709
6307 - 6308
7001 - 7010
DL:1

Legislation, by number or date of adoption, included in this supplement: L.L. Nos. 1-2008; 2-2008.

TABLE OF CONTENTS

CHAPTER	PAGE
37. Pollution	3701
Property Maintenance — See Ch. 37B	
37A. Protest Policy	37A01
37B. Property Maintenance	37B01
38. Public Hearing	3801
39. (Reserved)	3901
40. Public Health	4001
41. (Reserved)	4101
42. (Reserved)	4201
42A. Records	42A01
43. Recreation Commission	4301
44. Recreation Park Regulations	4401
44A. Rental Property	44A01
45. Sewer Use	4501
46. Sewer Rents	4601
46A. Sex Offenders	46A01
Article I Residency Restrictions	
47. Sidewalks and Streets	4701
48. Signs	4801
49. (Reserved)	4901
Subdivision of Land — See Ch. 66A	
50. (Reserved)	5001
51. Swimming Pools	5101
52. Tax on Utility Services	5201
53. Taxicabs	5301
54. Theatres and Shows	5401

MALONE CODE

CHAPTER	PAGE
54A. Traffic Violations Bureau	54A01
55. Trees	5501
Article I Care of Trees	
Article II Elm Trees	
56. (Reserved)	5601
57. Unsafe Buildings and Structures	5701
58. (Reserved)	5801
59. Vehicle and Traffic	5901
Article I Traffic Ordinance	
Article II Driving Regulations	
Article III Parking Restrictions	
Article IV Parking Meters	
Article V Parking Lots	
Article VI Traffic Bureau	
Article VII General Penalty Clause	
Vehicles, Storage of — See Ch. 70	
60. (Reserved)	6001
61. Village Liability	6101
62. (Reserved)	6201
63. Water	6301
64. (Reserved)	6401
65. Woodburning Stoves	6501
Article I Prohibition of Outdoor Woodburning Furnaces within the Village Limits	
66. Zoning	6601
66A. Subdivision of Land	66A01
67. (Reserved)	6701
68. Zoning Board of Appeals: Establishment and Procedural Rules	6801
69. Planning Board	6901
70. Vehicles, Storage of	7001

under the age of 18 at the time of the offense; or is designated as a "level two" or "level three" sex offender pursuant to Subdivision 6 of § 168-1 of the New York State Correction Law.

§ 46A-3. Restrictions.

The residence of a sex offender as herein defined shall not be located within 1,000 feet of the real property comprising a child care facility or school grounds.

§ 46A-4. Exceptions.

A sex offender with a residence within 1,000 feet of the real property comprising a child-care facility or school grounds does not commit a violation of this article if any of the following apply:

- A. The sex offender is serving a sentence at a jail, prison, juvenile facility or other correctional institution or facility.
- B. The sex offender has established said residence prior to April 9, 2007, or a child care facility is newly located within 1,000 feet of said residence on or after April 9, 2007.
- C. The sex offender is a minor or a ward under a guardianship.

§ 46A-5. Penalties for offenses.

A violation under this article shall be subject, upon conviction, to a fine of not more than \$250 or imprisonment for a period not exceeding 15 days, or both such fine and imprisonment. Each violation shall be deemed a separate offense.

§ 46A-6. Severability.

If any article, section, subdivision, paragraph, sentence, clause, word or part of provision of this article, or the application itself, shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined to its operation to the article, section, subsection, paragraph, sentence, clause, word or part or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 46A-7. When effective.

This article shall take effect immediately upon its filing in the Office of the Secretary of State.

UNSAFE BUILDINGS & STRUCTURES

Chapter 57

UNSAFE BUILDINGS AND STRUCTURES

- § 57-1. Unsafe buildings defined.
- § 57-2. Standards for repair, vacation or demolition.
- § 57-3. Unsafe buildings; nuisances.
- § 57-4. Duties of Code Enforcement Officer.
- § 57-5. Duties of Board of Trustees.
- § 57-6. Emergency cases.
- § 57-7. Where owner absent from Village.
- § 57-8. Administrative liability.
- § 57-9. Duties of Police Department.
- § 57-10. Transfer of title.
- § 57-11. Violation and penalties.

[HISTORY: Adopted by the Village Board of the Village of Malone 2-11-2008 by L.L. No. 1-2008.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Electrical standards — See Ch. 20.
Fire prevention and building code — See Ch. 22.
Housing — See Ch. 29.
Property maintenance — See Ch. 37B.
Zoning — See Ch. 66.

¹ Editor's Note: This local law superseded former Ch. 57, Unsafe Buildings and Structures, adopted 12-28-1953.

§ 57-1. Unsafe buildings defined.

All buildings or structures which have any or all of the following defects shall be deemed "unsafe buildings."

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Malone.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of escape.

§ 57-1 UNSAFE BUILDINGS & STRUCTURES § 57-2

- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of Malone.
- J. Those buildings existing in violation of any provision of Chapter 66 entitled "Zoning" and any other provisions of this Municipal Code.

§ 57-2. Standards for repair, vacation or demolition.

The following standards shall be followed, in substance, by the Code Enforcement Officer and the Board of Trustees in ordering repair, vacation or demolition:

- A. If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter it shall be ordered repaired.
- B. If the unsafe building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where an unsafe building is so damaged or decayed, or deteriorated from its original value or structure so that it cannot be economically restored, it shall be ordered demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this chapter, or any other provisions of this Municipal Code or laws of the State of New York, it shall be demolished.

§ 57-3. Unsafe buildings; nuisances.

All unsafe buildings within the terms of § 57-1 of this chapter are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

§ 57-4. Duties of Code Enforcement Officer.

The Code Enforcement Officer shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter, and report his findings at least monthly to the Board of Trustees or more frequently as requested by the Board or the Mayor.
- B. Inspect any building, wall or structure reported (as hereinafter provided for) by the Police Department of this Village as probably existing in violation of the terms of this chapter.
- C. When, in his opinion, he shall deem any structure existing in violation of this chapter, he shall cause a further examination thereof to be made by a licensed architect or professional engineer, after approval by the Village Board. Upon concurrence with the Code Enforcement Officer's opinion by such architect or engineer, if required by the Village Board, the Code Enforcement Officer shall promptly notify personally, or in writing, the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by him to be an

unsafe building within the standards set forth in § 57-1 of this chapter.

- (1) The owner must vacate, repair, or demolish said building in accordance with the terms of the notice and this chapter.
 - (2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - (3) Any mortgagee, agent or other persons having an interest in said building may, at his own risk, repair, vacate or demolish said building or have such work or act done; provided, that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding 30 days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- D. Set forth in the notice provided for Subsection C hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure an unsafe building and an order requiring the same to be put in such condition as to comply with terms of this chapter within such length of time, not exceeding 30 days, as is reasonable.
- E. Report to the Board of Trustees any noncompliance with the notice provided for in Subsection C and D hereof.
- F. Appear at all hearings conducted by the Board of Trustees, and testify as to the condition of unsafe buildings.
- G. Place a notice on all unsafe buildings, reading as follows:
"This building has been found to be an unsafe building by this Code Enforcement Officer. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person

having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees, or other person having vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by me to be an unsafe building within the standards set forth in § 57-1 of Chapter 57 of the Village of Malone Municipal Code. It is unlawful to remove this notice until such notice is complied with."

§ 57-5. Duties of Board of Trustees.

The Board of Trustees shall:

- A. Written notice to owner or lessees. Upon receipt of report of the Code Enforcement Officer as provided for in Subsection E of § 57-4 hereof, give written notice to the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of such building found to be an unsafe building within the standards set forth in § 57-1 of this chapter, to appear before them on the date specified in the notice to show cause why the building or structure reported to be an unsafe building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Code Enforcement Officer's notice provided for herein in Subsections C and D of § 57-4.
- B. Hold hearings. Hold a hearing and hear such testimony as the Code Enforcement Officer or the owner, or someone of the owner's executors, legal representatives,

agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk shall offer relative to the unsafe building.

- C. Written findings of fact. Make written findings of fact from the testimony offered pursuant to Subsection B as to whether or not the building in question is an unsafe building within the terms of § 57-1 hereof.
- D. Issue order based on findings of fact. Issue an order based upon findings of fact made pursuant to Subsection C commanding the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk, to repair, vacate or demolish any building found to be an unsafe building within the terms of this chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said unsafe building, or any person not the owner of said unsafe building but having an interest in said building may demolish said unsafe building at his own risk to prevent the acquiring of a lien against the land upon which the said unsafe building stands by the Village as provided in Subsection E hereof.
- E. Cause building to be repaired. If such person fails to comply with the order provided for in Subsection D hereof, within 10 days, the Board of Trustees shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in § 57-2 of this chapter and shall cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien, or cause such costs to be added to the tax rolls as an assessment, or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner, provided that in cases

where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this Village, the Code Enforcement Officer shall notify the Village Attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

- F. Report names not complying to Village Attorney. Report to the Village Attorney the names of all persons not complying with the order provided for in Subsection D of this section.

§ 57-6. Emergency cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an unsafe building as defined herein is immediately repaired, vacated or demolished, the Code Enforcement Officer shall report such facts to the Board of Trustees and the Board of Trustees shall cause the immediate repair, vacation or demolition of such unsafe building. The costs of such emergency repair, vacation or demolition of such unsafe building shall be collected in the same manner as provided in Subsection E of § 57-5.

§ 57-7. Where owner absent from Village.

In cases, except in emergency cases, where the owner, occupant, or lessee is absent from the Village, all notices or orders provided for herein shall be sent by registered mail to the party in interest as described in Subsection C of § 57-4 to the last known address of such party in interest, and a copy of such notice shall be posted in a conspicuous place on the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

§ 57-8. Administrative liability.

No officer, agent or employee of the Village of Malone shall render himself personally liable for any damage that may accrue to the persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the Village of Malone as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Village until the final determination of the proceeding therein.

§ 57-9. Duties of Police Department.

All employees of the Village of Malone Police Department shall make a report in writing to the Code Enforcement Officer of any buildings or structures which are or may be deemed to be unsafe buildings within the terms of this chapter. Such reports must be delivered to the Code Enforcement Officer within 24 hours of the discovery of such building.

§ 57-10. Transfer of title.

The transfer of title by the owner of premises upon which an unsafe building or structure is located shall be no defense to any proceedings under this chapter.

§ 57-11. Violation and penalties.

- A. Violation of any of the provisions of this chapter is hereby declared to be a violation pursuant to the State of New York Penal Law.
- B. For every violation of any provision of this chapter, the person violating the same shall be subject to a fine of not more than \$250 or imprisonment of not more than 15 days as provided in the Penal Law, or both such fine and imprisonment for each and every day such failure to comply continues beyond the date fixed for compliance.

- D. The connection of any pumps or heat pumps or similar devices, which extract heat or cold from water, to the Village water supply system is expressly prohibited, except for any such devices which are connected to the Village water supply system with consent of the Board of Trustees as of the date of adoption of this local law.

§ 63-4. Permit required for additional or other use of water.

- A. Should any user desire a supply of water additional to that currently used or that described in his initial application or desire to use water for purposes different from his current purposes or those purposes described in his initial application or to allow someone else to draw water from his premises, the user must file an application for such additional or other use with the Village Clerk, in compliance with § 63-2, which application shall be complete in every detail and shall contain whatever information the Village Clerk shall require and which shall be accompanied by whatever application fee the Village Clerk shall prescribe pursuant to this local law and/or the other valid requirements of the Village Board. After compliance with the foregoing and full payment of the application fee, the Village Clerk shall promptly transmit the same to the DPW Superintendent.
- B. If a new tap or connection is required, the conditions and requirements described in §§ 63-3 and 63-4 hereof shall apply.
- C. Any person or user violating this provision shall be charged a minimum rate of at least four times the normal water rate prescribed herein for such periods of unauthorized water use or whatever lesser rate the Board of four Trustees shall prescribe, until such person or user complies with the provisions of this local law, in addition to the other penalties described hereinafter.

D. Any use of water, in addition to that currently used or in addition to that described in the user's initial application, or any use of water other than as currently used or different from that described in the user's initial application shall be a violation of this local law and subject to the penalties described herein.

§ 63-5. Charges for alteration of service and filling of tanker trucks. [Amended 7-16-2007 by L.L. No. 2-2007]

A. If any user desires water service to be either turned on or turned off, such user shall file an application with the Village Clerk on such forms as shall be prescribed therefor, which application shall be accompanied by the fees set forth hereinafter. No work shall be performed by the Village until the appropriate fee has been paid in full.

- (1) For inside Village users, a charge of \$15 shall be made for turning off or tuning on the water, provided that such work is done during normal working hours. If such work is required to be completed for the convenience of the owner and/or user outside the normal working hours, a charge of \$30 shall be made.
- (2) For outside Village users, a charge of \$30 shall be made for turning off or turning on the water during normal working hours. If such work is required for the convenience of the owner and/or user outside the normal working hours, a charge of \$50 shall be made.
- (3) As used herein, the term "normal working hours" means from 7:00 a.m. to 3:00 p.m., Monday through Friday, excluding legal holidays.

B. Any person or entity that wishes to purchase water from the Village to fill a tanker truck may do so by filing an application with the Village Clerk at least 24 hours prior

VEHICLES, STORAGE OF

Chapter 70

VEHICLES, STORAGE OF

- § 70-1. Findings.
- § 70-2. Definitions.
- § 70-3. Open storage restricted.
- § 70-4. Inspections.
- § 70-5. Notice to correct.
- § 70-6. Appearance tickets.
- § 70-7. Alternative notice.
- § 70-8. Enforcement.
- § 70-9. Presumption of violation.
- § 70-10. Storage by wreckers and commercial garages.
- § 70-11. Penalties for offense.
- § 70-12. Construal of Provisions.

[HISTORY: Adopted by the Village Board of the Village of Malone 2-11-2008 by L.L. No. 2-2008.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 33A.
Property maintenance — See Ch. 37B.
Vehicle and traffic — See Ch. 59.

¹ Editor's Note: This local law superseded former Ch. 70, Inoperable, Unregistered and Junk Vehicles, adopted 6-25-1990 by L.L. No. 5-1990.

§ 70-1. Findings.

The outdoor storage of abandoned, junked, discarded or unlicensed vehicles upon private property within the Village of Malone is hereby declared to be detrimental to the health, safety and general welfare of the community, aesthetically unattractive and detracting from the enjoyment of the environment by said residents, tending to depreciate neighborhood property values, and is an infringement on their properties and homes. The same also constitutes a potential nuisance to the children of the community and may imperil their safety. The fuel tanks of abandoned, junked or discarded vehicles containing gasoline or gasoline fumes constitute an ever-present danger of explosion. The abandoned, junked or discarded vehicles also contain broken glass and sharp metal edges, and such vehicles usually are stored or abandoned with batteries containing harmful acids. The control of the outdoor storage of abandoned, junked or discarded vehicles is therefore regulated for the preservation of the health, safety and general welfare of the community.

§ 70-2. Definitions.

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

ABANDONED VEHICLE — The intent of the owner shall be determined by the physical condition of the vehicle; statements of the owner as to its abandonment; the length of time since the vehicle has last been used on the highway; whether the vehicle is currently licensed, registered or inspected; and other relevant facts. With respect to a vehicle not required to be licensed or a vehicle not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purpose intended; any statement as to its abandonment by the owner and other relevant facts.

CODE ENFORCEMENT OFFICERS — The Code Enforcement Officer(s) whose powers and duties are within or include the Village of Malone.

COMMERCIAL GARAGE — Any person registered by the State of New York Department of Motor Vehicles to repair motor vehicles or any part thereof.

DEALER — Any person registered by the State of New York Department of Motor Vehicles as a dealer as defined by Section 415 of the Vehicle and Traffic Law of the State of New York, as amended.

DISCARDED VEHICLE(S) — Any vehicle(s) which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and possession of and any vehicle(s) the owner of which cannot be found after due and reasonable inquiry.

ENCLOSURE — A completely enclosed privacy-type structure or fence constructed of wood, metal or masonry, which shall be six feet in height and of such construction and type that an ordinary person of ordinary height and eyesight cannot see into the enclosure. Such enclosure shall be adequately maintained so as not to create an eyesore to the community.

JUNK VEHICLE — Any vehicle which, for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, or is incapable, without repair, of being drawn or towed, if it is a vehicle originally designed to be towed or drawn behind an internally powered vehicle, and, as adjudged by the standards of an ordinary reasonable man, is unsightly in appearance because of the existence of one or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows, absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk

door, tires, wheels, grill, roof or tailgate); physical damage (such as dents, cracks, scraps or holes) to component parts of the vehicle; and absence of interior components (such as seats, dashboard or interior door moldings), or is incapable of being moved or propelled, drawn or towed without repair as provided for hereinabove and has remained situate on any real property for a period in excess of 30 days.

OPEN STORAGE — Storage other than in a completely enclosed structure constructed of wood, masonry or metal.

OWNER OF PRIVATE PROPERTY — The legal owner, contract purchaser, tenant, lessee, occupant, subtenant, trustee, bailee, receiver or assignee of premises of real property located within the Village of Malone.

OWNER OF VEHICLE — The person having the property and/or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

PERSON — An individual, firm, partnership, association, corporation, company or organization.

REPAIR SETTLEMENT — Determination by whatever means, including settlement of a claim, arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to a vehicle resulting from any vehicular accident.

UNLICENSED VEHICLE — Any vehicle which may be licensed or registered for operation on public highways and which has not been licensed and/or registered during the preceding six months, with the exception of those vehicles in the possession of a dealer, or is not currently licensed and/or registered and not in a condition for legal use on the public highways. A vehicle which is a

condition to receive a current New York State motor vehicle inspection sticker shall be deemed to be in a condition for legal use on the public highways.

VEHICLE — Any means of transport or conveyance operated, driven, drawn or capable and intended to be operated, drawn or driven upon a public highway by a power other than muscular power. A vehicle shall include but not be limited to automobiles, motorcycles, motorbikes, buses, all types of trailers, including trailers used for storage, trucks, tractors, mobile homes, other than those legally in use in an authorized mobile home park, recreational vehicles, snowmobiles, all-terrain vehicles and jitneys or any other contraption originally designed and intended for travel on the public highways.

VILLAGE — All areas within the Village of Malone, both publicly and privately owned.

WRECKER — Any person licensed to operate a tow truck as defined by Section 148(b) of the Vehicle and Traffic Law of the state of New York, as amended.

§ 70-3. Open storage restricted.

It shall be unlawful for any person, firm or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle or vehicles or parts or pieces thereof on any private property within the Village of Malone, except as permitted by this chapter, unless such vehicle or part or piece thereof is stored or deposited in a completely enclosed building or such vehicle or part or piece thereof is under repair, reconstruction or refurbishing pursuant to this § 70-3 by the owner thereof, who must actually be residing upon the premises where such repair, reconstruction or refurbishing is being done. Such vehicle or part or piece thereof must be maintained and protected so as not to create a safety hazard or nuisance to surrounding property owners. Written applications to permit

said repair, reconstruction or refurbishing shall be made to the Code Enforcement Officer on forms provided. The Code Enforcement Officer, upon approving the application, shall issue a permit. Said permit shall be valid for 30 days from its date of issue and shall not be renewed. Only one permit shall be issued to an owner of any motor vehicle and/or the owner of any private property in any twelve-month period of time. Upon the filing of an application for a permit under the provisions of this subsection, a filing fee as set from time to time by resolution of the Board of Trustees shall be payable. The Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him or her under this chapter.

§ 70-4. Inspections.

The Village of Malone Code Enforcement Officer shall have the right to enter and inspect, at any reasonable hour, any premises on which vehicle(s) are openly stored and to inspect such vehicle(s) to determine if the same are a hazard to the health and welfare of the community. This right of entry shall not be limited in any way by the existence or lack of existence of a request, authorization or other consent or approval of entry for inspection.

§ 70-5. Notice to correct.

After the Code Enforcement Officer has determined that an abandoned, junked or unlicensed vehicle(s) or discarded parts thereof is openly stored or deposited on a parcel of property in violation of this chapter, he shall give written notice, by personal service or by registered or certified mail, on the owner of the abandoned, junked, discarded or unregistered vehicle(s) or discarded parts thereof or on the owner of any private property on which the vehicle(s) is openly stored. Such notice shall direct the person so served, regardless of the ownership of the vehicle(s) if the property owned or tenant is served, to

terminate the open storage of such vehicle(s) within the Village within 10 days of receipt of said notice.

§ 70-6. Appearance tickets.

In the event of noncompliance with the provisions of this chapter and after 10 days have elapsed from receipt of the written notice provided for in § 70-5, the Code Enforcement Officer may issue an appearance ticket, returnable to the Village of Malone Justice Court, or any other court of competent jurisdiction, at a date and time as specified on the appearance ticket. The appearance ticket shall specify the alleged chapter violation, the date and time and a description of the vehicle(s) involved, a copy of which shall be forwarded to the Court and shall be accompanied by an information form detailing the violation and attempts made by the Code Enforcement Officer to achieve compliance.

§ 70-7. Alternative notice.

If the provisions of the foregoing sections are believed to be violated, the Code Enforcement Officer(s) may serve a written notice, either personally or by registered or certified mail, upon the owner, occupant or person having charge of such private property to comply with the requirements of this chapter. The Code Enforcement Officer may determine ownership of any parcel of land in the Village of Malone from the current assessment roll of the Village and may service written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the Code Enforcement Officer is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing the same in the official newspaper of the Village for two consecutive weeks. The notice shall be in substantially the following form: "To the owner, occupant or person having charge of land within the Village of Malone briefly described as follows: (Here describe the subject property.) "Notice is hereby given that an abandoned, junked,

discarded or unlicensed vehicle is stored or deposited on the above described property in the Village of Malone. This vehicle must be removed therefrom within 10 days from the date of this notice; provided, however, that if this notice is served on you by publication, said vehicle shall be removed within 24 days from the first publication date of this notice. "If such vehicle is not removed on or before the expiration of said 10 days from the date hereof or on or before the expiration of said 24 days from the date of this notice in the event that it is served upon you by publication, you are hereby summoned to appear before the Board of Trustees of the Village of Malone, New York at _____ o'clock, on the ____ day of _____ at which time a hearing will be held to determine why the Village of Malone, acting through its duly authorized agents, servants, officers and employees, should not enter upon said property and remove and cause said vehicle to be destroyed. In the event that the Board of Trustees directs that said vehicle be removed and destroyed, the expense incurred by the Village of Malone shall be assessed against said property and shall constitute a lien thereon and be collected in the manner provided by law. "Dated:" "Code Enforcement Officer, Village of Malone."

§ 70-8. Enforcement.

The Code Enforcement Officer may enforce this chapter by either issuing an appearance ticket returnable in the Village of Malone Justice Court, pursuant to § 70-6, or by removing said vehicle pursuant to the provisions of § 70-7 or by invoking both enforcement provisions.

§ 70-9. Presumption of violation.

There shall be a presumption that a person who has received the notice prescribed by § 70-7 has openly stored or deposited or caused or permitted to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle described in said notice.

§ 70-10. Storage by wreckers and commercial garages.

- A. A wrecker or commercial garage may store abandoned, junked or unlicensed vehicle(s) or part thereof on any one site within the Village of Malone, provided that such storage is confined by an enclosure and such vehicle(s) may not be stored for more than 30 days and, provided further that the business operation of the wrecker or commercial garage is permitted by all applicable zoning laws or regulations, including rights under any nonconforming uses and including any limitations, restrictions or conditions established according to law by the Board of Trustees, the Zoning Board of Appeals, the Village Planning Board or any court of competent jurisdiction, and provided that the vehicle(s) is not stored at any time on a public highway right-of-way.
- B. Where a repair settlement is pending in good faith, the foregoing time periods shall not start to run until a repair settlement has been made, but in no event to exceed 60 days from the date said vehicle(s) is (are) first stored upon the premises.
- C. In the event that any abandoned, junked or unlicensed vehicle or part thereof is stored at any wrecker or commercial garage and such wrecker or commercial garage is restrained from allowing the owner to move said vehicle from the location of such wrecker or commercial garage by reason of a legal detainer or order of any federal, state, county or local government agency or body, the thirty-day period of time as provided for in Subsection A hereinabove shall not commence to run until said legal detainer or order is released or vacated.

§ 70-11. Penalties for offense.

A violation of this chapter shall be punishable by a fine of at least \$50 and not more than \$250 per violation or by imprisonment for up to 15 days, or both. A violation of this chapter shall also subject the violator to a civil penalty of the

greater of \$100 per separate violation or the Village's costs of inspection, service of notice, removal, towing and permanently disposing of such vehicle, less any criminal monetary fine which may have been imposed. Each abandoned, junked, discarded or unregistered vehicle stored in violation of this chapter shall constitute a separate violation. Each day that such separate violation shall continue or be carried on shall constitute an additional, separate violation, for which the Court may impose an additional fine and continuing fine until the vehicle(s) is (are) removed or enclosed.

§ 70-12. Construal of Provisions.

This chapter has been enacted to supplement and to be read in conjunction with Section 1224 of the Vehicle and Traffic Law of the State of New York, as amended.

DISPOSITION LIST

The following is a chronological listing of legislation of the Village of Malone adopted since 1-1-2005, 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).] Consult municipal records for disposition of prior legislation.

Enact- ment	Adoption Date	Subject	Disposition
L.L. No. 1-2005	5-31-2005	Residency requirement for Village Treasurer	Ch. 34, Art. IV
	7-11-2005	Building and inspection fees amendment	Ch. 22
L.L. No. 1-2006	12-18-2006	Uniform construction code administration and enforcement	Ch. 22
L.L. No. 1-2007	4-9-2007	Sex offenders: residency restrictions	Ch. 46A, Art. I
L.L. No. 2-2007	7-16-2007	Water amendment	Ch. 63
L.L. No. 1-2008	2-11-2008	Unsafe buildings and structures	Ch. 57
L.L. No. 2-2008	2-11-2008	Storage of vehicles	Ch. 70



GENERAL CODE

INSTRUCTIONS

Village of Malone Code Supplement No. 88

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

NOTE: You may notice a difference in page numbers with this supplement. Entire chapters may have been reprinted to accommodate this improvement. Through the process of normal supplementation, your entire Code will eventually be converted to this system.

REMOVE

Officials Page, 2009
Preface, i – iii
Table of Contents,
v – ix
2201 – 2227
3401 – 3406
5301 – 5311
DL:1

INSERT

Officials Page, 2011
Preface, i – iv
Table of Contents,
v – ix
22:1 – 22:27
34:1 – 34:5
53:1 – 53:11
DL:1 – DL:2

Legislation, by number or date of adoption, included in this supplement: L.L. No. 1-2010; 4-14-2008; 3-14-2011.

**OFFICIALS
OF THE
VILLAGE OF MALONE**

Village Office
14 Elm Street
Malone, New York 12953
Telephone: (518) 483-4570

2011

Mayor
BRENT S. STEWART

Board of Trustees
SUSAN HAFTER
JOE RICCIO
TODD LePINE
DAILON PATNODE

Village Clerk
CHERYL A. DOUGLAS

Village Treasurer
DOROTHY MAGUIRE

Village Attorney
NATHAN RACE

Chief of Police
CHRISTOPHER PREMO

Building Inspectors
GORDON HALLEY
CHARLES ROBERT

05 - 01 - 2011

PREFACE

The Village of Malone, New York, is the county seat of Franklin County. It sits somewhat north of the geographical center of the county on the Salmon River in the St. Lawrence Power and Seaway Development Area. The population of Malone is in excess of 10,000. Near the mountain lakes and streams of the Adirondack Mountains, the Malone area is well known for hunting and fishing.

The Village was formed as "Harrison" in 1805 which name was changed to "Ezrville" in 1808 and to Malone in 1812. As a result of an election held on May 14, 1853, the Village was incorporated.

While only a few simple laws were necessary in the early days, the complexity of modern life has created the need for detailed laws or ordinances for the government of a village. The collection of local laws is an aspect of municipal history and, as the orderly development of the community progresses, this collection must keep pace. Modernization and orderly development apply to all phases of local affairs and most particularly to the ordinances and laws which govern.

This codification of the ordinances of the Village of Malone represents a deep appreciation of the needs of a progressive and expanding community. The Village of Malone, like many other municipalities, finds itself faced with fundamental changes involving every aspect of community life. Its elected and appointed officials must solve problems that daily increase in number and complexity, in-

MALONE CODE

volving everything from petty details to broad aspects of orderly community planning.

More people means more homes, more business, more problems and the need for more controls — to wit: more ordinances. These ordinances must be more than mere chronological enactments lost in history in the pages of old minute books. They must be available. They must be logically arranged for easy finding. They must be reviewed from time to time in light of current trends and changes. They must be kept current and up-to-date.

It is essential that the full powers of the municipality be represented and exercised so that no phase of the local franchise be lost. All rightful areas of administration not specifically recognized or defined become the subject of new ordinances. It should be noted that the powers of a Village Board are only those which are expressly conferred by statute and consequently, in the area of legislation, many times the Board is not empowered to act.

By this codification, the Village is establishing a system which provides for the orderly arrangement of its laws. This will permit the inclusion of new material in a logical order and allow changes and amendments to be made in existing ordinances in such a way that their current adoption is included within the original ordinance. The user of this Code will be able to quickly and easily locate the ordinance under consideration, with its current status made evident.

The Code itself is divided into chapters, their order being a logical progression from one general subject to another. Thus, all ordinances relating to Animals will be found in the chapter on Animals; all ordinances relating to Zoning

PREFACE

will be found in the chapter on Zoning, etc. Any interrelated material located in various chapters will be cross-referenced by footnotes.

The Table of Contents outlines the arrangement of material by chapter and subject matter as an aid in locating the major areas of the law.

A unique page-numbering system has been used making it possible to add or change pages in any part of the volume at any time without upsetting the sequence of subsequent pages or index entries. The page order follows the sequence of chapters. Thus, Chapter 1 begins on page 1:1; Chapter 2 on page 2:1, etc.

The Index at the end of the Code constitutes both a key to the whereabouts of information as well as a perpetual inventory of all ordinances. Since it is expected that this Code will be used extensively by persons without legal training, the Index has deliberately been formulated to enable laypersons to find quickly a particular ordinance section. Each section of each ordinance has been indexed in detail and, as new ordinances are added and changes effected, index lines on them will be included with the supplement.

The Appendix contains a generality of information relative to Village affairs such as rules and regulations of the Police Department.

Supplementation of this Code will be periodic, the main endeavor being to include new ordinances, changes and repeals as they are passed.

MALONE CODE

This codification will prove to be invaluable to the people of the Village of Malone who may have questions relating to the ordinances of the Village and will greatly facilitate the orderly administration and enforcement of ordinances.

The research problems which develop during the compilation of any Code such as this are resolved by having the Municipal Attorney provide final decisions or questions regarding clarity and correctness. Robert E. Walsh, Esq., Village Attorney, has been most cooperative and effective in his efforts to help provide this efficient codification for the people of the Village of Malone.

We of General Code are proud to be taking a part in this most desirable project.

TABLE OF CONTENTS

PART I: ADMINISTRATIVE LEGISLATION

1.	General Provisions	1:1
	Article I Adoption of Code	
2.	Adoption of Local Laws	2:1
3.	Alcoholic Beverages.....	3:1
	Article I Possession and Consumption in Public	
4.	Animals	4:1
5.	Auctioneers, Hawkers and Peddlers	5:1
7.	Assessments.....	7:1
10.	Bingo	10:1
12.	Community Development Program.....	12:1
	Article I Citizen Participation Plan	
13.	Compensation of Village Officials	13:1
16.	Curfew.....	16:1
19.	Fences.....	19:1
20.	Electrical Standards.....	20:1
20A.	Exposure of Persons	20A:1
21.	Environmental Quality Review	21:1
	Fences -- See Ch. 19	
21A.	Filling and Grading.....	21A:1
22.	Fire Prevention and Building Code.....	22:1
23.	Fireworks	23:1

MALONE CODE

24. Flood Damage Prevention..... 24:1

24A. Garage, Yard and Barn Sales 24A:1

25. Garbage and Rubbish Collection 25:1

28. House Trailers and Trailer Camps 28:1

29. Housing 29:1

 Article I Fair Housing Code

31. Junk Dealers..... 31:1

31A. Littering 31A:1

32. Meetings..... 32:1

 Article I Special Board Meetings

 Article II Meeting Procedures

33. Minibikes 33:1

33A. Nuisances 33A:1

34. Officers and Employees..... 34:1

 Article I Village Justice

 Article II Convention, Conference and School Attendance

 Article III Smoking Policy

 Article IV Residency Requirement for Village Treasurer

 Article V Residency Requirement for Village Clerk

 Planning Board -- See Ch. 69

35. Poles and Wires 35:1

37. Pollution..... 37:1

 Property Maintenance -- See Ch. 37B

37A. Protest Policy 37A:1

37B. Property Maintenance..... 37B:1

38. Public Hearing 38:1

40. Public Health 40:1

42A. Records 42A:1

TABLE OF CONTENTS

43. Recreation Commission 43:1

44. Recreation Park Regulation..... 44:1

44A. Rental Property 44A:1

45. Sewer Use 45:1

46. Sewer Rents 46:1

46A. Sex Offenders..... 46A:1

 Article I Residency Restrictions

47. Sidewalks and Streets..... 47:1

48. Signs 48:1

 Subdivision of Land -- See Ch. 66A

51. Swimming Pools 51:1

52. Tax on Utility Services..... 52:1

53. Taxicabs 53:1

54. Theatres and Shows 54:1

54A. Traffic Violations Bureau 54A:1

55. Trees..... 55:1

 Article I Care of Trees

 Article II Elm Trees

57. Unsafe Buildings and Structures..... 57:1

59. Vehicle and Traffic 59:1

 Article I Traffic Ordinance

 Article II Driving Regulations

 Article III Parking Restrictions

 Article IV Parking Meters

 Article V Parking Lots

 Article VI Traffic Bureau

 Article VII General Penalty Clause

Vehicles, Storage of -- See Ch. 70

MALONE CODE

61. Village Liability 61:1
63. Water 63:1
65. Woodburning Stoves 65:1
 Article I Prohibition of Outdoor Woodburning Furnaces
 within the Village Limits
66. Zoning 66:1
66A. Subdivision of Land 66A:1
68. Zoning Board of Appeals: Establishment and Proce-
 dural Rules 68:1
69. Planning Board 69:1
70. Vehicles, Storage of 70:1

INDEX

APPENDIX

PART I

Grievance Procedure 75:1

PART II

Police Regulations 76:1

PART III

Village Employee Vacation Rules 77:1

PART IV

Code of Ethics 78:1

)

TABLE OF CONTENTS

PART V

Procurement Policy 79:1

PART VI

)

Sexual Harassment Policy 80:1

)

DISPOSITION LIST

Chapter 22

FIRE PREVENTION AND BUILDING CODE

- § 22-1. Purpose.
- § 22-2. Definitions.
- § 22-3. Code Enforcement Officer; inspectors.
- § 22-4. Building permits.
- § 22-5. Construction inspections.
- § 22-6. Stop-work orders.
- § 22-7. Certificates of occupancy.
- § 22-8. Notification regarding fire or explosion.
- § 22-9. Unsafe buildings and structures.
- § 22-10. Operating permits.
- § 22-11. Firesafety and property maintenance inspections.
- § 22-12. Complaints.
- § 22-13. Recordkeeping.
- § 22-14. Program review and reporting.
- § 22-15. Enforcement; penalties for offenses.
- § 22-16. Fees.
- § 22-17. Intermunicipal agreements.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 12-11-2006 by L.L. No. 1-2006.]

GENERAL REFERENCES

Electrical Code — See Ch. 20.

House trailers and trailer camps — See Ch. 28.

Housing — See Ch. 29.

Unsafe buildings and structures — See Ch. 57.

Zoning — See Ch. 66.

§ 22-1. Purpose.

This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Municipality. This chapter is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter. Local Law No. 2-1986, as amended, is revoked.¹

§ 22-2. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 22-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 22-7B of this chapter.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 22-3B of this chapter.

CODE ENFORCEMENT PERSONNEL — The Code Enforcement Officer and all inspectors.

1. Editor's Note: L.L. No. 2-1986, adopted 6-23-1986, as amended, comprised former Ch. 22. Fire Prevention and Building Code.

FIRE PREVENTION AND
BUILDING CODE

§ 22-2

§ 22-3

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 22-15A of this chapter.

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

INSPECTOR — An inspector appointed pursuant to § 22-3D of this chapter.

MUNICIPALITY — The enacting municipality.

OPERATING PERMIT — A permit issued pursuant to § 22-10 of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

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

PERSON — An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to § 22-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 22-7D of this chapter.

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

§ 22-3. Code Enforcement Officer; inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:

- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
- (2) Upon approval of such applications, to issue building permits, certificates of occupancy, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
- (4) To issue stop-work orders;
- (5) To review and investigate complaints;
- (6) To issue orders pursuant to § 22-15A, Compliance orders, of this chapter;
- (7) To maintain records;
- (8) To collect fees as set by the governing board of this Municipality;
- (9) To pursue administrative enforcement actions and proceedings;
- (10) In consultation with this Municipality's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy

Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and

- (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.

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

pursuant to the Executive Law and the regulations promulgated thereunder.

- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the governing board of this Municipality.

§ 22-4. Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or retaining wall or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (3) Construction of temporary motion-picture, television and theater stage sets and scenery;

- (4) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (5) Installation of partitions or movable cases less than five feet nine inches in height;
- (6) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (7) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (8) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (9) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.

C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) A description of the proposed work;
- (2) The Tax Map number and the street address of the premises where the work is to be performed;
- (3) The occupancy classification of any affected building or structure;
- (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

(e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. Subject to the requirements of Subsection L, the Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be performed in accordance with construction documents. All work shall be performed in accordance with

the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 24 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 22-16, Fees, of this chapter must be paid at the time of submission of an application

for a building permit, for an amended building permit, or for renewal of a building permit.

- L. No building permit shall be issued unless the provisions of Chapter 66, Zoning, of the Code of the Village of Malone are fully complied with. In the event of a conflict between the terms of this chapter and Chapter 66, Zoning, of the Code of the Village of Malone, the more restrictive provision(s) shall apply.

§ 22-5. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
- (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;

- (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 22-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 22-6. Stop-work orders.

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

required, and without regard to whether a building permit has or has not been issued for such work; or

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

authority to pursue any other remedy or impose any other penalty under § 22-15, Enforcement; penalties for offenses, of this chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 22-7. Certificates of occupancy.

- A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy.
- B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

C. Contents of certificates of occupancy. A certificate of occupancy shall contain the following information:

- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name, address and Tax Map number of the property;
- (4) If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The assembly occupant load of the structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the building permit; and
- (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.

D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall

the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 22-16, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy or for a temporary certificate.

§ 22-8. Notification regarding fire or explosion.

The chief of any fire department providing fire-fighting services for a property within this Municipality shall promptly notify the Code Enforcement Officer of any fire or explosion involving

any structural damage, fuel-burning appliance, chimney or gas vent.

§ 22-9. Unsafe buildings and structures.

Unsafe structures and equipment in this Municipality shall be identified and addressed in accordance with the procedures adopted by the Municipality from time to time or as set forth in any applicable state law.

§ 22-10. Operating permits.

A. Operating permits required.

- (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;
 - (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to

public safety, as determined by resolution adopted by the governing board of this Municipality.

- (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall remain in effect until reissued, renewed, revoked, or suspended.

- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 22-16, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 22-11. Firesafety and property maintenance inspections.

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

structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time in the following instances; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained upon:

- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist.

C. OFPC inspections. Nothing in this section or in any other provision of this chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:

- (1) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;

FIRE PREVENTION AND
BUILDING CODE

§ 22-11

§ 22-12

- (2) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and
 - (4) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A(3) of this section.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 22-16, Fees, of this chapter must be paid within 30 days after the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC. Any fees required by this subsection remaining unpaid shall be added to the Village tax roll as an assessment. [Amended 12-28-2010 by L.L. No. 1-2010]

§ 22-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law, ordinance or

regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 22-15, Enforcement; penalties for offenses, of this chapter;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 22-13. Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement personnel, including records of:
 - (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All building permits, certificates of occupancy, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;

- (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by §§ 22-4 through 12, inclusive, of this chapter; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 22-14. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the governing board of this Municipality a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 22-13, Recordkeeping, of this chapter and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Municipality, on a form prescribed by the Secretary of State, a report of the activities of this Municipality relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Municipality is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this

Municipality in connection with administration and enforcement of the Uniform Code.

§ 22-15. Enforcement; penalties for offenses.

- A. Compliance orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.
- B. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof,

to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- C. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- D. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Municipality.
- E. Injunctive relief. An action or proceeding may be instituted in the name of this Municipality, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may

be commenced in the name of this Municipality, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the governing board of this Municipality.

- F. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 22-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 22-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 22-16. Fees.

A fee schedule shall be established by resolution of the governing board of this Municipality.² Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee

2. Editor's Note: The current fees schedule is on file in the Village offices.

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schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

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§ 22-17. Intermunicipal agreements.

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

Chapter 34

OFFICERS AND EMPLOYEES

**ARTICLE I
(Reserved)**

§ 34-1. through § 34-3. (Reserved)

**ARTICLE II
Convention, Conference and School Attendance**

§ 34-4. Delegation of power; report on actions.

§ 34-5. When effective.

**ARTICLE III
Smoking Policy**

§ 34-6. Areas where smoking is prohibited.

§ 34-7. Enclosed smoking room.

§ 34-8. Nonsmoking areas in cafeterias, lunchrooms and lounges.

§ 34-9. Conflicts; complaints.

§ 34-10. Violations.

§ 34-11. Copies of rules.

§ 34-12. Enforcement.

§ 34-13. Amendments.

**ARTICLE IV
Residency Requirement for Village Treasurer**

§ 34-14. Residency within county.

ARTICLE V
Residency Requirement for Village Clerk

§ 34-15. Residency within county.

¹[**HISTORY: Adopted by the Board of Trustees of the Village of Malone as indicated in article histories. Amendments noted where applicable.**]

ARTICLE I
(Reserved) ²

§ 34-1. through § 34-3. (Reserved)

ARTICLE II
Convention, Conference and School Attendance
[Adopted 7-22-1985 by L.L. No. 7-1985]

§ 34-4. Delegation of power; report on actions.

- A. The Board of Trustees of the Village of Malone, New York, hereby delegates to the Mayor of the Village of Malone, New York, the power to authorize the attendance of municipal officers and employees at conventions, conferences and schools conducted for the betterment of local government. The Board of Trustees of the Village of Malone, New York, further delegates to the Mayor of the Village of Malone, New York, the power to authorize members of committees and commissions, appointed by the Mayor or the Board of Trustees, to incur such reasonable

1. Editor's Note: Former Ch. 34, Playgrounds, adopted 10-13-1947, was repealed by ordinance adopted 7-31-1972, which established rules and regulations for Recreation Park. See Ch. 44.

2. Editor's Note: Former Art. I, Village Justice, was adopted 6-25-1984 by L.L. No. 7-1984. The two positions of Village Justice were abolished 4-14-2008.

and necessary expenses as may be associated with the work of the committee or commission.

- B. The authority so delegated shall also extend to the authority to incur such necessary and reasonable costs and expenses as may be associated with such attendance by municipal officers and employees.
- C. The Mayor shall be obligated to report to the Board of Trustees, on a monthly basis, which officers and employees have been authorized to attend any convention, conference or school.

§ 34-5. When effective.

This local law shall become effective immediately upon filing with the Secretary of State of the State of New York.

**ARTICLE III
Smoking Policy
[Adopted 2-5-1990³]**

§ 34-6. Areas where smoking is prohibited.

- A. Smoking is prohibited throughout the facilities except in designated areas identified by SMOKING PERMITTED signs.
- B. Smoking is prohibited in any indoor enclosed work area occupied by more than one person, unless all employees in such area agree to allow smoking. The rights of a nonsmoker to a smoke-free area shall prevail.
- C. Smoking is also prohibited in all employee rest rooms, elevators, hallways, classrooms, auditoriums, gymnasiums,

3. Editor's Note: This resolution stated that it was adopted in an effort to provide a safe and healthy environment for employees in accordance with the New York State Public Health Law, § 1399-o, Subdivision 6, and is effective 4-1-1990.

employee medical facilities and areas containing office equipment used in common.

- D. Smoking is also prohibited in conference or meeting rooms and municipal vehicles used by more than one person, unless all occupants agree to allow smoking.

§ 34-7. Enclosed smoking room.

An enclosed smoking room may be designated, upon request, if space is available.

§ 34-8. Nonsmoking areas in cafeterias, lunchrooms and lounges.

Employee cafeterias, lunchrooms, and lounges will contain nonsmoking areas large enough to meet demand.

§ 34-9. Conflicts; complaints.

Conflicts should be brought to the attention of the appropriate supervisory personnel. Employees may also file a formal complaint with the Franklin County Board of Health.

§ 34-10. Violations.

Employers found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to penalties.

§ 34-11. Copies of rules.

Copies of these rules will be posted and distributed to all employees and to all prospective employees upon request.

§ 34-12. Enforcement.

The Code Enforcement Officer for the Village of Malone shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

§ 34-13. Amendments.

The policy may be amended from time to time by resolution of the Village of Malone. All amendments shall be in conformance with New York State law and employees will be notified accordingly.

ARTICLE IV

**Residency Requirement for Village Treasurer
[Adopted 5-31-2005 by L.L. No. 1-2005]****§ 34-14. Residency within county.**

The Board of Trustees of the Village of Malone, pursuant to the authority granted to it by § 3-300, Subdivision 2, of the Village Law, hereby provides that in lieu of any other residency requirement imposed by law, the Village Treasurer may reside in any municipality within the County of Franklin.

ARTICLE V

**Residency Requirement for Village Clerk
[Adopted 9-28-2009 by L.L. No. 1-2009]****§ 34-15. Residency within county.**

The Board of Trustees of the Village of Malone, pursuant to the authority granted to it by § 3-300, Subdivision 2, of the Village Law, hereby provides that, in lieu of any other residency requirement imposed by law, the Village Clerk may reside in any municipality within the County of Franklin.

Chapter 53

TAXICABS

- § 53-1. Definitions.
- § 53-2. License required for drivers.
- § 53-3. Qualifications for drivers.
- § 53-4. Disqualification of drivers.
- § 53-5. License required for taxi stand or business.
- § 53-6. Permit to use parking places.
- § 53-7. Duration of licenses and permits.
- § 53-8. License fees.
- § 53-9. Fares.
- § 53-10. Waiver of requirements; inspection of vehicles; report of accidents; continuous operation of taxicab.
- § 53-11. Penalties for offenses; personal appearance.
- § 53-12. Severability.
- § 53-13. Effective date.

[HISTORY: Adopted Malone Village Board 1-12-1976 by Local Law No. 1, 1976.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Sidewalks and streets — See Ch. 47.
Traffic Violations Bureau — See Ch. 54A.
Vehicles and traffic — See Ch. 59.

-
1. Editor's Note: This local law supersedes former Ch. 53, Taxicabs, as amended 11-14-1966 and 6-14-1971.

§ 53-1. Definitions.

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

TAXICAB — Any vehicle used to carry passengers for hire, but not operating over a fixed route.

TAXI STAND — The place of business used to house the offices and/or communications equipment of a taxi service within the incorporated limits of the Village of Malone.
[Amended 3-8-1982 by L.L. No. 2, 1982]

§ 53-2. License required for drivers.

- A. It shall be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, unless the driver has in his possession a valid taxicab driver's license issued by the Village Board of the Village of Malone and signed by the Village Clerk. It shall, however, not be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, without a valid taxicab driver's license for the sole purpose of leaving off, within the limits of the Village of Malone, New York, a passenger who was picked up in another municipality. [Amended 3-8-1982 by L.L. No. 2, 1982]
- B. Any person interested in obtaining such license shall complete and file an application therefor with the Village Clerk of the Village of Malone. The qualifications of the driver, as hereinafter set forth, shall be examined by the Chief of Police of the Village of Malone, who shall, within 30 days after the date of the filing of the application with the Village Clerk, submit written recommendations to the Village Board of the Village of Malone.
- C. Such licenses are not transferable.

Chapter 53

TAXICABS

- § 53-1. Definitions.
- § 53-2. License required for drivers.
- § 53-3. Qualifications for drivers.
- § 53-4. Disqualification of drivers.
- § 53-5. License required for taxi stand or business.
- § 53-6. Permit to use parking places.
- § 53-7. Duration of licenses and permits.
- § 53-8. License fees.
- § 53-9. Fares.
- § 53-10. Waiver of requirements; inspection of vehicles; report of accidents; continuous operation of taxicab.
- § 53-11. Penalties for offenses; personal appearance.
- § 53-12. Severability.
- § 53-13. Effective date.

[HISTORY: Adopted Malone Village Board 1-12-1976 by Local Law No. 1, 1976.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Sidewalks and streets — See Ch. 47.
Traffic Violations Bureau — See Ch. 54A.
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-
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§ 53-1. Definitions.

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

TAXICAB — Any vehicle used to carry passengers for hire, but not operating over a fixed route.

TAXI STAND — The place of business used to house the offices and/or communications equipment of a taxi service within the incorporated limits of the Village of Malone.

[Amended 3-8-1982 by L.L. No. 2, 1982]

§ 53-2. License required for drivers.

- A. It shall be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, unless the driver has in his possession a valid taxicab driver's license issued by the Village Board of the Village of Malone and signed by the Village Clerk. It shall, however, not be unlawful for any person to drive or operate a taxicab upon the public streets of the Village of Malone, New York, without a valid taxicab driver's license for the sole purpose of leaving off, within the limits of the Village of Malone, New York, a passenger who was picked up in another municipality. **[Amended 3-8-1982 by L.L. No. 2, 1982]**
- B. Any person interested in obtaining such license shall complete and file an application therefor with the Village Clerk of the Village of Malone. The qualifications of the driver, as hereinafter set forth, shall be examined by the Chief of Police of the Village of Malone, who shall, within 30 days after the date of the filing of the application with the Village Clerk, submit written recommendations to the Village Board of the Village of Malone.
- C. Such licenses are not transferable.

§ 53-3. Qualifications for drivers. [Amended 3-8-1982 by L.L. No. 2, 1982]

A person shall be qualified to operate a taxicab in the Village of Malone only if he:

- A. Is at least 18 years of age.
- B. Can, by reason of experience or training, or both, safely operate a taxicab, within the judgment of the Chief of Police of the Malone Village Police Department. In exercising this judgment, the Chief of Police shall have due regard for the safety of the applicant, the applicant's passenger or passengers, other motorists and their passengers and pedestrians, as well as the personal property of the general public.
- C. Presents to the Chief of Police of the Malone Village Police Department a statement signed, within two years prior to the date of the application or reapplication, by a physician licensed to practice his profession in the State of New York, stating that the applicant is in good general health; that he or she suffers from no known physical illness, disease, handicap or disability which would prevent or tend to prevent him or her from safely operating a taxicab; and that he or she is not taking any medication or undergoing any course of treatment which would prevent or tend to prevent him or her from safely operating a taxicab.
- D. Possesses a driver's license valid in the State of New York for the purposes of driving or operating a taxicab.
- E. When making initial/first application, furnishes the Chief of Police of the Malone Village Police Department with a listing of all the applicant's arrests and convictions for violations of the Penal Law of the State of New York, the Vehicle and Traffic Law of the State of New York, the Code of the Village of Malone and any other statute or statutes of the State of New York, its sister states or the United States of America. A person making an initial/first time

application shall furnish the Chief of Police with a listing of all arrests, convictions, etc. **[Amended 2-27-1995 by L.L. No. 1, 1995]**

- F. Is not disqualified pursuant to the provisions of § 53-4 of this local law.
- G. Has tendered with his application the license fee prescribed pursuant to § 53-8 of this local law.
- H. Approved taxi drivers will display, at all times, their certified photo taxi driver license issued by the Village of Malone in their taxicab. The display of this license is mandatory in the taxicab that the approved driver is operating. Certified photo taxi driver licenses will list the company that the driver is employed by and are nontransferable. **[Added 5-8-2000 by L.L. No. 1-2000]**
- I. Certified photo taxi driver licenses must be surrendered to the Malone Police Department upon discontinued employment with a taxi company. **[Added 5-8-2000 by L.L. No. 1-2000]**
- J. Any altering or changing of the certified taxi driver license could result in criminal charges. **[Added 5-8-2000 by L.L. No. 1-2000]**
- K. Taxi drivers will present themselves in a professional manner. Appropriate clean clothing, based on weather conditions, is required. Shirts and footwear are required at all times. **[Added 5-8-2000 by L.L. No. 1-2000]**
- L. Anyone convicted of a felony is not qualified to apply. **[Added 5-8-2000 by L.L. No. 1-2000]**
- M. Anyone convicted of a misdemeanor in the past 12 months is not qualified to apply. **[Added 5-8-2000 by L.L. No. 1-2000]**
- N. The Village will honor any certificate of relief from disabilities in making a determination of qualification of the applicant. **[Added 5-8-2000 by L.L. No. 1-2000]**

§ 53-4. Disqualification of drivers. [Amended 3-8-1982 by L.L. No. 2-1982; 7-22-1985 by L.L. No. 6-1985; 2-27-1995 by L.L. No. 1-1995; 5-8-2000 by L.L. No. 1-2000]

- A. Anyone convicted of a felony, as per New York State Penal Law, or serious offense, as that term is defined by § 265.00 of the New York State Penal Law, is disqualified.
- B. Anyone convicted of three misdemeanors in the past 10 years is disqualified.
- C. Anyone convicted of a misdemeanor, while holding a valid taxi driver license, will have his/her taxi driver license suspended for a period of one year.
- D. The Village will honor any certificate of relief from disabilities in making a determination of disqualification of the applicant.
- E. A driver is disqualified if he or she has accumulated, within the past 24 months, eight or more points on his or her driver's license, as such points are determined by the Department of Motor Vehicles of the State of New York. [Added 1-14-2002 by L.L. No. 2-2002]
- F. A driver is disqualified if he or she has, within the past three years, had his or her license to operate a taxicab in the Village of Malone revoked pursuant to the provisions of § 53-11 of this local law or has had his or her driver's license revoked by the Department of Motor Vehicles of the State of New York. [Added 1-14-2002 by L.L. No. 2-2002]

§ 53-5. License required for taxi stand or business.

- A. It shall be unlawful for any person or persons to engage in the business of transporting passengers for hire, within the Village of Malone, New York, without first obtaining a license to operate such taxi stand or business from the Village Board of the Village of Malone. Any person or persons intending to engage in said business of

transporting passengers for hire, within the Village of Malone, New York, must also possess a valid taxicab driver's license. **[Amended 3-8-1982 by L.L. No. 2, 1982]**

- B. Any person interested in obtaining such license shall complete and file an application therefor with the Village Clerk of the Village of Malone. The Chief of Police shall review the applicant's qualifications, shall examine or cause to be examined the vehicles intended to be used by the applicant in such business and shall, within 30 days after the date of the filing of the application with the Village Clerk, submit written recommendations to the Village Board of the Village of Malone.
- C. Such licenses are not transferable.
- D. Any such license application shall also be reviewed by the Building Inspector of the Village of Malone, or other appropriate official, to determine whether the operation and location of such taxi stand or business at the address designated in the application would violate the zoning laws or ordinances of the Village of Malone.
- E. The license to operate a taxi stand or business may be revoked if the holder of said license is in any violation of any zoning law or ordinance of the Village of Malone. **[Added 2-27-1995 by L.L. No. 1, 1995]**
- F. Compliance with statutory provisions and rules of the New York State Vehicle and Traffic Law is required. No taxicab licensee shall operate or cause to be operated any taxicab unless the provisions of Article 8, § 370, Subdivision 1, of the New York State Vehicle and Traffic Law relating to liability and property damage insurance have been and continue to be complied with. This shall include filing, with the Malone Village Clerk, a current insurance policy showing full coverage, together with the application and/or reapplication. **[Added 2-27-1995 by L.L. No. 1, 1995]**
- G. Taxi vehicle license requirements. **[Added 5-8-2000 by L.L. No. 1-2000]**

- (1) Vehicles used for taxi purposes will be required to be registered, inspected and insured under New York State requirements.
- (2) A Village of Malone information sheet on vehicles used for taxi purposes will also be completed and kept on record at the Malone Village Police Department.
- (3) Vehicles will be labeled with lettering at least four inches in height displaying the name of the company and its telephone number. Said identification must meet the approval of the Chief of Police as to appearance and visibility.
- (4) All taxi vehicles will be equipped with an exterior roof taxi light.
- (5) No more than 10% of the surface area of the vehicle shall have visible rust or body damage.
- (6) The interior of the taxi vehicle shall be kept neat and clean.
- (7) All windows, doors, seatbelts and the interior roof light shall be operable, and there shall be no broken or cracked window glass.
- (8) Vehicles shall be equipped with a working flashlight, fire extinguisher and customer receipt book.
- (9) Vehicles may be inspected by any member of the Malone Village Police Department at any time.
- (10) Taxi owners will be required to furnish car seats for young children, in compliance with New York State Vehicle and Traffic Law.

§ 53-6. Permit to use parking places. [Amended 2-27-1995 by L.L. No. 1-1995]

No person shall be entitled to regularly park or stand any taxi vehicle in any parking place within the Village of Malone without first obtaining a permit from the Village Board of the Village of Malone, on such terms and conditions and upon the payment of whatever fees are imposed by the said Village Board. The Village Board of the Village of Malone reserves the right to limit the number of permits issued and to revoke the same in its discretion.

§ 53-7. Duration of licenses and permits.

All licenses and/or permits issued in accordance with this local law shall be valid until March 31 of the calendar year following its date of issuance, by which date the holder thereof shall obtain a renewal thereof after compliance with the terms of this local law.

§ 53-8. License fees. [Amended 2-27-1995 by L.L. No. 1-1995; 5-8-2000 by L.L. No. 1-2000]

- A. The annual fee for each taxi driver license shall be \$25. All drivers approved prior to April 1, 2000, and holding a valid Malone taxi driver license shall have the year 2000 certified photo taxi driver license fee waived.
- B. The fee for each annual taxi stand license shall be \$50. However, all taxi stands approved prior to April 1, 2000, and holding a valid taxi stand license, shall have the year 2000 taxi stand license fee waived.

§ 53-9. Fares. [Amended 3-8-1982 by L.L. No. 2-1982; 1-23-1984; 6-4-1996; 5-8-2000 by L.L. No. 1-2000; 3-14-2011]

The rate of transportation of a passenger over the age of 12 years, within the Village of Malone, New York, shall be not more than \$5. The Board of Trustees of the Village of Malone

shall have the authority, upon proper resolution, to change the fares which may be charged for the transportation of a passenger over the age of 12 years within the Village of Malone, New York.

§ 53-10. Waiver of requirements; inspection of vehicles; report of accidents; continuous operation of taxicab.

- A. The Village Board of the Village of Malone shall have the power to waive any of the requirements or terms of this local law upon good cause shown. In particular, the Board of Trustees of the Village of Malone shall have the power to waive the enforcement of those qualifications and disqualifications set forth in §§ 53-3 and 53-4 of this local law with respect to those applicants for renewal who possessed a valid taxicab driver's license as of January 1, 1982. **[Amended 3-8-1982 by L.L. No. 2, 1982]**
- B. The Village Board of the Village of Malone and the Chief of Police shall have the right to inspect any taxi vehicles, at reasonable times, to ensure that they are properly equipped and maintained. If such vehicles are not properly equipped or maintained, the owner thereof may be prohibited from driving, using or operating said vehicle as a taxi in the Village of Malone.
- C. An owner of a taxicab stand or business shall report to the Chief of Police of the Malone Village Police Department any motor vehicle accident involving his or her taxicab, within 24 hours, regardless of the jurisdiction in which the accident occurred. **[Added 2-27-1995 by L.L. No. 1, 1995]**
- D. An owner of a taxicab stand or business shall not require, permit or authorize a driver to operate a taxicab for more than 12 hours in any continuous twenty-four-hour period. **[Added 2-27-1995 by L.L. No. 1, 1995.]**
- E. Taxi stands and vehicles will be maintained in a clean and orderly manner. **[Added 5-8-2000 by L.L. No. 1-2000]**

- F. Taxi drivers will comply with a standard dress code reflecting clean and acceptable guidelines. **[Added 5-8-2000 by L.L. No. 1-2000]**
- G. Taxicabs will be considered smoke-free at all times. **[Added 5-8-2000 by L.L. No. 1-2000]**

§ 53-11. Penalties for offenses; personal appearance.
[Amended 3-8-1982 by L.L. No. 2, 1982; 2-27-1995 by L.L. No. 1, 1995]

- A. Any person, firm or corporation found guilty of violating any of the provisions of this local law shall be guilty of disorderly conduct and fined not less than \$25 nor more than \$100 for each offense. A separate offense shall be deemed committed on each day during which a violation occurs. In addition to the foregoing, the Chief of Police shall be empowered to suspend or revoke any and all licenses issued in accordance with this local law. In further addition to the foregoing, the Board of Trustees of the Village of Malone is empowered, upon the recommendation of the Chief of Police of the Village of Malone, to revoke any or all licenses issued in accordance with this local law upon the holder of any license having been convicted of any crime, offense or infraction which would disqualify him from obtaining a license pursuant to § 53-4 of this local law.
- B. A person whose license to operate a taxicab or to operate a taxicab stand or business is suspended or revoked under any section of this local law may, within 30 days, request a personal appearance before the Board of Trustees to offer evidence as to why the suspension or revocation should be reconsidered.

§ 53-12. Severability.

In the event that any portion of this local law shall be declared invalid by a court of competent jurisdiction, such invalidity shall not be deemed to affect the remaining portion hereof.

§ 53-13. Effective date. [Amended 5-8-2000 by L.L. No. 1-2000]

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

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Village of Malone adopted since 1-1-2005, 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).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2005	5-31-2005	Residency requirement for Village Treasurer	Ch. 34, Art. IV
	7-11-2005	Building and inspection fees amendment	Ch. 22
L.L. No. 1-2006	12-18-2006	Uniform construction code administration and enforcement	Ch. 22
L.L. No. 1-2007	4-9-2007	Sex offenders: residency restrictions	Ch. 46A, Art. I
L.L. No. 2-2007	7-16-2007	Water amendment	Ch. 63

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2008	2-11-2008	Unsafe buildings and structures	Ch. 57
L.L. No. 2-2008	2-11-2008	Storage of vehicles	Ch. 70
	4-14-2008	Village Justice repealer	Ch. 34, Art. I, footnote only
	4-14-2008	Village Justice repealer	Ch. 34, Art. I, footnote only
L.L. No. 1-2009	9-28-2009	Residency of Village Clerk	Ch. 34, Art. V
L.L. No. 1-2010	12-28-2010	Fire prevention and building code amendment	Ch. 22
	3-14-2011	Taxicabs amendment	Ch. 53

GENERAL CODE

INSTRUCTIONS

Village of Malone Code Supplement No. 89

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

NOTE: You may notice a difference in page numbers with this supplement. Entire chapters may have been reprinted to accommodate this improvement. Through the process of normal supplementation, your entire Code will eventually be converted to this system.

REMOVE

Table of Contents,
v – viii
5001
Ch. 64, Reserved Page (if any)
6601 – 6658
DL:1 – DL:2

INSERT

Table of Contents,
v – viii
50:1 – 50:26
64:1 – 64:13
66:1 – 66:71
DL:1 – DL:2

Legislation, by number or date of adoption, included in this supplement: L.L. Nos. 1-2011; 2-2011; 3-2011.

TABLE OF CONTENTS

1.	General Provisions	1:1
	Article I Adoption of Code	
2.	Adoption of Local Laws	2:1
3.	Alcoholic Beverages.....	3:1
	Article I Possession and Consumption in Public	
4.	Animals	4:1
5.	Auctioneers, Hawkers and Peddlers	5:1
7.	Assessments.....	7:1
10.	Bingo	10:1
12.	Community Development Program.....	12:1
	Article I Citizen Participation Plan	
13.	Compensation of Village Officials	13:1
16.	Curfew.....	16:1
19.	Fences.....	19:1
20.	Electrical Standards.....	20:1
20A.	Exposure of Persons	20A:1
21.	Environmental Quality Review	21:1
	Fences -- See Ch. 19	
21A.	Filling and Grading.....	21A:1
22.	Fire Prevention and Building Code.....	22:1
23.	Fireworks	23:1
24.	Flood Damage Prevention.....	24:1
24A.	Garage, Yard and Barn Sales.....	24A:1

MALONE CODE

25. Garbage and Rubbish Collection..... 25:1

28. House Trailers and Trailer Camps 28:1

29. Housing 29:1

 Article I Fair Housing Code

31. Junk Dealers..... 31:1

31A. Littering 31A:1

32. Meetings..... 32:1

 Article I Special Board Meetings

 Article II Meeting Procedures

33. Minibikes 33:1

33A. Nuisances..... 33A:1

34. Officers and Employees..... 34:1

 Article I Village Justice

 Article II Convention, Conference and School Attendance

 Article III Smoking Policy

 Article IV Residency Requirement for Village Treasurer

 Article V Residency Requirement for Village Clerk

 Planning Board -- See Ch. 69

35. Poles and Wires 35:1

37. Pollution..... 37:1

 Property Maintenance -- See Ch. 37B

37A. Protest Policy 37A:1

37B. Property Maintenance..... 37B:1

38. Public Hearing 38:1

40. Public Health 40:1

42A. Records 42A:1

43. Recreation Commission 43:1

44. Recreation Park Regulation..... 44:1

TABLE OF CONTENTS

44A.	Rental Property	44A:1
45.	Sewer Use	45:1
46.	Sewer Rents	46:1
46A.	Sex Offenders.....	46A:1
	Article I Residency Restrictions	
47.	Sidewalks and Streets.....	47:1
48.	Signs.....	48:1
	Subdivision of Land -- See Ch. 66A	
50.	Stormwater Management and Erosion and Sediment Control	50:1
51.	Swimming Pools	51:1
52.	Tax on Utility Services.....	52:1
53.	Taxicabs	53:1
54.	Theatres and Shows	54:1
54A.	Traffic Violations Bureau	54A:1
55.	Trees.....	55:1
	Article I Care of Trees	
	Article II Elm Trees	
57.	Unsafe Buildings and Structures.....	57:1
59.	Vehicle and Traffic	59:1
	Article I Traffic Ordinance	
	Article II Driving Regulations	
	Article III Parking Restrictions	
	Article IV Parking Meters	
	Article V Parking Lots	
	Article VI Traffic Bureau	
	Article VII General Penalty Clause	
	Vehicles, Storage of -- See Ch. 70	
61.	Village Liability	61:1

MALONE CODE

63. Water.....63:1
64. Waterfront Consistency Review64:1
65. Woodburning Stoves.....65:1
 Article I Prohibition of Outdoor Woodburning Furnaces
 within the Village Limits
66. Zoning.....66:1
66A. Subdivision of Land..... 66A:1
68. Zoning Board of Appeals: Establishment and
 Procedural Rules68:1
69. Planning Board.....69:1
70. Vehicles, Storage of70:1

INDEX

APPENDIX

PART I

Grievance Procedure75:1

PART II

Police Regulations76:1

PART III

Village Employee Vacation Rules.....77:1

PART IV

Code of Ethics78:1

Chapter 50

**STORMWATER MANAGEMENT AND EROSION AND
SEDIMENT CONTROL**

**ARTICLE I
General Provisions**

- § 50-1. Definitions.**
- § 50-2. Findings of fact.**
- § 50-3. Purpose.**
- § 50-4. Statutory authority.**
- § 50-5. Applicability.**
- § 50-6. Exemptions.**
- § 50-7. Stormwater pollution prevention plans.**
- § 50-8. Performance and Design Criteria.**
- § 50-9. Maintenance, inspection and repair of stormwater facilities.**

**ARTICLE II
Administration and Enforcement**

- § 50-10. Construction inspection.**
- § 50-11. Performance guarantee.**
- § 50-12. Enforcement; penalties for offenses.**
- § 50-13. Fees for services.**
- § 50-14. Severability; when effective.**

[HISTORY:¹ Adopted by the Board of Trustees of the Village of Malone 10-13-2011 by L.L. No. 3-2011. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review — See Ch. 21.

Filling and grading — See Ch. 21A.

Building code — See Ch. 22.

Flood damage prevention — See Ch. 24.

Sewer use — See Ch. 45.

Zoning — See Ch. 66.

Subdivision of land — See Ch. 66A.

ARTICLE I General Provisions

§ 50-1. 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, and occupying more than 100 square feet of area.

1. Editor's Note: Former Ch. 50, Sunday Sports, adopted 8-11-1952, was repealed 6-9-1997 by L.L. No. 7-1997.

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§ 50-1 **STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL** § 50-1

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.

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

DEPARTMENT — The New York State Department of Environmental Conservation.

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

DEVELOPER — A person who undertakes land development activities.

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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.).

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

INFILTRATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND DEVELOPMENT ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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

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

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

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

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

PROJECT — Land development activity.

§ 50-1 **STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL** § 50-1

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, 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, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

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.

§ 50-2. Findings of fact.

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- 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 in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 50-3. 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 § 50-2 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Require land development activities to conform to the substantive requirements of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised;
- B. 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;

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

- C. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- D. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- E. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 50-4. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Village Board of Malone has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Village of Malone and for the protection and enhancement of its physical environment. The Village Board of Malone may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 50-5. Applicability.

This chapter shall be applicable to all land development activities as defined in § 50-1.

- A. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:

- (1) Review the plans;
 - (2) Upon approval by the Village Board of the Village of Malone, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
 - (3) Accept the certification of a licensed professional that the plans conform to the requirements of this chapter.
- B. All land development activities subject to review and approval by the Planning Board of the Village of Malone under shall be reviewed subject to the standards contained in this chapter.
- C. All land development activities not subject to review as stated in § 50-5B shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this chapter.

§ 50-6. Exemptions.

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

- A. Agricultural activity as defined in this chapter, except that landing areas and log haul roads are subject to this chapter.
- B. Routine maintenance activities that disturb less than one acre and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- C. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

- D. Any part of a subdivision if a plat for the subdivision has been approved by the Village of Malone on or before the effective date of this chapter.
- E. Land development activities for which a building permit has been approved on or before the effective date of this chapter.
- F. Cemetery graves.
- G. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- H. Emergency activity immediately necessary to protect life, property or natural resources.
- I. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
- J. Landscaping and horticultural activities in connection with an existing structure that disturb less than one acre.

§ 50-7. Stormwater pollution prevention plans.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be approved until the appropriate board has received and reviewed a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.
- B. Contents of stormwater pollution prevention plans.
 - (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (a) Background information about the scope of the project, including location, type and size of project.

- (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
- (c) Description of the soil(s) present at the site;
- (d) 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.
- (e) 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;
- (f) 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;

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

- (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (j) Temporary practices that will be converted to permanent control measures;
- (k) 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;
- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (m) Name(s) of the receiving water(s);
- (n) Delineation of SWPPP implementation responsibilities for each part of the site;
- (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- (p) Any existing data that describes the stormwater runoff at the site.

- (2) Land development activities as defined in § 50-1 of this article and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in § 50-7B(3) below as applicable:
- (a) 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.
 - (b) Condition B: Stormwater runoff from land development activities disturbing five or more acres.
 - (c) 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.
- (3) SWPPP Requirements for Conditions A, B and C:
- (a) All information in § 50-7B(1) of this chapter.
 - (b) Description of each post-construction stormwater management practice.
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater

- (2) Land development activities as defined in § 50-1 of this article and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in § 50-7B(3) below as applicable:
- (a) 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.
 - (b) Condition B: Stormwater runoff from land development activities disturbing five or more acres.
 - (c) 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.
- (3) SWPPP Requirements for Conditions A, B and C:
- (a) All information in § 50-7B(1) of this chapter.
 - (b) Description of each post-construction stormwater management practice.
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

- (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (j) Temporary practices that will be converted to permanent control measures;
- (k) 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;
- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (m) Name(s) of the receiving water(s);
- (n) Delineation of SWPPP implementation responsibilities for each part of the site;
- (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
- (p) Any existing data that describes the stormwater runoff at the site.

STORMWATER MANAGEMENT
AND EROSION AND SEDIMENT
CONTROL

management system for the applicable design storms.

- (e) Comparison of post-development stormwater runoff conditions with predevelopment conditions.
 - (f) Dimensions, material specifications and installation details for each post-construction stormwater management practice.
 - (g) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
 - (h) 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.
 - (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 50-9 of this chapter.
 - (j) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.
- C. 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.
- D. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- E. 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.

§ 50-8. 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:²

2. Editor's Note: Also annexed to the local law that adopted this chapter was Schedule A, Stormwater Management Practices Acceptable for Water Quality, which schedule is on file in the Village offices.

- (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. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in § 50-8A and the SWPPP shall be prepared by a licensed professional.
- C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

§ 50-9. Maintenance, inspection and repair of stormwater facilities.

- A. Maintenance and inspection during construction.
- (1) The applicant or developer of the land development activity or its representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) For land development activities as defined in § 50-1 of this article and meeting Condition A, B or C in § 50-7B(2), the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site log book.

(3) The applicant or developer or its representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

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 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 of Malone to ensure that 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 of Malone.

C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are

installed or used by the owner or operator to achieve the goals of this 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 in accordance with § 50-8C.

D. Maintenance agreements. The Village of Malone shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter entitled Sample Stormwater Control Facility Maintenance Agreement.³ The Village of Malone, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

ARTICLE II Administration and Enforcement

§ 50-10. Construction inspection.

Inspections as may be required under this chapter may be performed by the Village of Malone Stormwater Management Officer, or the local government may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate. When such an inspector is designated, said

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

inspector is required to submit a report to be kept on file with the stormwater pollution prevention plan (SWPP).

A. Erosion and sediment control inspection.

- (1) The Village of Malone Stormwater Management Officer 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 wherein 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 Malone enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:
- (a) Start of construction.
 - (b) Installation of sediment and erosion control measures.
 - (c) Completion of site clearing.
 - (d) Completion of rough grading.
 - (e) Completion of final grading.
 - (f) Close of the construction season.
 - (g) Completion of final landscaping.
 - (h) Successful establishment of landscaping in public areas.
- (2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

- B. Stormwater management practice inspections. The Village of Malone Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- C. Inspection of stormwater facilities after project completion.
- (1) Inspection programs shall be established on any reasonable basis, including but not limited to:
 - (a) Routine inspections.
 - (b) Random inspections.
 - (c) Inspections based upon complaints or other notice of possible violations.
 - (d) Inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants.
 - (e) 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.
 - (f) Joint inspections with other agencies inspecting under environmental or safety laws.
 - (2) Inspections may include, but are not limited to:

- (a) Reviewing maintenance and repair records.
 - (b) Sampling discharges, surface water, groundwater, and material or water in drainage control facilities.
 - (c) Evaluating the condition of drainage control facilities and other stormwater management practices.
- D. Submission of reports. The Village of Malone Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. 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 Malone, or its designated inspector, the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C.

§ 50-11. Performance guarantee.

- A. 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 Malone in its approval of the stormwater pollution prevention plan, the Village of Malone may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Malone as the beneficiary. The security shall be in an amount to be determined by the Village of Malone 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 Malone, 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 Malone. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

- B. **Maintenance guarantee.** Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Malone with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Malone may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. **Recordkeeping.** The Village of Malone may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 50-12. Enforcement; penalties for offenses.

- A. **Notice of violation.** When the Village of Malone determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall 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;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
- B. Stop-work orders. The Village of Malone 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 activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village of Malone confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.

- D. 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 six months, 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 six months, 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 six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Code Enforcement Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Malone may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 50-13. Fees for services.

The Village of Malone may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Malone or performed by a third party for the Village of Malone.

§ 50-14. Severability; when effective.

- A. Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.
- B. Effective date. This chapter shall be effective upon filing with the office of the Secretary of State.

Chapter 64

WATERFRONT CONSISTENCY REVIEW

§ 64-1. Title.

§ 64-2. Legislative authority; purpose; intent; applicability.

§ 64-3. Definitions.

§ 64-4. Management and coordination of the LWRP.

§ 64-5. Review of actions.

§ 64-6. Enforcement.

§ 64-7. Penalties for offenses.

§ 64-8. Severability.

§ 64-9. When effective.

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 10-13-2011 by L.L. No. 1-2011. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review — See Ch. 21.

Filling and grading — See Ch. 21A.

Building code — See Ch. 22.

Flood damage prevention — See Ch. 24.

Sidewalks and streets — See Ch. 47.

Zoning — See Ch. 66.

Subdivision of land — See Ch. 66A.

§ 64-1. Title.

This chapter will be known as the "Village of Malone Waterfront Consistency Review Law."

§ 64-2. Legislative authority; purpose; intent; applicability.

- A. This chapter is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Waterfront areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
- B. The purpose of this chapter is to provide a framework for agencies of the Village of Malone to incorporate the policies and purposes contained in the Town and Village of Malone Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions within the waterfront area; and to assure that such actions and direct actions by Village agencies are consistent with the LWRP policies and purposes.
- C. It is the intention of the Village of Malone that the preservation, enhancement and utilization of the unique waterfront area of the Village takes place in a coordinated and comprehensive manner to ensure a proper balance between protection of natural resources and the need to accommodate limited population growth and economic development. Accordingly, this chapter is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss and degradation of living coastal resources and wildlife; diminution of open space areas or public access to the waterfront; disruption of natural coastal processes; impairment of scenic, cultural or historical resources; losses due to flooding, erosion and sedimentation; impairment of water quality; or permanent adverse changes to ecological systems.
- D. The substantive provisions of this chapter shall only apply when there is in existence a Town and Village of Malone Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§ 64-3. Definitions.

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

ACTIONS — Include all the following, except minor actions:

- A. Projects or physical activities, such as construction or any other activities that may affect natural, man-made or other resources in the waterfront area or the environment by changing the use, appearance or condition of any resource or structure, that:
 - (1) Are directly undertaken by an agency; or
 - (2) Involve funding by an agency; or
 - (3) Require one or more new or modified approvals, permits, or review from an agency or agencies;
- B. Agency planning and policymaking activities that may affect the environment and commit the agency to a definite course of future decisions;
- C. Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect coastal resources or the environment; and
- D. Any combination of the above.

AGENCY — Any Board, agency, department, office, other body, or officer of the Village of Malone.

CONSISTENT — That the action will fully comply with the LWRP policy standards, conditions and objectives and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS — Actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

ENVIRONMENT — All conditions, circumstances and influences surrounding and affecting the development of living organisms or other resources in the waterfront area.

ENVIRONMENTAL ASSESSMENT FORM OR EAF — A form used in determining the environmental significance or nonsignificance of actions in accordance with the State Environmental Quality Review Act (SEQRA).

LOCAL WATERFRONT REVITALIZATION PROGRAM or LWRP — The Local Waterfront Revitalization Program of the Village of Malone, approved by the Secretary of State pursuant to the Waterfront Revitalization of Waterfront areas and Inland Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the Village of Malone.

MINOR ACTIONS — Include the following actions, which are not subject to review under this chapter:

- A. Maintenance or repair involving no substantial changes in an existing structure or facility;
- B. Replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, except for structures in areas designated by the Coastal Erosion Hazard Area (CEHA) law where structures may not be replaced, rehabilitated or reconstructed without a permit;
- C. Repaving or widening of existing paved highways not involving the addition of new travel lanes;
- D. Street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- E. Maintenance of existing landscaping or natural growth, except where threatened or endangered species of plants or animals are affected, or within Significant Coastal Fish and Wildlife Habitat areas;

- F. Granting of individual setback and lot line variances, except in relation to a regulated natural feature, a bulkhead or other shoreline defense structure;
- G. Minor temporary uses of land having negligible or no permanent impact on coastal resources or the environment;
- H. Installation of traffic control devices on existing streets, roads and highways;
- I. Mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- J. Information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any action;
- K. Official acts of a ministerial nature involving no exercise of discretion, including building where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building code;
- L. Routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- M. Conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- N. Collective bargaining activities;
- O. Investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;

- P. Inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- Q. Purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, storage of road de-icing substances, or other hazardous materials;
- R. Adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- S. Engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this chapter have been fulfilled;
- T. Civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- U. Adoption of a moratorium on land development or construction;
- V. Interpreting an existing code, rule or regulation;
- W. Designation of local landmarks or their inclusion within historic districts;
- X. Emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to coastal resources or the environment. Any decision to fund, approve or directly undertake other activities after the

emergency has expired is fully subject to the review procedures of this chapter;

- Y. Local legislative decisions such as rezoning where the Village Board determines the action will not be approved.

WATERFRONT AREA — That portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the Village of Malone, as shown on the waterfront area map on file in the office of the Secretary of State and as delineated in the Town and Village of Malone Local Waterfront Revitalization Program (LWRP).

WATERFRONT ASSESSMENT FORM (WAF) — The form, a sample of which is appended to this chapter,¹ used by an agency to assist in determining the consistency of an action with the Local Waterfront Revitalization Program.

§ 64-4. Management and coordination of the LWRP.

- A. The Village of Malone Waterfront Advisory Council (Council) shall be responsible for coordinating review of actions in the Village's waterfront area for consistency with the LWRP, and will advise, assist and make consistency recommendations to other Village agencies in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program.
- B. The Council shall coordinate with the New York State Department of State regarding consistency review of actions by federal agencies and with state agencies regarding consistency review of their actions.
- C. The Council shall assist the Village Board in making applications for funding from state, federal, or other sources to finance projects under the LWRP.

1. **Editor's Note:** Said form is on file in the Village offices.

- D. The Council shall perform other functions regarding the waterfront area and direct such actions or projects as the Village Board may deem appropriate, to implement the LWRP.

§ 64-5. Review of actions.

- A. Whenever a proposed action is located within the Village's waterfront area, each Village agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards summarized in Subsection H herein. No action in the waterfront area shall be approved, funded or undertaken by that agency without such a determination.
- B. Whenever a Village agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action to be located in the waterfront area, the agency shall refer a copy of the completed WAF to the Council within 10 days of its receipt and prior to making its determination, shall consider the recommendation of the Council with reference to the consistency of the proposed action. The WAF shall be completed by the applicant.
- C. After referral from an agency, the Council shall consider whether the proposed action is consistent with the LWRP policy standards set forth in Subsection H herein. The Council shall require the applicant to submit all completed applications, WAFs, EAFs, and any other information deemed necessary to its consistency recommendation.
- (1) The Council shall render its written recommendation to the agency within 60 days following referral of the WAF from the agency, unless extended by mutual agreement of the Council and the applicant or in the case of a direct action, the agency. The Council's recommendation shall indicate whether the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards and shall

elaborate in writing the basis for its opinion. The Council shall, along with a consistency recommendation, make any suggestions to the agency concerning modification of the proposed action, including the imposition of conditions, to make it consistent with LWRP policy standards or to greater advance them.

- (2) In the event that the Council's recommendation is not forthcoming within the specified time, the agency shall make its consistency decision without the benefit of the Council's recommendation.
- D. If an action requires approval of more than one Village agency, decisionmaking will be coordinated between the agencies to determine which agency will conduct the final consistency review, and that agency will thereafter act as designated consistency review agency for the specific action being reviewed. Only one WAF per action will be prepared. If the agencies cannot agree, the Village Board shall designate the consistency review agency.
- E. Upon receipt of the Council's recommendation, the agency shall consider whether the proposed action is consistent with the LWRP policy standards summarized in Subsection H herein. The agency shall consider the consistency recommendation of the Council, the WAF and other relevant information in making its written determination of consistency. No approval or decision shall be rendered for an action in the waterfront area without a written determination of consistency having first been rendered by a Village agency.
- (1) The Zoning Board of Appeals is the designated agency for the determination of consistency for variance applications subject to this chapter. The Zoning Board of Appeals shall consider the written consistency recommendation of the Council in the event and at the time it makes a decision to grant such a variance and shall impose appropriate

conditions on the variance to make the activity consistent with the objectives of this chapter.

- F. Where an EIS is being prepared or required, the draft EIS must identify applicable LWRP policies standards in Subsection H and include a thorough discussion of the effects of the proposed action on such policy standards.
- G. In the event the Council's recommendation is that the action is inconsistent with the LWRP, and the agency makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation and state the manner and extent to which the action is consistent with the LWRP policy standards.
- H. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following summary of LWRP policy standards, which are derived from and further explained and described in Section III (Policies) of the Village of Malone LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions must also consult with Section IV (Proposed Uses and Projects), in making their consistency determination. The action must be consistent with the policies to:
- (1) Foster a pattern of development in the waterfront area that enhances the community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a waterfront location and minimizes adverse effects of development. (Policy 1)
 - (2) Preserve historic resources of the waterfront area. (Policy 2)
 - (3) Enhance visual quality and protect scenic resources throughout the waterfront area. (Policy 3)

- (4) Minimize loss of life, structure and natural resources from flooding and erosion. (Policy 4)
 - (5) Protect and improve water quality and supply. (Policy 5)
 - (6) Protect and restore the quality and function of the ecosystem. (Policy 6)
 - (7) Protect and improve air quality in the waterfront area. (Policy 7)
 - (8) Minimize environmental degradation in the waterfront area from solid waste and hazardous substances and wastes. (Policy 8)
 - (9) Provide for public access to, and recreational use of the waterway, public lands, and public resources of the waterfront. (Policy 9)
 - (10) Protect water-dependent uses and promote the siting of new water-dependent uses in suitable locations. (Policy 10)
 - (11) Promote sustainable use of living freshwater resources. (Policy 11)
 - (12) Protect agricultural lands. (Policy 12)
 - (13) Promote appropriate use and development of energy and mineral resources. (Policy 13)
- I. The Village shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Planning Board. Such files shall be made available for public inspection upon request. The duration for retention should follow standards for New York State records retention.

§ 64-6. Enforcement.

No action within the Malone waterfront area which is subject to review under this chapter shall proceed until a written determination has been issued from a Village agency that the action is consistent with the Village's LWRP policy standards. In the event that an activity is being performed in violation of this chapter or any conditions imposed thereunder, the Village Attorney, Code Enforcement Officer, or any other authorized official of the Village shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect. The Village Attorney and the Code Enforcement Officer shall be responsible for enforcing this chapter.

§ 64-7. Penalties for offenses.

- A. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding \$250 for a conviction of a first offense and punishable by a fine of \$500 for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
- B. The Village Attorney or any other party authorized by the Village is directed to institute any and all actions and proceedings necessary to enforce this chapter. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 64-8. Severability.

The provisions of this chapter are severable. If any provision of this chapter is found invalid, such finding shall not affect the validity of this chapter as a whole or any part or provision hereof other than the provision so found to be invalid.

§ 64-9. When effective.

This chapter shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Chapter 66

ZONING

**ARTICLE I
Title and Purpose**

- § 66-1. Title.**
§ 66-2. General purpose.

**ARTICLE II
Word Usage and Definitions**

- § 66-3. Definitions.**

**ARTICLE III
Designation of Districts**

- § 66-4. Districts.**
§ 66-5. Map.
§ 66-6. District boundaries.

**ARTICLE IV
Regulations**

- § 66-7. Application of regulations.**

**ARTICLE V
R Residence Districts**

- § 66-8. Purpose.**
§ 66-9. Permitted uses.
§ 66-9.1. Uses permitted by special exception.

MALONE CODE

§ 66-10. Requirements.

ARTICLE VI
R-LB Residence-Limited Business Districts

§ 66-11. Purpose.

§ 66-12. Permitted uses.

§ 66-12.1. Uses permitted by special exception.

§ 66-12.2. Prohibited uses.

§ 66-13. Requirements.

ARTICLE VII
B General Business Districts

§ 66-14. Purpose.

§ 66-15. Permitted uses.

§ 66-16. Uses permitted by special exception.

§ 66-17. Requirements.

ARTICLE VIII
C-I Commercial-Industrial Districts

§ 66-18. Purpose.

§ 66-19. Permitted uses.

§ 66-19.1. Prohibited uses.

§ 66-20. Uses permitted by special exception.

§ 66-21. Requirements.

ARTICLE IX
SP Scenic Preservation Districts

§ 66-22. Purpose.

ZONING

§ 66-23. Permitted uses.

ARTICLE X
PD Planned Development Districts

§ 66-24. Purpose.

§ 66-25. Procedure.

ARTICLE XI
Building Permit; Certificate of Occupancy

§ 66-26. Permit required.

§ 66-27. Application for certificate of occupancy.

§ 66-28. Certificate required.

§ 66-29. Fees.

§ 66-30. Records maintained and available.

§ 66-31. Issuance of certificates.

ARTICLE XII
Height Exceptions

§ 66-32. Height Limitations.

ARTICLE XIII
Nonconforming Uses

§ 66-33. Existing uses.

§ 66-34. Unsafe structures.

§ 66-35. Alterations.

§ 66-36. Extension.

§ 66-37. Construction approved prior to ordinance.

§ 66-38. Restoration.

MALONE CODE

- § 66-39. Abandonment.
- § 66-40. Changes.
- § 66-41. Displacement.
- § 66-42. Cessation.
- § 66-43. District changes.

ARTICLE XIV
Penalties; Enforcement; Amendments

- § 66-44. Penalties for offenses.
- § 66-45. Complaints of violations.
- § 66-46. Enforcement.
- § 66-47. Interpretation; conflict with other laws.
- § 66-48. Severability.
- § 66-49. Amendments.

ARTICLE XV
Special Exceptions

- § 66-50. Authority of Zoning Board of Appeals to hear applications.
- § 66-51. Procedure.
- § 66-52. Notice of public hearing.

ARTICLE XVI
Site Plan Review for Special Use Permits

- § 66-53. Planning Board approval of plan required.
- § 66-54. Application for approval; required information.
- § 66-55. Criteria for review of detailed site plan.

ZONING

- § 66-56. **Compliance with State Environmental Quality Review Act.**
- § 66-57. **Planning Board action on site plan.**
- § 66-58. **Reimbursable costs.**
- § 66-59. **As-built plans.**
- § 66-60. **Performance guaranty.**
- § 66-61. **Temporary certificate of occupancy prior to completion of site work.**
- § 66-62. **Integration of procedures.**
- § 66-63. **Appeal of Board decision.**

ARTICLE XVII Special Use Permit Review

- § 66-64. **Planning Board approval of permit required.**
- § 66-65. **Applicability; granting of special use permit.**
- § 66-66. **Planning Board procedure.**
- § 66-67. **Public notice and hearing.**
- § 66-68. **Application requirements.**
- § 66-69. **General standards for approval.**
- § 66-70. **Additional standards for specific uses.**
- § 66-71. **Compliance with State Environmental Quality Review Act.**
- § 66-72. **Reimbursable costs.**
- § 66-73. **As-built plans.**
- § 66-74. **Performance guaranty.**
- § 66-75. **Temporary certificate of occupancy prior to completion of site work.**
- § 66-76. **Integration of procedures.**

§ 66-77. Appeal of Board decision.**ARTICLE XVIII
Waterfront Overlay District****§ 66-78. Protection of Salmon River waterfront.****§ 66-79. Purpose and intent.****§ 66-80. Permitted uses; prohibited uses.****§ 66-81. Development regulations.****§ 66-82. Site plan.**

[HISTORY: Adopted by the Board of Trustees of the Village of Malone 2-14-1972.¹ Amendments noted where applicable.

GENERAL REFERENCES

Fences — See Ch. 19.
Flood damage prevention — See Ch. 24.
House trailers and trailer camps — See Ch. 28.
Signs — See Ch. 48.
Stormwater management — See Ch. 50.
Unsafe buildings and structures — See Ch. 57.
Waterfront consistency review — See Ch. 64.
Subdivision of land — See Ch. 66A.
Zoning Board of Appeals — See Ch. 68.
Planning Board — See Ch. 69.

**ARTICLE I
Title and Purpose****§ 66-1. Title.**

This ordinance shall constitute and be known as the "Zoning Ordinance of the Village of Malone, New York."

1. Editor's Note: This ordinance repealed former Ch. 66, Zoning, adopted 8-1-1960.

§ 66-2. General purpose.

The provisions of this ordinance shall be held to be the minimum requirements adopted for the purposes of promoting the health, safety, morals and general welfare of the inhabitants of the Village of Malone. It is intended to provide a basis for systematic and desirable growth. The Village is hereby divided into districts, with controls to ensure proper use and systematic growth of land uses and buildings. The ordinance is to be used in conjunction with the Zoning Map, which is a part of this ordinance. This ordinance is formulated to secure safety from fire, panic and other dangers, to lessen congestion in the streets, to provide adequate light and air, to prevent the overcrowding of land, to conserve property values, and to promote the growth and prosperity of the said Village.

ARTICLE II
Word Usage and Definitions

§ 66-3. Definitions.

For the purpose of this ordinance, certain terms or words shall be interpreted or defined as follows:

A. Word usage.

- (1) Words used in the present tense include the future tense.
- (2) The singular number includes the plural.
- (3) The word "person" includes a corporation or association as well as an individual.
- (4) The word "lot" includes the word "plot" or "parcel."
- (5) The term "shall" is always mandatory.
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words

"intended, arranged or designed to be used or occupied."

B. Definitions.

ACCESSORY BUILDING — Any subordinate building or a portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADULT USE OR ENTERTAINMENT ESTABLISHMENT — An establishment, or any part thereof, which includes any of the following: topless or bottomless dancers or waitresses; strippers; topless hair care or massages; entertainment where the servers or entertainers wear pasties or G-strings; adult cabaret; adult arcade; adult bookstore; or adult video store. **[Added 1-22-2001 by L.L. No. 1-2001]**

ALLEY — A service way which affords a secondary public means of vehicular access to abutting property.

ALTERATION — A change or rearrangement in the structural parts or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AREA, BUILDING — The maximum horizontal area of a building and its accessories at the ground level, except as hereinafter provided with respect to accessory garages in residence districts.

AUTO WASH — A structure designed or intended primarily for the washing of automobiles, including conveyor, drive-through and self-service types.

BASEMENT — A space of full-story height partly below grade and having at least half of its clear floor-to-ceiling height above the established grade of the street center line, or if no grade has been officially established on the street, measured from the average level of the proposed finished grade across the front of the building, and which space is not designed or used primarily for year-round living accommodations.

BOARDINGHOUSE — A private dwelling in which not more than six rooms are offered for rent and table board is furnished only to roomers, and in which no transients are accommodated.

BUILDING — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING COVERAGE — That portion of the plot or lot area covered by a building.

BUILDING, DETACHED — A building surrounded by open space on all sides on the same lot.

BUILDING FLOOR AREA — The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, FRONT LINE OF — The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT OF — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard

roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which said building is situated.

CAMPSITE — Any one or more of the following, other than a hospital, place of detention or school offering general instruction:

- (1) Any area of land or water on which are located two or more cabins, tents, trailers, recreational vehicles, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.
- (2) Any land, including any building thereon, used for any assembly of persons for what is commonly known as "day camp" purposes; and shall apply to any of the foregoing uses whether or not conducted for profit and whether occupied by adults or by children, either as individuals, families or groups.

CELLAR — A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND — Any place or premises used for sale, dispensing or serving of food, refreshments or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

DWELLING — A building with complete housekeeping facilities designed or used as the living quarters for one family.

DWELLING, CONDOMINIUM — Any apartment, townhouse or other residential building, or portion thereof, involving a combination of two kinds of ownership of real property:

- (1) Fee simple ownership of the individual dwelling unit, and
- (2) Undivided ownership, together with other purchasers, of the common elements of the structure, land and appurtenances, the management thereof controlled by a property owners' association.

DWELLING, GUEST HOUSE — An accessory seasonal dwelling unit built on the same lot with the principal dwelling and not for rent.

DWELLING, MULTIFAMILY — A dwelling or group of dwellings on one plot, containing separate living units for three or more families living independently of each other, and other than hotels, motels and rooming houses.

DWELLING, ONE-FAMILY — A detached building designed for year-around occupancy by one family exclusively, other than a mobile home, recreational vehicle or any temporary structure.

DWELLING, TOWNHOUSE — Three or more attached dwelling units designed for year-round occupancy and containing separate dwelling units for occupancy by one family per unit.

DWELLING, TWO-FAMILY — A building designed for year-round occupancy by two families exclusively, living independently of each other, and other than a mobile home, recreational vehicle or rooming house.

DWELLING, SEASONAL — A detached dwelling unit providing complete housekeeping facilities for one family, designed for seasonal or non-year-round occupancy, other than a mobile home, camp or recreational vehicle.

FAMILY — One or more persons occupying the same premises, related by blood, marriage or adoption and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, hotel or commune.

GARAGE, PRIVATE — An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC — Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GASOLINE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means. Such term shall include filling and service station.

HOME OCCUPATION — Any accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small announcement or professional sign not over two square feet in area, and in connection therewith there is not involved the keeping of a stock-in-trade. The office of a physician, surgeon, dentist or other professional person, including instruction in a musical instrument limited to one pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be "home occupations"; and the occupations of

dressmaking, milliner or seamstress, each with not more than one paid assistant, shall also be deemed to be a "home occupation." Dancing instructions, banks, instrument instruction in groups, tearooms, tourist homes, beauty parlors, convalescent homes, mortuary establishments and stores, trades or businesses of the kind herein excepted shall not be deemed to be "home occupations."

HOSPITAL — The term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments, not including animal hospitals.

HOTEL OR MOTEL — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

JUNKYARD — A lot, land or structure or part thereof used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

LAUNDERETTE — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LINE, STREET — The dividing line between the street and the lot.

LODGING HOUSE — A building in which three or more rooms are rented and in which no table board is furnished. A rooming house shall be deemed to be a "lodging house."

LOT — A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it or by a group of buildings with a common use or interest, including such open spaces as are required by this ordinance, and having its principal frontage on a public street or an officially approved place.

LOT AREA — The total area included within side and rear lot lines and the street or highway right-of-way.

LOT, CORNER — A lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of the intersection of less than 135°.

LOT DEPTH — A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINE — Any line dividing one lot from another.

LOT, THROUGH — A lot having frontage on two approximately parallel or converging streets, other than a corner lot.

LOT WIDTH — The mean width measured at right angles to its depth.

MOBILE HOME — A factory-finished movable dwelling unit designed and built on frame and wheels to be towed on its own chassis and designed as a self-contained unit to provide housekeeping facilities for year-round occupancy, including living and sleeping accommodations, a flush toilet, tub or shower and kitchen facilities and with plumbing and electrical connections provided for attachment to outside systems after being transported to

the building site. It does not include a recreational vehicle. A "mobile home" does not lose its character as such by reason of any connections to its chassis or attachment to the ground, a slab or any foundation or by reason of any addition or attachment to the mobile home, whether or not said addition or attachment is built on site, premanufactured or prefabricated. **[Amended 1-14-1991 by L.L. No. 1-1991]**

MOBILE HOME COURT — A parcel of land which has been planned and improved for the placement of two or more mobile homes for dwelling purposes. The term shall include mobile home park or other areas planned and/or improved for two or more mobile homes.

NONCONFORMING LOT — Any lot in single ownership which does not conform with the minimum area and/or dimensions required in the district in which it is situated or for any special use, as the case may be, and where the owner of said lot does not own any adjoining property, the subdivision of which could create one or more conforming lots.

NONCONFORMING USE — A building, structure or use of land existing at the time of the enactment of or amendment to this ordinance and which does not conform to the regulations of this ordinance concerning the district in which it is situated.

NURSING OR CONVALESCENT HOME — Any building with less than 15 sleeping rooms, licensed or regulated by the State of New York, where persons are housed or lodged and furnished with meals and nursing care for pay.

NURSERY SCHOOL — Facilities for the daytime care or instruction of two or more children from two to five years old, inclusive, and operated on a regular basis for pay.

PARKING SPACE — The space designated for parking one automobile, including at least 200 square feet, not including passageways or driveways thereto.

PERSONAL SERVICE SHOP — An area of land, including the structures thereon, used for: **[Added 12-15-1986 by L.L. No. 4-1986]**

- (1) Any use of a service or instructional character, except those otherwise expressly set forth as a permitted use, which is conducted within a building, except that no material or stock-in-trade shall be sold or stored upon such premises except as is clearly incidental to the service or instruction provided.
- (2) Any use of a commercial nature, except those otherwise expressly set forth as a permitted use, which is conducted within a building and which is limited to the making or sale of items for individual or household use, provided that not more than three people may be employed within such facility at any one time.
- (3) For the purpose of this definition, a facility for the making or sale of crafts and souvenirs shall be a "personal service shop," but the term "personal service shop" shall not be defined to include any facility for the repair, storage, sale or sale of parts of motor vehicles.

PLANNED DEVELOPMENT DISTRICT — A tract of land designed for or capable of being used for one or more residential, commercial, industrial or recreational uses which have certain facilities in common and which have been designed as an integrated unit.

RECREATIONAL VEHICLE — A mobile recreational unit, including travel trailer, pickup, camper, converted bus, tent trailer, camper trailer, tent or similar device used for temporary portable housing.

SANITARIUM, SANATORIUM — A private hospital, whether or not such facility is operated for profit.

SIGN — Any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement. A "sign" includes any billboard, but does not include the flag, pennant or insignia of any nation or group of nations or of any state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization, campaign, drive, movement or event. However, a "sign" shall not include a similar structure or device located within a building.

- (1) A "business sign" is a sign which directs attention to a business or profession conducted or to products sold upon the same lot.
- (2) An "advertising sign" is a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot.
- (3) An "illuminated sign" is any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.
- (4) A "flashing sign" is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SPECIAL EXCEPTION — A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such use may be permitted in certain zoning districts as a

"special exception," if provision for such "special exception" is made in this Zoning Ordinance.

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 it, then the space between any floor and the ceiling next above it.

STORY, HEIGHT OF — The vertical distance from the floor to the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET — A public way which affords the principal means of access to abutting properties.

STRUCTURE — A combination of materials to form construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds and storage bins. Notwithstanding the foregoing, a fence shall not be deemed a "structure." **[Amended 9-11-1989 by L.L. No. 4-1989]**

STRUCTURAL ALTERATION — Any change in the supporting members of the building, such as bearing walls, columns, beams or girders.

THEATER, MOVING PICTURE — A building or part of a building devoted to the showing of moving pictures on a paid-admission basis.

THEATER, OUTDOOR DRIVE-IN — An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid-admission basis, to patrons seated in automobiles or on outdoor seats.

TOURIST CABINS — A group of buildings, including either separate cabins or a row of cabins, which contain living and sleeping accommodations for transient occupancy and have individual entrances.

TOURIST HOME — A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

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 — (See "accessory use.")

VARIANCE — An authorized departure by the Board of Appeals from the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

YARD — An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT — An open, unoccupied space on the same lot with a building, situated between the street line and a line connecting the parts of the building setting back from and parallel to the street line and nearest to such street line, and extending to the side lines of the lot.

YARD, REAR — An open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the average rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the average rear line of the lot or the center line of the alley, if there be an alley, and the rear line of the building.

YARD, SIDE — An open, unoccupied space on the same lot with the building, situated between the building and the side line of the lot and extending from the front yard to

the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ARTICLE III Designation of Districts

§ 66-4. Districts.

For the purpose of this ordinance, the Village of Malone shall be divided into the following types of districts:

- R Residence Districts
- R-LB Residence-Limited Business Districts
- B General Business Districts
- C-I Commercial-Industrial Districts
- SP Scenic Preservation Districts
- PD Planned Development Districts

§ 66-5. Map. [Amended 11-14-1988 by L.L. No. 3-1988]

The boundaries and divisions of the above-mentioned districts are hereby established as shown on the map entitled "Zoning Map of the Village of Malone, New York," as amended, a certified copy of which shall be on file in the office of the Village Clerk. Said map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance. Notwithstanding the foregoing, and despite the boundaries and divisions specified on said map, the following area shall be zoned R-LB, Residence-Limited Business District: bounded north by the south side of Huntington Street; bounded east by the west side of Railroad Street; bounded south by the north line of Clark Street; and bounded west by the easterly line of Fort Covington Street.

§ 66-6. District boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.
- B. When district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- C. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the center of the body of water and any island therein shall belong to the district in which it is chiefly situated.
- E. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Board of Appeals shall render a determination with respect thereto.

**ARTICLE IV
Regulations****§ 66-7. Application of regulations.**

The following regulations shall apply in their respective districts except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot areas, or to have narrower or smaller rear yards, front yards or side yards than is specified herein for the district in which such building or structure is located.
- C. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building or structure.

ARTICLE V
R Residence Districts

§ 66-8. Purpose. [Amended 7-22-1996 by L.L. No. 2-1996]

This district is planned primarily to protect one-family dwellings from injurious and objectionable uses; to provide privacy; to provide traffic safety by street arrangement encouraging through traffic on the proper streets; to provide homogeneity in lot sizes and locations; to eliminate nonconforming uses; to protect against harsh and conflicting conditions in lot and street layouts; to ensure beauty and permanence; to encourage development; to conserve property values; and to ensure the ends desired in § 66-2.

§ 66-9. Permitted uses.

- A. One-family dwelling. **[Amended 7-22-1996 by L.L. No. 2-1996]**

- B. Churches or similar places of worship, parish houses, convents.
- C. Public parks, playgrounds and recreational areas operated by membership organizations for the benefit of their members and not for profit.
- D. Public and private schools and institutions of higher education, public libraries, municipal buildings.
- E. Philanthropic or eleemosynary institutions other than a camp, hospital, sanatorium, correctional institution or institution for the insane. A camp, hospital, sanatorium, correctional institution or institution for the insane may be permitted upon approval of the Board of Appeals and subject to such conditions and safeguards as are deemed appropriate by such Board and upon securing a permit therefor.
- F. Customary gardening operations comprising gardens and nurseries, subject to the following restrictions:
- (1) No storage of odor- or dust-producing substance shall be permitted within 100 feet of any adjoining lot line.
 - (2) No products shall be publicly displayed or offered for sale from the roadside.
- G. Customary home occupations, provided that there shall be no external evidence of such occupation except a small announcement or professional sign not over two square feet in area and not illuminated by more than two bulbs of 60 watts each; maximum, or equivalent fluorescent lighting.
- H. Customary accessory uses and buildings, provided that such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory buildings shall be located on the same lot with the principal building.

§ 66-9.1. Uses permitted by special exception. [Added 12-15-1986 by L.L. No. 4-1986]

Public utility or public service uses or public buildings other than those expressly listed as permitted uses.

§ 66-10. Requirements.

- A. Building height limit; 2 1/2 stories but not exceeding 35 feet.
- B. Yards required. Each lot shall have front, side and rear yards not less than the depths or widths following:
- (1) Front yard depth: 25 feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: not less than eight feet, but the sum of the two side yards shall be not less than 20 feet.
 - (3) Rear yard depth: 25 feet.
- C. Parking and signs. One off-street parking space shall be provided for each dwelling and the appropriate number as determined by the Planning Board for each public or semipublic use. Temporary "for sale" or "to let" signs and institutional or religious identification signs are not to exceed 15 square feet.

ARTICLE VI

R-LB Residence-Limited Business Districts

§ 66-11. Purpose.

This district allows all uses permitted in R Districts and some special use that may approach that of business. This district acts as a transition zone between R and B Districts.

§ 66-12. Permitted uses.

- A. All uses permitted in R Districts.
- B. Multifamily dwellings, tourist homes, lodging and boardinghouses.
- C. Municipal building, lodge, club, church, school, hospital, bank, mortuary, medical center, rest home, business or professional office, philanthropic and eleemosynary institution or use.
- D. (Reserved)²
- E. Business signs not to exceed 32 square feet.

§ 66-12.1. Uses permitted by special exception. [Added 12-15-1986 by L.L. No. 4-1986]

- A. Public utility or public service uses or public buildings other than those expressly listed as a permitted use.
- B. Personal service shops.

§ 66-12.2. Prohibited uses. [Added 1-22-2001 by L.L. No. 1-2001]

- A. Adult use or entertainment establishments.

§ 66-13. Requirements.

- A. Building height limit: three stories, but not exceeding 40 feet.
- B. Yards required. The following minimum depths and widths shall be provided:

2. Editor's Note: Former Subsection D, which provided for person service shops, neighborhood grocery stores or convenience item stores as permitted uses in the R-LB Residence-Limited Business Districts, was repealed 12-15-1986 by L.L. No. 4-1986.

- (1) Front yard depth: 25 feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: each side shall be 1/3 the height of the building.
 - (3) Rear yard depth: equal to the height of the building.
- C. Distance between buildings on same plot. No principal building shall be closer to any other principal building than the average of the height of the two buildings.
- D. Automobile storage and parking spaces. Parking shall be provided for commercial and office uses which are permitted uses, as determined by the Planning Commission after due consideration of available public and private spaces in the immediate vicinity and the scope and nature of the proposed commercial or office use. Parking for all uses which are permitted by special permit shall be provided as determined by the Village Board of Trustees after a public hearing. **[Amended 12-15-1986 by L.L. No. 4-1986]**

ARTICLE VII

B General Business Districts

§ 66-14. Purpose.

This district is planned to protect and foster business, including the identification of a central business section to enable purchasers to shop for a considerable variety of items with a minimum of travel; to have sufficient, convenient and proper parking facilities to attract customers; to locate parking on the outskirts of this central business section so as to avoid congestion in the business section itself; to provide attractive stores and buildings; to provide loading facilities; and to promote trade and business.

§ 66-15. Permitted uses.

- A. Multifamily dwelling.
- B. Lodging or boardinghouse or tourist home.
- C. Churches; religious, school and municipal, public or quasipublic buildings and institutions.
- D. Hotels, motels, banks, business or professional offices, studios.
- E. Retail or wholesale stores, personal service shop, launderette.
- F. Restaurant, theater, public recreation or entertainment uses.
- G. Business signs not to exceed 32 square feet.
- H. Accessory buildings and uses.
- I. Adult use or entertainment establishments are only permitted with the issuance of a special use permit.
[Added 1-22-2001 by L.L. No. 1-2001]

§ 66-16. Uses permitted by special exception.

- A. Gasoline station.
- B. Automobile, boat, farm implement, mobile home, trailer, snowmobile or motorcycle sales or rental.
- C. Mortuary.
- D. Public utility or public service uses or public buildings other than those expressly listed as permitted uses.
[Added 12-15-1986 by L.L. No. 4-1986]

§ 66-17. Requirements.

- A. Building height limit. No building shall be erected to a height in excess of 55 feet.
- B. Required lot area. Any building used for residential purposes shall have a lot width equal to that required in the least restricted residence district for the same type of dwelling.
- C. Yards required.
 - (1) Front yard: none required.
 - (2) Side yard width for any building used for residential purposes shall be as specified for such dwelling in the least restricted residential district.
 - (3) Rear yard depth shall be not less than 30 feet.
- D. Parking. Refer to § 66-13D.
- E. No adult use or entertainment establishment shall be located within 1,500 feet of the property line of any preexisting church, synagogue, mosque or other place of worship, school, day-care facility, preschool, park or playground. **[Added 1-22-2001 by L.L. No. 1-2001]**
- F. Adult use or entertainment establishments shall not display or advertise other than an approved sign and the adult use shall be conducted entirely within an enclosed building. No "specified anatomical area" or "specified sexual activity" shall be visible at any time from outside the building. This requirement shall also apply to any sign or display. **[Added 1-22-2001 by L.L. No. 1-2001]**

ARTICLE VIII
C-I Commercial-Industrial Districts

§ 66-18. Purpose.

This district is planned to aid and attract commerce and industry in the proper locations; to protect potential industrial locations from encroachment; to aid in planning our economy in advance by protecting interests and sites; to consider proximity to railroads and rivers; and to foster necessary industrial growth in an orderly and well-planned manner.

§ 66-19. Permitted uses.

- A. Truck terminal.
- B. Auto wash.
- C. Lumber, feed, fuel sales or storage.
- D. Heating, plumbing, electrical, metal or similar fabrication or welding shop.
- E. Concrete products.
- F. Machine shop.
- G. Manufacturing or assembly.
- H. Wholesale, storage or warehouse facility.
- I. Cold storage or packing plant.
- J. Dairy processing plant.
- K. Development or research center.
- L. Business sign.
- M. Customary accessory building, use.

§ 66-19.1. Prohibited uses. [Added 1-22-2001 by L.L. No. 1-2001]

- A. Adult use or entertainment establishments.

§ 66-20. Uses permitted by special exception. [Amended 12-15-1986 by L.L. No. 4-1986]

- A. Public utility or public service uses or public buildings other than those expressly listed as permitted uses.
- B. All industrial uses of lands not otherwise expressly listed as a permitted use.

§ 66-21. Requirements.

- A. Building height limit: 60 feet.
- B. Yards required.
- (1) Front yard depth: 25 feet measured from the street right-of-way, or in line with existing structures.
 - (2) Side yard width: 10 feet along the side of every lot.
 - (3) Rear yard depth: 25 feet.
- C. Parking, loading and unloading. [Amended 12-15-1986 by L.L. No. 4-1986]
- (1) Industrial or manufacturing establishments shall provide at least one parking space for 400 square feet of gross floor area or for each five workers. All parking spaces provided pursuant to this subsection shall be on the same lot as the building, except that the Board of Appeals, or the Village Board (in cases of uses permitted only by special exception) may permit the parking spaces to be on any lot within 500 feet of the building if it determines that it is impractical to provide parking on the same lot with the building.

- (2) Loading and unloading are to be provided for upon the premises.

ARTICLE IX
SP Scenic Preservation Districts

§ 66-22. Purpose.

This district is planned to enhance community appearance; to promote the use of scenic resources for the pleasure and welfare of the citizens of and visitors to the Village; and to safeguard against damage due to natural causes such as flooding and water pollution.

§ 66-23. Permitted uses.

Within this Scenic Preservation District, which includes that area within 200 feet of the shoreline at normal water level of those streams and waterways as delineated on the map, all development will be in accord with the planned development process as set forth in the following Article. No permanent building or structure shall be located within 75 feet of the shoreline at normal water level except by approval of the Village Board under Article X.

ARTICLE X
PD Planned Development Districts

§ 66-24. Purpose.

This district is planned to provide a means of developing those land areas within the community considered appropriate for new residential, recreational, office space, commercial or industrial use, or a satisfactory combination of these uses, in an economic and compatible manner, while encouraging the utilization of innovative planning and design concepts or techniques in these areas without departing from the spirit and intent of this Zoning Ordinance.

§ 66-25. Procedure.**A. For the establishment of Planned Districts:**

- (1) Application for designation of a PD District shall be referred to the Village Board. The Village Board shall refer the application to the Planning Commission within 10 days of receipt. The applicant shall furnish basic data pertaining to boundaries of the proposed development, the existing zoning, topography, drainage, soil conditions and such preliminary plans as may be required for an understanding of the type, uses and design of the proposed development.
- (2) The Planning Commission and the Commission's professional planning consultant, if any, shall review such application. The Commission may require such changes in the preliminary plans as are found to be necessary to meet the requirements of this Article, to protect the established permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Commission shall consider and make findings regarding those considerations set forth under Subsection B(2) of this section. All applications for creation of a Planned District shall be referred to the Franklin County Planning Board, which may review and comment on the referral within 30 days.
- (3) The Village Planning Commission shall report its findings and render its decision to the Village Board within 45 days. It may recommend approval, disapproval or conditional approval subject to modifications regarding the proposed development.
- (4) The Village Board shall hold a public hearing after public notice as required for any amendment to this ordinance and shall consider the report and

recommendations of the Planning Commission and all other comments, reviews and statements pertaining thereto. It may amend the Zoning Map to establish and define the type and boundaries of the Planned District, and in so doing may state specific conditions in addition to those provided by this ordinance, further restricting the nature or design of the development. In the event that the Planning Commission disapproved the proposal or rendered conditional approval subject to modifications with which the developer is not willing to comply, the Village Board may amend the Zoning Map in accordance with the application only upon an affirmative vote of at least 3/4 of the members of the Village Board.

- B. For the approval of development within an established Planned or Scenic Preservation District:
- (1) Amendment of the Zoning Map shall not constitute authorization to develop in the district. Such authorization after a Planned or Scenic Preservation District has been established shall require that the applicant submit to the Planning Commission such further plans and specifications, supporting documents and data as shall be required by the Commission and shall specify on the plans and in writing the building types and layout, setbacks, off-street parking and loading, ingress and egress, signs, existing and proposed amenities, screening, planting and ornamental features and the plan or arrangement for development of the area in stages or in its entirety. A copy of the proposed development will be submitted to the Franklin County Planning Board for review as required under Section 239-L and Section 239-M of the General Municipal Law.
 - (2) The Planning Board and the Board's professional planning consultant, if any, shall set forth the particular ways in which the proposed development

would or would not be in the public interest, including, but not limited to, findings of fact and conclusions on the following:

- (a) In what respects the plan is or is not consistent with the stated purposes of a Planned or Scenic Preservation District.
- (b) The extent to which the plan departs from zoning regulations formerly applicable to the property in question (if not originally designated as a Planned District), including, but not limited to, bulk, density and permitted uses.
- (c) The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
- (d) The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
- (e) The provision for pedestrian circulation and open space in the planned development, the reliability of the proposal for maintenance and conservation of common open space and pedestrian circulation as related to the proposed density and type of development.
- (f) The traffic circulation features within the site, including the amount of, location of and access to automobile parking and terminal loading areas.
- (g) The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards such as inadequate site distances and

intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.

- (h) The provision for storm, sanitary and solid waste disposal and other utilities on and adjacent to the site.
 - (i) The proposed location, type and size of signs and landscape features.
 - (j) The physical design of the plan and the manner in which said design does or does not make adequate provision for service demands (water, sewer, fire, etc.), provide adequate control over vehicular traffic, and further the amenities of light, air and visual enjoyment.
- (3) No permit shall be issued until the Planning Commission has made its determination based on the foregoing considerations and the Village Board has considered this determination and any review by the Franklin County Planning Board and authorized issuance of a permit by resolution. The Village Board may override the recommendation of the Planning Commission in adopting its resolution to authorize or deny a permit only by an affirmative vote of a majority of the Board.
- (4) All conditions imposed by the Village Board in its amendment and all subsequent conditions imposed by the Planning Commission in its review of the final plans, including any conditions the performance of which were conditions precedent to the issuance of any permit, shall run with the land and shall not lapse or be waived as a result of any change in tenancy or ownership of any or all of the designated district.
- (5) If construction of the development in accordance with the approved plans and specifications has not

begun within one year after the date of the resolution authorizing issuance of the building permit, all permits shall become null and void, the approval shall be deemed revoked and vacated and the Village Board shall have the authority to again amend the map to restore the zoning designation for the district to that which it had been prior to the application, or any other district.

- C. Special application. All proposed mobile home courts as well as all developments within any Scenic Preservation District will be considered under the Planned Development District procedure.

ARTICLE XI

Building Permit; Certificate of Occupancy

§ 66-26. Permit required.

No building shall be erected, moved, substantially altered, added to or enlarged, and no excavation for any building shall be begun, unless and until a building permit for such work has been issued by the Building Inspector.

§ 66-27. Application for certificate of occupancy.

All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this ordinance.

§ 66-28. Certificate required.

- A. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector, stating that the

building or proposed use thereof complies with the provisions of this ordinance.

- B. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the Building Inspector therefor, except for ordinary repairs.

§ 66-29. Fees.

The fee for building permits for new residences shall be \$10 and for alteration of old residences, \$5; building permits for new business or industrial buildings, \$10. A card showing the building permit number shall be attached to all buildings for which a permit is issued.

§ 66-30. Records maintained and available.

The Building Inspector shall maintain a record of all certificates with the Village Clerk, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected upon payment by him to the Village of a fee of \$2.

§ 66-31. Issuance of certificates.

- A. Upon written request from the owner and on payment by him to the Village of a fee of \$5, the Building Inspector shall issue a certificate of occupancy for any building or premises existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use or disposition of the buildings or the premises, and whether such use or disposition conforms with the provisions of this ordinance.
- B. Upon payment to the Village of a fee of \$5, the Building Inspector shall issue a certificate of occupancy for all new buildings or buildings on which alterations or additions are to be made.

- C. Under such rules and regulations as may be established by the Zoning Board of Appeals and filed with the Village Clerk, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by him.

ARTICLE XII Height Exceptions

§ 66-32. Height Limitations.

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads, 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 purposes they are to serve. No advertising device of any kind shall be inscribed upon or attached to that part of any structure which extends above the roof limitations.

ARTICLE XIII Nonconforming Uses

§ 66-33. Existing uses.

The lawful use of any building or land existing at the time of the enactment of this ordinance may be continued although such use does not conform with the provisions of this ordinance.

§ 66-34. Unsafe structures.

Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition, subject to § 66-38 hereunder.

§ 66-35. Alterations.

A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50% of the assessed value of the building unless said building is changed to a conforming use.

§ 66-36. Extension.

A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this ordinance shall not be deemed the extension of such nonconforming use.

§ 66-37. Construction approved prior to ordinance.

Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building shall be completed according to the filed plans within one year from date of this ordinance.

§ 66-38. Restoration.

No building damaged by fire or other causes to the extent of more than 75% of its fair market value shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

§ 66-39. Abandonment.

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be

reestablished, and any future use shall be in conformity with the provisions of this ordinance.

§ 66-40. Changes.

- A. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- B. No nonconforming use shall be changed to another type of nonconforming use.

§ 66-41. Displacement.

No nonconforming use shall be extended to displace a conforming one.

§ 66-42. Cessation.

Notwithstanding any other provisions of this ordinance, any automobile wrecking yard or other junkyard or any billboard or advertising structure in existence in any district at the date of enactment of this ordinance shall at the expiration of three years from such date become a prohibited and unlawful use and shall be discontinued and removed.

§ 66-43. District changes.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

ARTICLE XIV
Penalties; Enforcement; Amendments

§ 66-44. Penalties for offenses.

- A. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used, in violation of this act or of any ordinance or other regulation made under authority conferred thereby, the Board of Trustees, in addition to other remedies, shall institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
- B. Any person or persons, firm or corporation violating any of the provisions of this ordinance, in addition to the above described remedies, shall forfeit and pay a penalty of \$100 for each and every day that said violation continues, and in addition to the penalty, a violation of this ordinance shall constitute disorderly conduct and the person violating the same shall be a disorderly person.

§ 66-45. Complaints of violations.

Whenever a violation of this ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Board of Trustees.

§ 66-46. Enforcement.

This ordinance shall be enforced by the Building Inspector or other designated official who shall be appointed by the Board of Trustees. No building permit or certificate of occupancy shall be issued by him except where the provisions of this ordinance have been complied with.

§ 66-47. Interpretation; conflict with other laws.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§ 66-48. Severability.

If any part or provision of this ordinance or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances, and the Board of Trustees hereby declares that it would have enacted this ordinance or the remainder thereof had the invalidity of such provision or application thereof been apparent.

§ 66-49. Amendments.

- A. The Board of Trustees may from time to time on its own motion, or on petition, or on recommendation of the Planning Commission, amend, supplement, change, modify or repeal the regulations, boundaries and provisions of this ordinance.
- B. Every such proposed amendment or change, whether initiated by the Board of Trustees, the Planning Commission or by petition, shall be referred to the Planning Commission for a public hearing which shall be held within 20 days of the referral upon notice to be given by publishing a notice at least five days prior to said hearing in at least one newspaper of general circulation in

such Village. The Planning Commission shall, within 10 days of said public hearing, report in writing to the Board of Trustees its recommendation with respect to the proposed amendment or change. **[Amended 2-17-1987 by L.L. No. 1-1987]**

C. Upon receipt of the recommendation of the Planning Commission, the Board of Trustees, by resolution adopted at a stated meeting, may fix the time and place for a public hearing on the proposed local law which would amend or change Chapter 66 of the Code of the Village of Malone. Notice of the proposed local law and of the public hearing thereon shall be given as follows: **[Amended 2-17-1987 by L.L. No. 1-1987]**

- (1) By following the provisions of Chapter 2 of the Code of the Village of Malone with respect to adopting local laws.
- (2) By mailing a notice thereof to every association of residents of the Village which shall have registered its name and address for this purpose with the Village Clerk and to all other organizations, corporations or governmental entities specified in § 7-706 of the Village Law, where required.
- (3) The notice shall state the general nature of the proposed local law.

D. Whenever the owners of 50% or more of the street frontage in any district or any specified part thereof shall present to the Board of Trustees a petition duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of the regulations prescribed for the zoning maps, including such district or specified part thereof and provided that the Planning Commission recommends such amendment or change after a public hearing as provided in Subsection C above, it shall be the duty of the Board of Trustees to hold a public hearing on a proposed local law which would amend or change Chapter 66 of the Code of the Village of Malone in conformity with

the petition of the property owners. **[Amended 2-17-1987 by L.L. No. 1-1987]**

- E. In case of a protest against such proposed amendment, supplement or change signed by the owners of 20% or more of the area of the land included in such proposed change, or the land immediately adjacent extending 100 feet therefrom, or the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by a favorable vote of 3/4 of the members of the Board of Trustees.

ARTICLE XV

Special Exceptions

[Added 12-15-1986 by L.L. No. 4-1986; amended 7-24-1989 by L.L. No. 3-1989]

§ 66-50. Authority of Zoning Board of Appeals to hear applications.

- A. The Zoning Board of Appeals shall have the sole authority to determine applications for any special exception specified in Chapter 66 of the Village Code.
- B. In determining whether a special exception shall be granted, the Zoning Board shall consider the established character of the neighborhood wherein such use is proposed to be located and whether the Village would be detrimentally affected by the additional traffic to be generated, the production or emission of noise, smoke, fumes, refuse matter or similar substances or conditions, the proposed landscaping, including parking areas, fences and buffer areas, the overall architectural appearance of any building to be erected or to be used and such other criteria as the Zoning Board shall deem necessary to maintain and promote the public health, safety, morals, general welfare, order, comfort, convenience, appearance or prosperity.

§ 66-51. Procedure.

- A. The application for a special exception and all attachments shall be furnished to the Village Clerk at least 20 days prior to any public hearing date. No hearing shall be had unless the application and all attachments are timely filed.
- B. The application for a special exception shall consist of the following:
- (1) The written executed petition stating in detail all of the pertinent facts relating to the application and setting forth the steps that will be taken by applicant to ameliorate any negative impact that the proposed use would have upon the existing neighborhood and the general community.
 - (2) A plot plan, survey or diagram of the subject premises accurately showing the dimensions of all actual or proposed structures on the subject premises, the distances of all actual or proposed side, rear or front yards, all existing or proposed landscaping and all courts, driveways, parking lots and abutting streets. The plot plan shall contain a parking plan showing the location and number of on-site parking spots.
 - (3) A statement of the maximum number of employees to be employed at the subject premises and their proposed hours of duty.
 - (4) The name, address and telephone number of all adjoining landowners and landowners of property located directly across any abutting public road from any of the subject premises.
 - (5) Any memorandum of law or additional information that the applicant feels may support or explain the application.
- C. The applicant shall submit any additional material requested by the Zoning Board after a public hearing.

- D. The Zoning Board may, upon good cause shown, waive or modify the requirements of § 66-51A, B or C.
- E. A filing fee of \$50 shall be deposited with the Village Clerk at the time of the filing of the application for special exception.
- F. Decisions of the Zoning Board with respect to any application for a special exception shall be made not later than 62 days from the date of any final hearing on such matter. The final decision on any application shall be made in a written order signed by the chairperson or such other member of the Zoning Board as said Board may select. Such decision shall state findings of fact which were the basis for the Board's determination. The decision shall state in full any conditions or safeguards imposed by the Board in granting such a special exception.

§ 66-52. Notice of public hearing.

The Village Clerk shall give notice of the public hearing by mailing a written notice thereof to the applicant or his attorney by regular mail, and by publishing such notice twice in the official newspaper of the Village. Additionally, such notice shall be mailed to all such property owners whose premises adjoin those of the applicant and such other property owners as the Zoning Board, in its discretion, deems advisable. The notice of hearing shall state the location of the building or property involved, the date, time and place of the hearing and the relief sought. Such notice shall be mailed and the first publication shall take place at least 10 days prior to the scheduled hearing date.

ARTICLE XVI

**Site Plan Review for Special Use Permits
[Added 3-26-2001 by L.L. No. 2-2001³]****§ 66-53. Planning Board approval of plan required.**

Prior to the issuance of a permit, the Zoning Enforcement Officer shall require site plan approval by the Planning Board pursuant to this article. The Zoning Enforcement Officer shall notify an applicant and the Secretary of the Village Planning Board when site plan approval is required in accordance with the provisions of this article.

§ 66-54. Application for approval; required information.

- A. An application for detailed site plan approval shall be made in writing and shall be accompanied by a detailed site plan and report prepared by a licensed land surveyor and/or professional engineer along with required site plan fees.
- B. The application, including the detailed site plan and fees, shall be submitted to the Secretary of the Planning Board a minimum of 21 consecutive days before the scheduled Planning Board meeting at which the detailed site plan is to be reviewed.
- C. Said detailed site plan application packet shall contain all information as designated on the following checklist. If the applicant and Planning Board discussed the project at a sketch plan conference (S.P.C.), the required information shall be drawn from the following checklist together with other elements as determined necessary by the Planning Board at said S.P.C. All plans and specifications shall be drawn to a scale of one inch equals 50 feet unless otherwise required by the Planning Board at the S.P.C.

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3. **Editor's Note: This local law replaced former Article XVI, Repealer; When Effective, which had provided an effective date of 4-1-1972 for the Zoning Ordinance.**

- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- (2) North arrow, graphic and numeric scale and date (initial plan date and provisions for plan revision dates).
- (3) Metes and bounds dimensions of the property prepared by a New York State licensed land surveyor.
- (4) All existing and proposed structures, features and land use activities.
- (5) Parcels immediately adjacent to the subject parcel, prepared by a New York State licensed land surveyor, and, for each parcel, the owner's name and address with current deed date and recording data.
- (6) Existing watercourses, flood hazard areas, flood insurance zones, and New York State designated and Army Corps of Engineers wetland areas, prepared by a licensed land surveyor.
- (7) Grading and drainage plan, showing existing and proposed contours at a maximum of two-foot contour interval (USGS-NGVD datum for contour information on the detailed site plan shall be taken from existing USGS-NGVD vertical control monuments with their bench mark reference designated on the site plan.) Planimetric and topographic information shall extend a minimum of 50 feet beyond the property boundary.
- (8) Comparison of proposed project's NGVD elevations with elevations designed on the public sanitary system. Results thereof shall appear on the detailed site plan. (This applies only when a proposed site plan project is within 2,000 feet of an existing public sanitary sewer collection or treatment facility.)

- (9) Exterior dimensions of all existing and proposed structures, with distances between all structures and distances between all structures and property lines properly dimensioned.
- (10) Type of construction materials and exterior color(s), height (eave and peak) and other exterior features for all existing and proposed structures, properly dimensioned.
- (11) Elevations of all views for all existing and proposed structures.
- (12) Location, design and type of construction of all existing and proposed parking, truck loading areas, vehicular access and egress, with profile elevations and cross-section details provided at fifty-foot intervals.
- (13) Existing and proposed provision for pedestrian access and movement.
- (14) Existing and proposed pedestrian and vehicular links to adjacent lots and public rights-of-way.
- (15) Location of existing and proposed outdoor storage, if any, properly dimensioned.
- (16) Location, design, construction materials and written specifications of all existing and proposed site improvements including drains, culverts, retaining walls and fences.
- (17) Method of sewage disposal, with location, design, construction materials and written specifications of such facilities, properly dimensioned, with profiles, elevations and cross-section details provided at fifty-foot intervals.
- (18) Method of securing water, with location, design, construction materials and written specifications of such facilities, properly dimensioned with profiles,

elevations and cross-section details provided at fifty-foot intervals.

- (19) Location of existing and proposed fire and other emergency zones, including the location of fire hydrants with fire flow test results not more than 24 months old.
- (20) Location, design, construction materials and written specifications of all energy distribution facilities, including electrical, gas and solar energy, properly dimensioned.
- (21) Location, size, design and type of construction of all existing and proposed signs;
- (22) Location of existing and proposed buffer areas, including existing and proposed vegetative cover.
- (23) Location, design and written specifications of all existing and proposed outdoor lighting facilities.
- (24) Identification of each land use activity and the numerical amount of building area for all existing and proposed structures and land use activities within the project.
- (25) Location, design and written specifications of all materials to be used in the landscaping plan and planting schedule for the proposed project.
- (26) Information for landscaping and planting schedule previously approved for the site relative to approved planting and planting existing at the time of the new detailed site plan approval.
- (27) An estimated project site plan improvement construction cost sheet (excluding building cost).
- (28) Project schedule for all site plan improvements and proposed buildings or structures.

- (29) Identification of all federal, state, county or other local permits required for the project's execution.
- (30) Record of all other applications and approval status of all necessary permits from federal, state, county and local officials.
- (31) A stormwater management report, prepared by a licensed engineer, providing, at a minimum, the following information:
 - (a) Narrative of proposed stormwater management system and basis of design.
 - (b) Basis of closed stormwater conveyance systems to be a ten-year-storm event; provide computations for flow, size and scope of each pipe section.
 - (c) Predevelopment and post-development runoff generation. Detention facilities shall be based upon a twenty-five-year post-development runoff with peak discharge limited to the predevelopment runoff from a ten-year-storm event at the discharge point.
- (32) The applicable fee as established from time to time by the Village Board.
- (33) Information to demonstrate that the length and width of drive-through lanes, both before and after the drive-through window or other feature is sufficient to provide enough stacking need for the vehicles entering and exiting the facility, along with adequate bypass lanes.
- (34) Other elements integral to the proposed site plan development as considered necessary by the Planning Board.

§ 66-55. Criteria for review of detailed site plan.

The Planning Board's review of the detailed site plan shall include, but not be limited to, the following general considerations:

- A. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- B. Adequacy and arrangement of vehicular traffic access, circulation and safety therein, including intersections, pavement widths, pavement surfaces, dividers, traffic control devices and links to adjoining lots and access rights-of-way.
- C. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- D. Adequacy and arrangement of pedestrian traffic access and circulation, including connections to adjacent lots and public rights-of-way, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. Adequacy of proposed stormwater detention/retention basins, and engineering hydraulic report, and other proposed drainage facilities, including impact upon adjoining properties and downstream structures.
- F. Adequacy of existing and proposed water supply and sewage disposal facilities.
- G. Adequacy, type and arrangement of existing and proposed trees, shrubs and other planting and landscaping plans constituting a visual and/or noise buffer between the applicant's project and adjoining lands, including the maximum retention of existing vegetation.
- H. Adequacy, type and arrangement of existing and proposed trees, shrubs and other landscaping constituting a visually aesthetic project.

- I. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- J. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- K. Adequacy of lighting, including the functionality, efficiency, aesthetic appearance and impact on adjacent properties, pedestrian and vehicular travelways and the skies.

§ 66-56. Compliance with State Environmental Quality Review Act.

Proposed projects are actions subject to the provisions of SEQRA. Prior to rendering its decision, the Planning Board shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

§ 66-57. Planning Board action on site plan.

Within 62 days of the receipt of a complete site plan application for site plan approval, the Planning Board shall grant preliminary approval, preliminary approval with modifications, preliminary approval with conditions, or disapproval of the site plan. The Planning Board shall file said decision with the Village Clerk and mail such decision to the applicant with a copy to the Zoning Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.

- A. Upon the Planning Board's review of the detailed site plan application and related material and the adoption of a Planning Board resolution granting the preliminary approval, preliminary approval with modifications, or preliminary approval with conditions of the detailed preliminary site plan, and upon the applicant meeting all

the conditions of the Planning Board as stated in the Planning Board's resolution granting the preliminary approval, if any, and the payment by the applicant of all fees and reimbursable costs due to the Village, the Planning Board Chair shall endorse the Planning Board's preliminary approval on a copy of what is hereinafter referred to as the "approved detailed preliminary site plan" (ADPSP) and shall forward a copy of the Planning Board's resolution with supporting materials and the ADPSP executed by the Planning Board Chair to the applicant. The Planning Board shall forward a copy of the Planning Board's resolution granting approval of the detailed preliminary site plan to the Zoning Enforcement Officer and file same with the Village Clerk. Upon the applicant's and Zoning Enforcement Officer's receipt of the ADPSP and Planning Board's resolution, the Zoning Enforcement Officer shall process a permit for the proposed buildings, structures, utilities and other site-plan-related improvements as shown on the ADPSP on file with the Village. The applicant shall construct all site plan improvements in accordance with and as shown on the ADPSP.

- B. Upon disapproval of a detailed site plan application, the Planning Board shall so inform the Zoning Enforcement Officer, and the Zoning Enforcement Officer shall deny a permit to the applicant. The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval. Such disapproval shall be filed with the Village Clerk.

§ 66-58. Reimbursable costs.

Costs incurred by the Planning Board for consultation fees, staff review costs or other expenses in connection with the review of a detailed site plan application shall be charged to the applicant.

§ 66-59. As-built plans.

The Zoning Enforcement Officer shall be responsible for the general inspection of the ADPSP improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. The applicant shall submit as-built plans, prepared and certified to by a licensed land surveyor or professional engineer, to the Zoning Enforcement Officer. Said as-built plans shall show to scale all improvement(s) as they were built, as compared to the way they were submitted and approved on the detailed site plan. As-built plans shall be reviewed by the Village and, when necessary, revised by the licensed land surveyor or professional engineer, to show "as-built data" and then be resubmitted for review. The as-built plan submittal process shall be repeated until all ADPSP improvements are shown thereon and the information is in compliance with the ADPSP. If the as-built site plan data does not comply with the ADPSP conditions, the applicant shall correct the condition and cause a new as-built plan to be submitted for review. All costs associated with the preparation and submittal of the as-built plans or any reconstruction of the site plan improvements to comply with the ADPSP shall be the responsibility of the applicant.

§ 66-60. Performance guaranty.

No certificate of occupancy for any portion of the proposed project shall be issued until all improvements shown on the site plan are installed and found to be in compliance with the ADPSP by the Zoning Enforcement Officer, with the final as-built plans, or a sufficient performance guaranty has been posted for site plan improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Village Board after consultation with the Planning Board, Zoning Enforcement Officer, Village Attorney and other appropriate parties.

§ 66-61. Temporary certificate of occupancy prior to completion of site work.

- A. A temporary certificate of occupancy may be issued by the Zoning Enforcement Officer for up to 80% of the building area or complex of structure area within the ADPSP, provided that the following items are provided by the applicant and accepted by a resolution of the Village Planning Board:
- (1) All building improvements for the area to be occupied have been completed, inspected and found to meet the minimum life safety requirements of the New York State Uniform Fire Prevention and Building Code by the Zoning Enforcement Officer.
 - (2) As-built plans, as required above, have been prepared and submitted and show all site plan improvement data for site plan improvements completed to date.
 - (3) A list of uncompleted but required site plan improvements shown on the ADPSP, together with a cost estimate representing the costs associated with the work necessary to complete all required site plan improvements as shown on the ADPSP.
 - (4) A performance guaranty, in an amount equal to 150% of the cost estimate submitted in Subsection A(3) above, in the form of cash, bank check or irrevocable letter of credit from a local bank or such other form acceptable to the Village Attorney in an amount acceptable to the Village Planning Board, for all uncompleted site plan improvements, including the as-built site plan preparation and submittal process.
 - (5) A site plan certificate of occupancy agreement prepared by the Village Attorney, signed by the applicant, and reviewed and approved by a resolution of the Village Board.

- B. A temporary certificate of occupancy shall not be issued by the Zoning Enforcement Officer until he/she has received a signed copy of the site plan certificate of occupancy agreement.

§ 66-62. Integration of procedures.

Whenever the particular circumstances of proposed development require compliance with other requirements of the Village, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliance.

§ 66-63. Appeal of Board decision.

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision by such Board in the office of the Village Clerk.

ARTICLE XVII

Special Use Permit Review

[Added 3-26-2001 by L.L. No. 2-2001]

§ 66-64. Planning Board approval of permit required.

Prior to the issuance of a permit, the Zoning Enforcement Officer shall require special use permit approval by the Planning Board pursuant to this article. The Zoning Enforcement Officer shall notify an applicant for a permit when special use permit approval is required in accordance with the provisions of this article.

§ 66-65. Applicability; granting of special use permit.

All special permit uses specified in the Malone Village Code shall be subject to review and approval by the Planning Board in accordance with the procedures and standards included herein. In all cases where this article requires such special use permit authorization by the Planning Board, no permit or certificate of occupancy shall be issued by the Zoning Enforcement Officer except upon authorization of and in full conformity with plans approved by the Planning Board.

§ 66-66. Planning Board procedure.

The Planning Board shall review and act on all special use permit applications in accordance with the procedure set forth in Article XVI except that a public hearing shall be mandatory.

§ 66-67. Public notice and hearing.

The Planning Board shall conduct a public hearing within 62 days of receiving a complete application. The applicant shall, at least 10 days before such hearing, be given notice of the hearing and shall appear in person or by agent. The Planning Board shall additionally provide notice as follows:

- A. By publishing, at least five calendar days prior to the date thereof, a legal notice in the official newspaper of the Village.
- B. By requiring the Secretary of the Planning Board to provide notice of the public hearing and data regarding the substance of the application to the owners of all property adjacent and/or opposite the subject property held by the applicant. Notice shall be provided by certified mail at least five calendar days prior to the hearing, with compliance with this notification procedure certified to by the Secretary of the Planning Board.
 - (1) The names of owners notified shall be taken as such appear on the last completed tax roll of the town.

- (2) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not invalidate an action taken by the Village in connection with granting or denying a special use permit application.
- C. If the land involved in the application lies within 500 feet of any other municipality, the Secretary of the Planning Board shall also submit, at least five calendar days prior to the public hearing, to the Municipal Clerk of such other municipality or municipalities a copy of the notice of the substance of every application, together with a copy of the official notice of such public hearing.

§ 66-68. Application requirements.

All applications made to the Planning Board shall be in writing on forms prescribed by the Village. The applicant shall be required to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development.

§ 66-69. General standards for approval.

Approval is conditional upon the provision of adequate safeguards to protect the health, safety and general welfare of the public and minimize possible detrimental effects of the proposed use on adjacent property.

- A. Adjacent land uses. The proposed use should not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. To the extent possible, the proposed use shall not have a negative effect on adjacent land uses.
- B. Location and size of use. The nature, scale and intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets providing access shall, to the extent

possible, be in harmony with the orderly development of the district.

- C. Vehicular access and circulation. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, drive-through stacking and exit lanes, links with adjacent and nearby land uses, road widths, alignment, grade, pavement surfaces, channelization structures, visibility and traffic controls shall be considered.
- D. Pedestrian circulation. Adequacy and arrangement of pedestrian traffic access and circulation, links with adjacent and nearby land uses, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience shall be considered.
- E. Parking. Location, arrangement, appearance and sufficiency of off-street parking and loading shall be considered.
- F. Layout. The location, arrangement, size, design and general site compatibility of buildings, lighting and signage shall be considered.
- G. Drainage facilities and erosion control. Adequacy of stormwater management plans and drainage facilities with regard to their impact on adjoining properties and downstream structures shall be considered.
- H. Water and sewer. Adequacy of water supply and sewage disposal facilities and their compliance with all applicable regulations shall be required.
- I. Vegetation. The type and arrangement of trees, shrubs and other landscaping components shall be considered. Existing vegetation shall be retained to the extent possible.
- J. Emergency access. Adequate provision of fire, police and other types of emergency vehicles shall be made.

- K. Flooding. Special attention shall be given to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flood and/or erosion.
- L. Lighting. The impacts of lighting on adjacent areas and areas within viewing distance shall be considered.
- M. Other. Other elements integral to the proposed site plan development as considered necessary by the Planning Board.

§ 66-70. Additional standards for specific uses.

In addition to the above general standards, the following specific standards shall apply:

- A. Gasoline sales stations. Specific consideration shall be given to traffic flow, as well as danger to the general public due to hazards of fire and explosion.
- B. Bulk storage of flammable liquids. When above ground and intended for commercial or industrial purposes, all storage and handling facilities shall be at least 400 feet from any residential district.
- C. Adult uses.
 - (1) Adult uses are recognized as having serious objectionable operational characteristics, including deleterious effects upon nearby areas. Special regulation of such uses is necessary to ensure that they do not contribute to the blighting of the area.
 - (2) No adult use shall be located within 1,500 feet of the nearest property line of any residential use; public, parochial or private school; educational institution; museum; library; commercial recreational facility; public recreation facility; or place of worship.
 - (3) No adult use shall be within 1,500 feet of any other adult use.

§ 66-71. Compliance with State Environmental Quality Review Act.

Proposed projects are actions subject to the provisions of SEQRA. Prior to rendering its decision, the Planning Board shall follow all applicable procedures in accordance with Article 8 of the Environmental Conservation Law and Part 617 NYCRR.

§ 66-72. Reimbursable costs.

Costs incurred by the Planning Board for consultation fees, staff review cost or other expenses in connection with the review of a proposed site plan shall be charged to the applicant together with other reasonable cost agreed to by the applicant and the Planning Board.

§ 66-73. As-built plans.

The Zoning Enforcement Officer shall be responsible for the general inspection of the ADPSP improvements, including coordination with the Planning Board and other officials and agencies, as appropriate. The applicant shall submit as-built plans, prepared and certified to by a professional engineer, to the Zoning Enforcement Officer. Said as-built plans shall show to scale all improvement(s) as they were built, as compared to the way they were submitted and approved on the detailed site plan. As-built plans shall be reviewed by the Village and, when necessary, revised by the professional engineer to show "as-built data" and then be resubmitted for review. The as-built plan submittal process shall be repeated until all ADPSP improvements are shown thereon and the information is in compliance with the ADPSP. If the as-built site plan data does not comply with the ADPSP conditions, the applicant shall correct the condition and cause a new as-built plan to be submitted for review. All costs associated with the preparation and submittal of the as-built plans or any reconstruction of the site plan improvements to comply with the ADPSP shall be the responsibility of the applicant.

§ 66-74. Performance guaranty.

No certificate of occupancy for any portion of the proposed project shall be issued until all improvements shown on the site plan are installed and found to be in compliance with the ADPSP by the Zoning Enforcement Officer, with the final as-built plans, or a sufficient performance guaranty has been posted for site plan improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Village Board after consultation with the Planning Board, Zoning Enforcement Officer, Village Attorney and other appropriate parties.

§ 66-75. Temporary certificate of occupancy prior to completion of site work.

- A. A temporary certificate of occupancy may be issued by the Zoning Enforcement Officer for up to 80% of the building area or complex of structure area within the ADPSP, provided that the following items are provided by the applicant and accepted by a resolution of the Village Planning Board:
- (1) All building improvements for the area to be occupied have been completed, inspected and found to meet the minimum life safety requirements of the New York State Uniform Fire Prevention and Building Code by the Zoning Enforcement Officer.
 - (2) As-built plans, as required above, have been prepared and submitted and show all site plan improvement data for site plan improvements completed to date.
 - (3) A list of uncompleted but required site plan improvements shown on the ADPSP, together with a cost estimate representing the costs associated with the work necessary to complete all required site plan improvements as shown on the ADPSP.

(4) A performance guaranty, in an amount equal to 150% of the cost estimate submitted in Subsection A(3) above, in the form of cash, bank check or irrevocable letter of credit from a local bank or such other form acceptable to the Village Attorney in an amount acceptable to the Village Planning Board, for all uncompleted site plan improvements, including the as-built site plan preparation and submittal process.

(5) A site plan certificate of occupancy agreement prepared by the Village Attorney, signed by the applicant, and reviewed and approved by a resolution of the Village Board.

B. A temporary certificate of occupancy shall not be issued by the Zoning Enforcement Officer until he/she has received a signed copy of the site plan certificate of occupancy agreement.

§ 66-76. Integration of procedures.

Whenever the particular circumstances of proposed development require compliance with other requirements of the Village, the Planning Board shall attempt to integrate, as appropriate, special use permit review as required by this article with the procedural and submission requirements for such other compliance.

§ 66-77. Appeal of Board decision.

Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision by such Board in the office of the Village Clerk.

ARTICLE XVIII
Waterfront Overlay District
[Added 10-13-2011 by L.L. No. 2-2011]

§ 66-78. Protection of Salmon River waterfront.

The following is a model waterfront overlay district for the Village of Malone to consider as a land management tool for protecting the Salmon River waterfront.

§ 66-79. Purpose and intent.

- A. The Village intends to protect a scenic corridor along the Salmon River and its tributaries, in accordance with the Town and Village of Malone Local Waterfront Revitalization Plan. The purpose of the district is to maintain a green, undeveloped corridor along much of the Village's waterfront and to provide a consistent level of protection of the visual, environmental and historic resources within this corridor.
- B. The existing vegetation along the Salmon River is effective in creating a secluded natural experience for waterfront landowners, boaters, hikers and other waterfront users. In addition, a vegetative buffer reduces the velocity and volume of stormwater runoff entering the river, increases infiltration, decreases erosion, and protects water quality. Vegetation filters out pollutants, including nutrients from fertilizers and agricultural pesticides. Therefore protection of the Salmon River waterfront is critical to its users as well as its ecology.
- C. The Waterfront Overlay (WO) District is overlaid onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision shall apply. The principal control mechanisms of the WO are construction setbacks from the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and

performance standards governing land use activities within the district. The WO will extend 200 feet from the Salmon River high-water mark.

D. The specific purposes of this district include the following:

- (1) To preserve natural, scenic, and historic values along the Salmon River.
- (2) To preserve woodlands, wetlands, and other green space.
- (3) To regulate uses and structures along the Salmon River to avoid increased erosion and sedimentation.
- (4) To encourage compatible land uses along the Salmon River.
- (5) To recognize areas of significant environmental sensitivity that should not be intensely developed.
- (6) To allow reasonable uses of lands while directing more intense development to the most appropriate areas of the community.

§ 66-80. Permitted uses; prohibited uses.

- A. The underlying zoning district determines the permitted principal uses, accessory uses and special permit uses within the Waterfront Overlay District. Underlying districts within the WO District include those districts located within 200 feet of the high-water mark.
- B. The following uses, however, are specifically prohibited within the WO District:
- (1) Junkyards and solid waste disposal or processing facilities.
 - (2) Mineral extraction or surface mining.
 - (3) Freight or truck terminals.

- (4) Bulk fuel storage.
- (5) Bulk industrial chemical storage or processing.
- (6) Uses which may be noxious or injurious due to the production or emission of dust, smoke, odor, gases, fumes, solid or liquid waste, noise, light, vibration, or nuclear or electromagnetic radiation or due to the likelihood of injury to persons or damage to property if an accident occurs.

§ 66-81. Development regulations.

A. Setback requirements.

- (1) The minimum setback from the high-water mark of the river shall be 200 feet for principal and accessory buildings.
- (2) Structures demonstrated to be directly related to the Salmon River may be authorized within the required setback distance; however, the Planning Board shall have the authority to impose additional conditions at the time of site plan review as may be warranted such as buffering or screening.

B. Riparian area vegetated buffer. Riparian areas shall be maintained with a natural vegetation strip on each parcel or lot between the normal high-water mark of the river and a point 100 feet from and perpendicular to the normal high-water mark. Removal of vegetation in the riparian area shall require a special permit in accordance with the following requirements:

- (1) No clear-cutting shall be allowed.
- (2) One hundred percent of the vegetation strip may be selectively thinned as follows. No more than 35% of the number of trees six inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. No more than 25% of trees four

inches in diameter at 4.5 feet above the ground, or larger, shall be cut in any ten-year period. Additional trees may be removed if the applicant can demonstrate one or more of the following conditions:

- (a) It is clearly necessary for traffic safety.
 - (b) It is clearly necessary for the development of an approved principal or accessory use or building, street, sidewalk, paved area, driveway, stormwater facility, utility or sewage system.
 - (c) It is within 25 feet of the foundation of an approved structure.
 - (d) It is diseased, dead or poses a clear danger to public safety, structure, utility or public improvement.
 - (e) It is related to agricultural activities, such as orchards or cultivation activities.
- (3) Existing soil and organic matter shall not be altered or disturbed within the vegetation strip except in connection with an activity otherwise permitted.
 - (4) No structures shall be permitted within the vegetation strip, with the exception of docks, boat ramps, bulkhead, pump houses, utilities, pervious walkways, and elevated walkways which provide the property owner with reasonable access to the water. Park-related furnishings (benches, picnic tables, pavilions, refuse containers, etc.) and vehicular parking areas shall be permitted, if associated with public recreation areas or public access to the river.
 - (5) No potentially polluting material, including but not limited to lawn clippings, leaves, garbage, refuse containers, junk cars, junk appliances, or toxic materials, may be dumped or stored within the natural vegetation strip. The vegetation strip shall not contain commercial or industrial storage or

display, manufacturing or processing activity, loading and unloading areas or vehicular parking areas.

- (6) Where there is no preexisting natural vegetation, new development requiring Planning Board approval pursuant to this section or site plan review shall include vegetation which shall screen the proposed development from the water and any existing waterfront trails or pathways. The width of this revegetated strip should be at least 75 feet from the high-water mark of the river. The plant material should consist of indigenous trees, shrubs, and grasses.
- (7) Reasonable efforts shall be taken during construction to ensure that trees protected by this section are not accidentally injured or removed, including root compaction by equipment or change in grade level. The developer shall replace any protected trees which are destroyed or injured with mature trees of similar diameter.

C. Protection of water quality.

- (1) There shall be no disturbance of existing federal and New York State wetlands as identified by the New York State Department of Environmental Conservation located within this WO District unless appropriate mitigation measures are defined and approved pursuant to a permit from the Department of Environmental Conservation and United States Army Corp of Engineers.
- (2) Stormwater and sedimentation control shall be guided by the standards of the New York Standards and Specifications for Erosion and Sediment Control, the New York State Stormwater Management Design Manual and the Town/Village of Malone

Stormwater Management and Erosion and Sediment Control Law.⁴

- D. Docks and water surface use.
- (1) Not more than one dock shall be permitted per residence.
 - (2) Multiple boat slips may be clustered.
 - (3) Bulkhead docks or off-channel basins are preferred for permanent docking.
- E. Agricultural activities. Soil shall not be tilled within 100 feet of the high-water mark of the river or within 100 feet of direct tributaries that are within the WO District.
- F. Additional requirements and standards.
- (1) Parking, fences and signs shall not detract from water views and are subject to regulations contained in the Zoning Ordinance. The following signs are prohibited within 300 feet of the river:
 - (a) Off-premises signs such as billboards.
 - (b) Freestanding signs on site with a total height of greater than 12 feet above the surrounding average ground level or a sign area of greater than 40 square feet.
 - (c) Signs intended to be towed from one location to another.
 - (2) Development shall not interfere with or in any way prohibit, hinder or discourage the public use of waterfront trails.
 - (3) New development shall provide opportunities for trail linkages as identified in the Town/Village of

4. Editor's Note: See Ch. 50, Stormwater Management and Erosion and Sediment Control.

Malone Local Waterfront Revitalization Plan. Any easement or trail construction should accommodate a pedestrian walkway or pathway having a right-of-way width of at least 20 feet along the length of and abutting the Salmon River shoreline.

- (4) When located adjacent to historic structures, new buildings shall reflect the architectural character of the existing historic structure.

§ 66-82. Site plan.

Any proposed principal building or any proposed or expanded paved area larger than 5,000 square feet that would be partially or entirely located within the WO District shall be submitted for review by the Planning Board. Site plan review shall be conducted in accordance with the procedures established in the Zoning Ordinance.

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Village of Malone adopted since 1-1-2005, 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).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2005	5-31-2005	Residency requirement for Village Treasurer	Ch. 34, Art. IV
	7-11-2005	Building and inspection fees amendment	Ch. 22
L.L. No. 1-2006	12-18-2006	Uniform construction code administration and enforcement	Ch. 22
L.L. No. 1-2007	4-9-2007	Sex offenders: residency restrictions	Ch. 46A, Art. I
L.L. No. 2-2007	7-16-2007	Water amendment	Ch. 63

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2008	2-11-2008	Unsafe buildings and structures	Ch. 57
L.L. No. 2-2008	2-11-2008	Storage of vehicles	Ch. 70
	4-14-2008	Village Justice repealer	Ch. 34, Art. I, footnote only
	4-14-2008	Village Justice repealer	Ch. 34, Art. I, footnote only
L.L. No. 1-2009	9-28-2009	Residency of Village Clerk	Ch. 34, Art. V
L.L. No. 1-2010	12-28-2010	Fire prevention and building code amendment	Ch. 22
	3-14-2011	Taxicabs amendment	Ch. 53
L.L. No. 1-2011	10-13-2011	Waterfront consistency review	Ch. 64
L.L. No. 2-2011	10-13-2011	Zoning amendment	Ch. 66
L.L. No. 3-2011	10-13-2011	Stormwater management and erosion and sediment control	Ch. 50