

December 9, 2013

Board of Trustees

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Proceedings by Authority

State of New York  
Village of Celoron  
Community Center

ss:

A regular meeting of the Board of Trustees of the Village of Celoron, New York was held on Monday, December 9, 2013 at 7:00 P.M.

Members Present: Mayor Schrecengost and Trustees Kogut, Mattison, and Young

Members Absent: Trustee Grundstrom

Others Present: Village Clerk-Treasurer Shirley A. Sanfilippo, MMC/CMFO, Village Attorney John D. Vanstrom, Mallory Diefenbach of The Post-Journal, Highway Superintendent Terry Schrecengost and 7 members of the public

Mayor Schrecengost called the meeting to order, asked the Clerk to call the roll and led the Pledge of Allegiance.

**MAYOR'S COMMENTS:**

Mayor Schrecengost presented the following Proclamation:

# PROCLAMATION

- WHEREAS** a Village is a community of people, and
- WHEREAS** people are the lifeblood of a community, and
- WHEREAS** the success of a community can be measured by the service of its residents, and
- WHEREAS** the Board of Trustees of the Village of Celoron unanimously wishes to recognize the service to the Village of Celoron by certain individuals,

**NOW, THEREFORE,** I, Scott D. Schrecengost, Mayor of the Village of Celoron, do hereby recognize the years of community service to the Village of Celoron by

## BEVERLY LINDSTROM

In Witness Whereof, I have hereunto set my hand and caused the seal of the Village of Celoron to be affixed on this 9<sup>th</sup> day of December, 2013.

Scott D. Schrecengost  
Mayor

December 9, 2013

**OPPORTUNITY FOR PUBLIC COMMENT:**

Neil Boardman, 26 S. Chicago Ave., WE, stated that he wanted to make the Board aware of the BPU situation regarding the payment of dividends from the BPU to the City of Jamestown. He was opposed to this practice. He feels that if they have this excess money, the rates should be reduced instead of making this dividend payment out of the profits of the BPU. Celoron residents are rate payers of the BPU, therefore, they are in effect making payments to the City of Jamestown.

**APPROVAL OF MINUTES:**

Trustee Mattison motioned, seconded by Trustee Young to approve the minutes of the Re-organizational Meeting of December 2, 2013.

Carried: 4 ayes

**COMMITTEE REPORTS**

PUBLIC SAFETY – Trustee Kogut presented the report from the Code Enforcement Officer.

ANIMAL CONTROL – Trustee Grundstrom – none

PARKS & RECREATION – Trustee Young reminded everyone of the Children's Christmas Party coming up on Wednesday and the Olde Fashion Christmas Celebration on December 15<sup>th</sup>. She complimented Trustee Mattison and the Highway Department on the lights in the park.

HIGHWAY AND EQUIPMENT – Trustee Mattison – none

ZONING & PLANNING – In Trustee Grundstrom's absence Mayor Schrecengost advised that there would be a Zoning Board of Appeals meeting on Monday, December 16, 2013 regarding the Patti petition.

SANITATION – Trustee Mattison – none

BUSINESS – Trustee Kogut – none

CORRESPONDENCE – Clerk Sanfilippo reviewed the following correspondence:

1. Notice from Time Warner Cable of network changes.
2. Notice from Time Warner Cable of network changes.
3. Bulletin from Office of State Comptroller regarding expanded authority for "piggybacking" on procurement programs.
4. Empire State Development newsletter.

FINANCE – Entire Board/Clerk

Clerk-Treasurer Sanfilippo asked for approval of Abstract #13 in the amount of \$16,729.92, check #2098 thru 2118, dated December 1-9, 2013.

Trustee Kogut moved, seconded by Trustee Mattison to approve payment of the abstracts.

Carried: 4 ayes

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AUDIT – Trustee Mattison – none

INSURANCE – Trustee Young – none

BUILDING – Trustee Young – none

SPECIAL EVENTS – Trustee Mattison advised that the Senior Dinner on December 4, 2013 was successful. He reminded them of the Children's Christmas Party on December 11, 2013; and the Olde Fashion Christmas Celebration on December 15, 2013.

### **OLD BUSINESS**

None

### **NEW BUSINESS**

None

### **RESOLUTIONS:**

#### **Resolution # 12 – 2013-14**

WHEREAS, on November 13, 2000 a public hearing was held by the Board of Trustees of the Village of Celoron to consider the request of Sandy Galati, d/b/a Holiday Harbor, Celoron, NY to abandon the paper street portion of Walton Avenue between Boulevard Avenue and Duquesne Street, and

WHEREAS, on November 13, 2000, at the regularly scheduled Board Meeting, the Board of Trustees of the Village of Celoron approved the abandonment of the paper street portion of Walton Avenue to Sandy Galati and Larry Muntz, and

WHEREAS, on January 14, 2002 a public hearing was held by the Board of Trustees of the Village of Celoron to consider the request of Sandy Galati, d/b/a Holiday Harbor, Celoron, NY to abandon the carriage roads and paper street adjacent to lots at Section 202, Block 5, 7, 8 and 9, and

WHEREAS, on January 14, 2002 at the regularly scheduled Board Meeting, the Board of Trustees of the Village of Celoron approved the abandonment of one half of the carriageway that abuts Section 202, Block 8 and Lots 4, 5 and 6 to Jay Anderson and one half of the carriageway to Sandy Galati, The carriage way that abuts Section 202, Block 7, Lot 6 shall be conveyed equally to B. J. Miller and Sandy Galati. The carriageway adjacent to all lots in Section 202, Block shall be abandoned to Sandy Galati and the carriageway of Section 202, Block 7, Lots 4, 5, 7, 8 shall be abandoned to Sandy Galati with the exception of the small portion of lot 6 shall be conveyed equally to B. J. Miller and Sandy Galati. The carriageway of Section 202, Block 8 and Lots 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 22, 23 shall be abandoned to Sandy Galati. The carriageways of Section 202, Block 9, Lots 1, 2, 21 and 22 shall be abandoned to Sandy Galati, and

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WHEREAS, that portion of Walton Avenue extending 180' northerly from the north boundary of Duquesne Street as well as the 10' carriageways abutting the property owned by Larry N. Muntz were subsequently deeded to Larry N. Muntz, and

WHEREAS, the remaining portion of Walton Avenue and the carriageways that had been requested by Sandy Galati were not deeded by the Village of Celoron to Sandy Galati or B. J. Miller, and

WHEREAS, Sandy Galati and B. J. Miller are no longer the owners of record of the property abutting the aforesaid abandoned Walton Avenue and carriageways, and

WHEREAS, on October 15, 2013 the Board of Trustees of the Village of Celoron, NY received a request from Holiday Marina LLC, the current owner of the abutting properties, to abandoned the following paper street and alleys/carriageways:

That part of Walton Avenue (undeveloped – 40 feet wide) running from a point on the east bounds of said Walton Avenue located 179.02 feet north of the north bounds of Duquesne Street, as measured along said east bounds of Walton Avenue, northerly to the south bounds of Boulevard Avenue.

That part of an unnamed, undeveloped 10 foot wide alley between Avon Avenue and Walton Avenue (undeveloped) the north bounds of which is 90 feet north of the north line of Duquesne Street, from the west bounds of Avon Avenue to a point 140 feet west of the west bounds of Avon Avenue.

That part of an unnamed, undeveloped 10 foot wide alley between Avon Avenue and Walton Avenue (undeveloped) the south bounds of which is 268.53 feet north of the north bounds of Duquesne Street, from a point 105 feet west of Avon Avenue as measured along the south bounds of said alley to the east bounds of Walton Avenue.

A 10 foot wide undeveloped, unnamed alley running in a north-south direction between the two alleyways described above, excepting the westerly 5 feet of such alley way from the southerly 30 feet thereof.

That part of an unnamed, undeveloped 10 foot wide alley between Waverly Avenue and Walton Avenue (undeveloped), the northeasterly corner of which is 111.14 feet south of the south line of Boulevard Avenue, from Walton Avenue to a point 100 feet west of the west line of Walton Avenue, as measured along the south line of said 10 foot wide alleyway.

That part of an unnamed, undeveloped 10 foot wide alleyway, the northwest corner of which is located on the east line of Avon Avenue 102.04 feet south of the south line of Boulevard Avenue, from the west line of Avon Avenue to a point 70.23 feet east of the east line of Avon Avenue as measured along the north line said alleyway.

and

WHEREAS, on December 9, 2013 at the regularly scheduled Board Meeting, the Board of Trustees of the Village of Celoron held a public hearing to consider the abandonment of Walton Avenue south of Boulevard Avenue and the alleyways and/or carriage ways bounded on the north by Boulevard Avenue; on the east by Gifford Avenue; on the south by Duquesne Street and on the west by Waverly Avenue, and

WHEREAS, at the December 9, 2013 public hearing Jay Anderson and Holiday Marina, LLC, the abutting property owners, requested the abandonment of a 10' wide unnamed, undeveloped alley beginning at a point on the westerly bounds of Avon Avenue 268.53 feet north of the north bounds of

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Duquesne Street; thence westerly to a point 105 feet west of the west bounds of Avon Avenue; now, therefore be it

RESOLVED, That the foregoing described paper street and alleys as requested by Holiday Marina LLC and Jay Anderson be and hereby are abandoned and transferred to the abutting property owners with all costs including recording fees in the County Clerk's Office to be paid by the grantees.

Trustee Mattison moved, seconded by Trustee Kogut to approve the resolution.

Carried: 4 ayes

## **LOCAL LAW TO BE PRESENTED:**

### **LOCAL LAW NO. 4 OF 2013**

#### **A LOCAL LAW TO PROVIDE FOR THE CODIFICATION OF THE LOCAL LAWS, ORDINANCES AND CERTAIN RESOLUTIONS OF THE VILLAGE OF CELORON INTO A MUNICIPAL CODE TO BE DESIGNATED AS THE "CODE OF THE VILLAGE OF CELORON."**

BE IT ENACTED by the Board of Trustees of the Village of Celoron, New York, pursuant to the authority and provisions of §10 of the Municipal Home Rule Law and §7-725a of the New York State Village Law, as follows:

#### **ARTICLE I Adoption of Code**

##### **§ 1-1. Legislative intent.**

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Village of Celoron, as codified by General Code, and consisting of Chapters 1 through 210, together with an Appendix, shall be known collectively as the "Code of the Village of Celoron," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Village of Celoron" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

##### **§ 1-2. Continuation of existing provisions.**

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Trustees of the Village of Celoron, and it is the intention of said Board of Trustees that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

##### **§ 1-3. Repeal of enactments not included in Code.**

All local laws and ordinances of a general and permanent nature of the Village of Celoron in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

##### **§ 1-4. Enactments saved from repeal; matters not affected.**

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Village of Celoron prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Village of Celoron or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Village of Celoron.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Village of Celoron.
- E. Any local law or ordinance of the Village of Celoron providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Village of Celoron or any portion thereof.
- F. Any local law or ordinance of the Village of Celoron appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Village of Celoron or other instruments or evidence of the Village's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Village employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Village.
- N. Any local law or ordinance adopted subsequent to September 16, 2013.

**§ 1-5. Severability.**

If any clause, sentence, paragraph, section, article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation 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, article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 1-6. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Village Clerk of the Village of Celoron and shall remain there for use and examination by the public until final action is taken on this

local law; and, if this local law shall be adopted, such copy shall be certified by the Village Clerk of the Village of Celoron by impressing thereon the Seal of the Village of Celoron, and such certified copy shall remain on file in the office of said Village Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-7. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Village of Celoron" or any new local laws or resolutions, when enacted or adopted in such form as to indicate the intention of the Village to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Board of Trustees deems desirable.

**§ 1-8. Code book to be kept up-to-date.**

It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Celoron required to be filed in the office of the Village Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Board of Trustees subsequent to the enactment of this local law in such form as to indicate the intention of said Board of Trustees to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws or resolutions until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

**§ 1-9. Sale of Code book; supplementation.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Village Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Board of Trustees. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-10. Penalties for tampering with Code.**

Any person who alters or tampers with the Code of the Village of Celoron in any manner whatsoever which will cause the legislation of the Village of Celoron to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

**§ 1-11. Changes in previously adopted legislation; new provisions.**

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Village of Celoron, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Board of Trustees that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)

**§ 1-12. Incorporation of provisions into Code.**

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Village of Celoron, such local law to be entitled "General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

**§ 1-13. When effective.**

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

Trustee Mattison moved, seconded by Trustee Kogut to approve the local law.

Carried: 4 ayes

**Village of Celoron  
Code Adoption 2013**

**Schedule A  
Specific Revisions at Time of Adoption of Code**

**Chapter 35, Parks and Recreation Commission.**

- A. The first sentence of § 35-2 is amended as follows: "This Commission ~~shall~~ may be appointed by the Village Board of Trustees and shall consist of ~~43~~ five persons serving without pay.
- B. The final sentence of § 35-3 is amended as follows: "The Commissioners shall have the power to ~~adopt~~ recommend to the Board of Trustees bylaws, rules and regulations for the proper conduct of public parks and recreation, including youth, ~~subject to the approval of the Board of Trustees.~~
- C. The following original sections of the 1966 Code are repealed: § 28-5, Appointment of Director, personnel and employees; § 28-6, Budget and financing; and § 28-7, Village Treasurer custodian of funds.
- D. Section 35-6 is amended to update the statutory reference from "Section 90 of the Village Law" to read "§§ 20 and 27 of the Municipal Home Rule Law."

**Chapter 42, Planning Board.**

- A. In § 42-3, references to "this article" are updated to refer to Article 7 of the Village Law, and the reference to "article three of this chapter" is updated to read "Village Law § 7-718."
- B. The first sentence of § 42-4 is amended as follows: "The Mayor, subject to the approval of the Board of Trustees, shall designate a member of said Planning Board to act as Chairman thereof; or on failure so to do, the Planning Board shall elect a Chairman from its own members."
- C. Original § 25-6 of the 1966 Code, Planning Board approval of site plans and certain uses, is repealed.



- D. In § 42-6, references to the “Master Plan” are updated to read “Comprehensive Plan,” and the following sentence is added to the end of § 42-6A: “The Village Board of Trustees may adopt by resolution the Comprehensive Plan or any amendment thereto.”

#### **Chapter 48, Records Retention and Disposition.**

This chapter is adopted to read as follows:

#### **Chapter 48 RECORDS RETENTION AND DISPOSITION**

##### **§ 48-1. Schedule adopted.**

*Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.*

##### **§ 48-2. Disposal of records.**

*In accordance with said Article 57-A:*

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein; and*  
*B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.*

#### **Chapter 60, Alcoholic Beverages.**

- A. The definition of “intent to consume” is added to § 60-2 as follows: “*INTENT TO CONSUME - - Includes any of the following: drinking from the container; possession with movement of the container to the mouth; and any circumstances evidencing an intent to ultimately consume in any public place.*”
- B. Section 60-4 is revised as follows: “Possession of an open container, glass, can, or other similar container having beer, wine, whiskey, or other alcoholic beverage upon one’s person with intent to consume while in any of the public places enumerated in § 60-3 in this chapter shall be presumptive evidence of violation of § 60-3.”
- C. Section 60-8 is revised to read as follows: “*Each violation of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both such fine and imprisonment, for each offense.*”

#### **Chapter 65, Animals.**

##### **Article I, Dog Control.**

- A. Original § 7-2 of the 1966 Code, Title, is repealed.
- B. In § 65-2, the definition for “Animal Control Officer” is amended as follows: “The person authorized by the Village Board of Trustees from time to time, by resolution, to enforce the provisions of this article, having all the powers of a constable or other peace officer in the execution of the provisions of this article, including the service of a summons, the service of an appearance ticket pursuant to and in accordance with the Agriculture and Markets Law of the State of New York, regulations as established by the Department of Environmental Conservation, county law, this chapter and the service and execution of any other order or process, notwithstanding any provisions of the Uniform Justice Court Act. The Animal Control

Officer shall be authorized and required to take all steps necessary and appropriate to prevent and to limit disturbance of the peace, ~~creation or maintenance of a~~ nuisances, injury to persons, animals or property, and the possible spread of disease, by domestic and/or wild animals, including the authority to trapping, confined, and testing, euthanize killing, and delivery of such animals to persons or organizations authorized to conduct such activities.”

- C. Original § 7-6B of the 1966 Code, regarding enforcement by a Village Trustee with designated responsibility for animal control issues, is repealed.
- D. The first phrase of § 65-5B is revised as indicated: “The Animal Control Officer, designated Village Trustee, ~~officers or employees~~, or peace officer observing a violation....”
- E. Section 65-6 is revised as follows: “Any dog which violates any of the provisions of this article may ~~shall~~ be impounded and taken to such places as may be designated by the Village Board of Trustees as a place of detention and ~~shall thereby be properly fed and cared for at the expense of the Village of Celeron~~ until disposition ~~disposition~~ thereof shall have been made in accordance with the provisions of this article.”
- F. Section 65-7 is revised to read as follows: *In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and give the owner immediate notice by serving upon the owner an instrument, in writing, stating that the dog has been seized, indicating when, where and why the dog was seized and stating that the dog will be made available for adoption or euthanized as provided in statute unless redeemed or a trial is demanded within seven days of the impounding of the dog. If notification is personally given, such dog shall be held for a period of seven days after service of notice, during which period the dog may be redeemed by the owner. If such notification is made by mail, such dog shall be held for a period of nine days from the date of mailing, during which period the dog may be redeemed by the owner.*
- G. Section 65-8 is revised as follows: “In the event that the dog seized does not bear a licensed tag or the owner is unknown, the Animal Control Officer or other law enforcement officer shall be authorized to euthanize the dog as provided in statute ~~destroy~~ five days after impounding or to dispose of the dog by sale or other means, unless the owner redeems the dog, if permitted, or unless a trial is demanded by the owner within five days of seizure.”
- H. Section 65-9 is revised as follows: “If the dog is to be redeemed, the owner shall pay the Animal Control Officer or Village Clerk-Treasurer a fee of \$25 ~~plus the charges of the care of the dog while impounded.~~”
- I. In §§ 65-11, 65-13, and 65-15, references to “destroying” of dogs are revised to refer to “euthanizing.”
- J. In § 65-12, the phrase “To the extent authorized by this chapter” is added to the beginning of the first sentence.
- K. Section 65-14 is amended to read as follows: *A violation of this article shall be deemed an offense, and a person convicted of a violation shall be liable to a fine for a first violation of \$25; for a second violation within the preceding year, to a fine of \$50; and for a third and subsequent violation within the preceding year, to a fine of \$100 or imprisonment for not more than 15 days, or both. In addition, a dog found to be dangerous may be ordered securely confined or euthanized at the discretion of the Court.*
- L. The first phrase of § 65-16 is revised as follows: “The cost of the confinement of a dog ordered by a court or required by statute ~~picked up~~ shall be \$25 per day, plus the necessary and reasonable costs associated with veterinary care and other costs associated with the well-being of the animal....”

## **Chapter 72, Bingo.**

Chapter 72 is amended in its entirety to read as follows:

### **§ 72-1. Conduct authorized.**

*It shall be lawful for any authorized organization, as defined in § 476 of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Village of Celoron, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.*

### **§ 72-2. Sunday games.**

*Any game of bingo conducted within the Village pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."*

## **Chapter 81, Construction Codes, Uniform.**

This chapter is adopted to read as follows:

### **Chapter 81 CONSTRUCTION CODES, UNIFORM**

#### **§ 81-1. Purpose and intent.**

*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 Village. 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 this chapter.*

#### **§ 81-2. Definitions.**

*In this chapter, the following terms shall have the meanings indicated:*

*BUILDING PERMIT — A permit issued pursuant to § 81-4 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/CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 81-7B of this chapter.*

*CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 81-3B of this chapter.*

*CODE ENFORCEMENT PERSONNEL — The Code Enforcement Officer and all inspectors.*

*COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 81-15A 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 § 81-3D of this chapter.*

*OPERATING PERMIT — A permit issued pursuant to § 81-10 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 — Includes 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 § 81-6 of this chapter.*

*TEMPORARY CERTIFICATE* — A certificate issued pursuant to § 81-7D 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.

*UNSAFE BUILDINGS* — All buildings or structures which are structurally unsafe, unsanitary or not provided with adequate egress or which constitute a fire hazard, or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. All such "unsafe buildings" are declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures of this chapter.

*VILLAGE* — The Village of Celoron.

**§ 81-3. Code Enforcement Officer and inspectors.**

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this 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/certificates of compliance, 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/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, 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/certificates of compliance, temporary certificates and operating permits, fire safety 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 Subsection A of § 81-15, Penalties for offenses, of this chapter;

(7) To maintain records;

(8) To collect fees as set by the Board of Trustees of this Village;

(9) To pursue administrative enforcement actions and proceedings;

(10) In consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this 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 Mayor and confirmed by the Board of Trustees. The term of office shall be for two years, commencing on the first Monday of December in the year the Mayor is elected, so that said term coincides with the official year of said Village and the term of office of the Mayor. The municipal board shall fix the salary or remuneration of such officer and shall provide for the payment thereof.

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 Mayor and confirmed by the Board of Trustees 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 Mayor and confirmed by the Board of Trustees 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 Board of Trustees of this Village.*

**§ 81-4. Building permits.**

*A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.*

*B. Exemptions.*

*(1) No building permit shall be required for work in any of the following categories:*

*(a) Installation of swings and other playground equipment associated with a one or two-family dwelling or multiple single-family dwellings (townhouses).*

*(b) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids.*

*(c) Construction of temporary motion picture, television and theater stage sets and scenery.*

*(d) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses).*

*(e) Installation of partitions or movable cases less than five feet nine inches in height.*

*(f) Painting, wallpapering, tiling, carpeting, or other similar finish work.*

*(g) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances.*

*(h) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications.*

*(i) Repairs, provided that such repairs do not involve:*

*[1] The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;*

*[2] The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;*

*[3] The enlargement, alteration, replacement or relocation of any building system; or*

*[4] The removal from service of all or part of a fire protection system for any period of time.*

*(j) Storage of travel trailers, motor homes, and other similar recreational uses.*

*(k) Temporary signs.*

*(l) Parking spaces associated with residential use.*

*(m) Household sales in accordance with supplemental section on household sales.*

*(n) Legally permitted junk automobiles which are in compliance with this Code.*

*(o) The temporary enclosure of porches, car ports, gazebos, or other open areas using tarps, canvas, plastic, fabric, or similar materials during the period from November 1 to March 31 of the following year, provided that all such enclosures are fully and completely removed during the period of April 1 to October 31 each year. All temporary enclosures must meet all other applicable provisions of law.*

*(2) When a project is excluded from the building permit requirement, it is still subject to all applicable regulation of this Code, such as yard setbacks, signs, etc.*

*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(1) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.*

*D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:*

*(1) A description of the proposed work;*

*(2) The tax map number and the street address of the premises where the work is to be performed;*

*(3) The occupancy classification of any affected building or structure;*

*(4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and*

*(5) 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.*

*(6) Permit contents. The application for a building permit shall be made on a form obtained from the Code Enforcement Officer. The form shall, as a minimum, contain the following:*

*(a) Applicant information: name, address, etc.*

*(b) Property identification: street, address and section/block/lot.*

*(c) Project description including purpose; proposed use.*

*(d) Construction type: height, family units, lot dimension, setbacks, accessory buildings, etc.*

*(e) Other information: copy of Health Department permit, off-street parking, location of wetlands, floodplains, need for curb cut.*

*(f) Signature of applicant.*

*(g) Sketch drawn to approximate scale showing the lot size, setbacks, highways.*

*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. 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 in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.*

*I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subdivision 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:*

*(1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and*

*(2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.*

*K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 98-1, 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.*

#### **§ 81-5. 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 made, 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 § 98-1, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.*

**§ 81-6. 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:*

*(1) Be in writing;*

*(2) Be dated and signed by the Code Enforcement Officer;*

*(3) State the reason or reasons for issuance; and*

*(4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.*

*C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.*

*D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.*

*E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 81-15, 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.*

**§ 81-7. Certificates of occupancy/certificates of compliance.**

*A. Certificates of occupancy/certificates of compliance required. A certificate of occupancy/certificate of compliance 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/certificate of compliance.*

*B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance 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, that 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/certificate of compliance. 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/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:*

*(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/certificates of compliance. A certificate of occupancy/certificate of compliance 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/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance 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/certificate of compliance and the date of issuance.*

*D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines: (1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely; (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational; and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.*

*E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that*

a certificate of occupancy/certificate of compliance 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 § 98-1, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance or for temporary certificate.

**§ 81-8. Notification regarding fire or explosion.**

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

**§ 81-9. Unsafe building and structures.**

Unsafe structures and equipment in this Village shall be identified and addressed in accordance with the following procedures:

A. The Code Enforcement Officer shall examine, or cause to be examined, every building reported as unsafe or damaged and shall make a written record of such examination.

B. Service of notice; contents.

(1) Whenever the Code Enforcement Officer shall find any building or structure or portion thereof to be an unsafe building or collapsed structure as defined in this section, he shall serve, or cause to be served, written notice 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 the subject property. Such notice shall be served personally or by certified 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 a vested or contingent interest in the same, as shown by the records of the Receiver of Taxes and/or in the office of the County Clerk. In the event that the aforesaid notice is served by certified mail, a copy of such shall be posted on the subject premises within 10 days from the date of such service.

(2) The notice shall contain:

(a) A description of the subject premises.

(b) A statement of the particulars in which the building is unsafe or dangerous.

(c) An order requiring the building or structure to be made safe and secure or demolished and removed.

(d) A statement that the securing or removal of such building or structure shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended.

(e) A date, time and place for a hearing before the Board of Trustees in relation to such dangerous or unsafe building or structure, which hearing shall be scheduled not less than five business days from the date of service of the notice.

(f) A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building or structure, the Board of Trustees is authorized to provide for its demolition and removal and to assess all expenses thereof against the land on which it is located.

C. If the Code Enforcement Officer finds that there is actual and immediate danger of failure or collapse so as to endanger life, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Code Enforcement Officer. The Code Enforcement Officer shall cause to be posted at each entrance to such building a notice: "This building unsafe, and its use or occupancy has been prohibited by the Code Enforcement Officer." Such notice shall remain posted until

*the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other servants, to remove such notice without written permission of the Code Enforcement Officer or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.*

*D. In case the owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control shall fail, neglect or refuse to comply with notice to repair and rehabilitate or to demolish and remove said building or structure, or portion thereof, the Board of Trustees of the Village of Celoron shall be advised of all the facts in the case and shall institute an appropriate action in the courts to compel compliance.*

*E. In cases of emergency which, in the opinion of the Code Enforcement Officer, involve imminent danger to human life or health, he/she may at once enter such structure with such assistance and at such cost as may be necessary. He/she may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private way.*

*F. All costs and expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove said building or structure, including the cost of actually removing said building or structure, shall be paid out of the general Village fund and shall be taxed and assessed against the land on which said building or structure is located by adding the same to the tax roll as an assessment or by levying a special tax against such land or by recovering the same in a suit at law against the owner.*

#### **§ 81-10. Operating permits.**

*A. Operation permits required.*

*(1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:*

*(a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;*

*(b) Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;*

*(c) Use of pyrotechnic devices in assembly occupancies;*

*(d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and*

*(e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of Trustees of this Village.*

*(2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.*

*B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.*

*C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.*

*D. Multiple activities. In any circumstance in which more than one activity listed in*

*Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.*

*E. Duration of operating permits. Operating permits shall 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 § 98-1, Fees, of this chapter must be paid at the time submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.*

**§ 81-11. Fire safety and property maintenance inspections.**

*A. Inspections required. Fire safety 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) Fire safety 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) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.*

*(3) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) of this section, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this section, 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 fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon:*

*(1) The request of the owner of the property to be inspected or an authorized agent of such owner;*

*(2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or 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; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.*

*C. OFPC inspections. Nothing in this section or in any other provision of this 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 fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every 12 months;*

*(2) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building*

or structure at least once every 12 months;

(3) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs fire safety 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 fire safety 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 fire safety 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 § 98-1, Fees, of this chapter must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

### **§ 81-12. 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 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 § 81-15, 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.

### **§ 81-13. 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/certificates of compliance, 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 §§ 81-4 through 81-12, 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.

### **§ 81-14. Program review and reporting.**

A. The Code Enforcement Officer shall monthly submit to the Board of Trustees of this

*Village a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 81-13, 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 Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.*

*C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.*

**§ 81-15. 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: (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; (4) 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; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) 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. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.*

*C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, 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 Village.*

*D. Injunctive relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, 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 Village, in*

the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Board of Trustees of this Village.

*E. Remedies not exclusive.* No remedy or penalty specified in this section shall be the exclusive remedy or remedy 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 § 81-6, 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 § 81-6, 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.

**§ 81-16. Fees.**

A fee schedule as set forth in § 98-1 shall be established by resolution of the Board of Trustees of this Village. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

**§ 81-17. Intermunicipal agreements.**

The Board of Trustees of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this 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 98, Fees.**

This chapter is adopted to read as follows:

**§ 98-1. Fees.**

*A.* A fee schedule shall be established by resolution of the Board of Trustees of this Village. Such fee schedule may thereafter be amended from time to time by like resolutions. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected.

*B.* The following schedule of fees shall apply to new construction or alterations of existing structures:

<i>New single-family homes per square foot or \$20 minimum</i>	
<i>900 to 1,199</i>	<i>\$0.06</i>
<i>1,200 to 1,499</i>	<i>\$0.08</i>
<i>1,500 and over</i>	<i>\$0.10</i>
<i>Apartments (per unit) maximum</i>	<i>\$50</i>

Accessory structures, (sheds, decks, etc.) per square foot or \$20 minimum	\$0.06
Gas wells	\$20
Swimming pools	\$35
Public hearing	\$50
Fence	\$20
Demolition	\$20
Detached garage per square foot or \$20 minimum	\$0.06
Residential additions per square foot or \$20 minimum	\$0.06
New commercial/industrial additions per square foot or \$200 minimum	\$0.13
Boat storage pole barns per square foot or \$100 minimum	\$0.06
Commercial/industrial additions per square foot or \$100 minimum	\$0.13
Requested inspections	\$25
Additional review as required by revisions to plans – additional charges	\$10
Certificate of occupancy or compliance	\$25
Temporary certificate of occupancy or compliance	\$25
Fire inspections	
3 to 4 apartments	\$50
5 to 9 apartments	\$70
10 to 19 apartments	\$90
Commercial buildings	
0 to 10,000 square feet	\$50
Over 10,000 square feet	\$100
Areas of public assembly	
Occupancy 0 to 49	\$50
Occupancy 50 and above	\$100

C. Floodplain development permit: \$50.

D. Major site plan review: \$50.

E. Operating Permit: \$50

F. Peddling and soliciting: \$25 plus \$5 per day, not to exceed \$250 per year.

G. Returned check fee: \$30.

H. Sign permit:

(1) Residential: \$20.

(2) Commercial: \$50.

I. Stormwater pollution prevention plan (SWPPP):

(1) Basic or simple: \$25.

(2) Major/full: \$50.

## **Chapter 106, Fire Lanes.**

This chapter is amended in its entirety to read as follows:

### **Chapter 106 FIRE LANES**

#### **§ 106-1. Legislative intent.**



*The intent of the Board of Trustees of the Village of Celoron is to implement a local law to establish fire lanes within the boundaries of the Village of Celoron.*

**§ 106-2. Definitions.**

*As used in this chapter, all words and phrases defined in Article I of the Vehicle and Traffic Law are herein included and made a part of this chapter.*

**§ 106-3. Parking prohibition in fire lanes.**

*The following described areas shall be known as a fire lane. Motor vehicles shall not be parked in the any of the described areas at any time.*

*A. The area on the north and south side of West Duquesne Street, 45 feet in the easterly direction from the lakefront, 50 feet wide.*

*B. The area on the east side of Dunham Avenue, 235 feet in the southerly direction from the lakefront; the area on the west side of Dunham Avenue, 25 feet in the southerly direction from the lakefront; 75 feet wide.*

*C. The area on the east and west side of Venice Street, 75 feet in the southerly direction from the lakefront, 20 feet wide; shall be known as a fire lane. Motor vehicles shall not be parked in the aforesaid area at any time.*

*D. The area on the east and west side of Waverly Avenue, 155 feet in the southerly direction from the lakefront, 40 feet wide.*

*E. The area on the east side of Walton Avenue, 110 feet in the southerly direction from the lakefront; the area on the west side of Walton Avenue, 98 feet in the southerly direction from the lakefront; 40 feet wide.*

*F. The area on the east and west side of Avon Avenue, 100 feet in the southerly direction from the lakefront, 40 feet wide.*

**§ 106-4. Penalties for offenses.**

*Every person convicted of a traffic infraction for violation of any provision of this chapter which is not a violation of any provisions of the vehicle and traffic laws of the State of New York shall, upon conviction, thereof, be punished by a fine of not more than \$250 or imprisonment for not more than 15 days, or both such fine and imprisonment.*

## **Chapter 112, Flood Damage Prevention.**

This chapter is amended in its entirety to read as follows:

### **Chapter 112 FLOOD DAMAGE PREVENTION**

#### **ARTICLE I**

#### **Statutory Authorization and Purpose**

**§ 112-1. Findings.**

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

**§ 112-2. Statement of purpose.**

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

*A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;*

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

**§ 112-3. Objectives.**

*The objectives of this chapter are:*

- A. To protect human life and health;*
- B. To minimize expenditure of public money for costly flood control projects;*
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- D. To minimize prolonged business interruptions;*
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;*
- F. To 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. To provide that developers are notified that property is in an area of special flood hazard; and*
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.*

**§ 112-4. Definitions.**

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

*APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.*

*AREA OF SHALLOW FLOODING — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*

*AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."*

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

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

*BUILDING — See "structure."*

*CELLAR — Has the same meaning as "basement."*

*CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.*

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** — A non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**FEDERAL EMERGENCY MANAGEMENT AGENCY** — The federal agency that administers the National Flood Insurance Program.

**FLOOD or FLOODING** —

A. 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.

B. "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection A above.

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

**FLOOD ELEVATION STUDY** — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

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

**FLOOD INSURANCE STUDY** — See "flood elevation study".

**FLOODPLAIN OR FLOOD-PRONE AREA** — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

**FLOODWAY** — Has the same meaning as "regulatory floodway".

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

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

**HISTORIC STRUCTURE** — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**LOCAL ADMINISTRATOR** — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions.

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

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** — Has the same meaning as "manufactured home".

**NEW CONSTRUCTION** — Structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

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

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

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REGULATORY FLOODWAY** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 112-13B of this chapter.

**START OF CONSTRUCTION** —

- A. The date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

*B. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.*

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

*SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.*

*SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:*

*A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or*

*B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.*

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

*VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.*

## **ARTICLE II General Provisions**

### **§ 112-5. Applicability.**

*This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Village of Celoron, Chautauqua County.*

### **§ 112-6. Basis for establishing the areas of special flood hazard.**

*A. The areas of special flood hazard for the Village of Celoron, Community Number 360135, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:*

*(1) Flood Insurance Rate enumerated in Map Index No. 360135 0001B dated March 18, 1980, and accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360135 0001B, dated March 18, 1980.*

*(2) A scientific and engineering report entitled "Flood Insurance Study, Village of Celoron, Chautauqua County, New York," dated September, 1979.*

*B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Village Hall, 21 Boulevard Avenue, Celoron, New York.*

### **§ 112-7. Interpretation and conflict with other laws.**

*A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.*

*B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements*

*of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.*

**§ 112-8. Penalties for noncompliance.**

*No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Celoron from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article V will be declared noncompliant and notification sent to the Federal Emergency Management Agency.*

**§ 112-9. Warning and disclaimer of liability.**

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

**ARTICLE III  
Administration**

**§ 112-10. Designation of local administrator.**

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

**§ 112-11. Floodplain development permit.**

*A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 112-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.*

*B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee in accordance with § 98-1. In addition, the applicant shall be responsible for reimbursing the Village of Celoron for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.*

*C. Application for a permit. The applicant shall provide the following information as*

appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permit shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 112-14C, Utilities.

(4) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 112-16, Nonresidential structures.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 112-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(6) A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

#### **§ 112-12. Duties and responsibilities of local administrator.**

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

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of § 112-11C, Application for a permit, and for compliance with the provisions and standards of this chapter.

(2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article IV, Construction Standards, and, in particular, § 112-13A, Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article IV, Construction Standards, no permit shall be issued. The applicant may revise the application to

*include measures that mitigate or eliminate the adverse effects and resubmit the application.*

*(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.*

*B. Use of other flood data.*

*(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 112-11C(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.*

*(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.*

*C. Alteration of watercourses.*

*(1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.*

*(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.*

*D. Construction stage.*

*(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).*

*(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.*

*E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.*

*F. Stop-work orders.*

*(1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 112-8 of this chapter.*

*(2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 112-8 of this chapter.*

*G. Certificate of compliance.*



(1) In areas of special flood hazard, as determined by documents enumerated in § 112-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 112-12E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 112-12D(1) and (2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to § 112-12D(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Article V, Variance Procedures; and,

(5) Notices required under § 112-12C, Alteration of watercourses.

## ARTICLE IV Construction Standards

### § 112-13. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 112-6.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage;

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(b) The Village of Celoron agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Celoron for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Celoron for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 112-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The Village of Celoron agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Celoron for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Celoron for all costs related to the final map revisions.

**§ 112-14. Standards for all structures.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 112-6.

A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

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

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

(4) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with

*automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and*

*(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.*

**§ 112-15. Residential structures.**

*A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 112-13A, Subdivision proposals, and B, Encroachments, and § 112-14, Standards for all structures.*

*(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.*

*(2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.*

*(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 112-6 (at least two feet if no depth number is specified).*

*(4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.*

**§ 112-16. Nonresidential structures.**

*The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 112-13A, Subdivision proposals, and B, Encroachments, and § 112-14, Standards for all structures.*

*A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure shall either:*

*(1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or*

*(2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.*

*B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:*

*(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or*

*(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 112-16A(2).*

*C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § 112-16A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.*

*D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.*

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

**§ 112-17. Manufactured homes and recreational vehicles.**

*The following standards in addition to the standards in § 112-13, General standards, and § 112-14, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.*

*A. Recreational vehicles.*

*(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:*

- (a) Be on site fewer than 180 consecutive days;*
- (b) Be fully licensed and ready for highway use; or*
- (c) Meet the requirements for manufactured homes in § 112-17B, C, and D.*

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

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

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

*D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in § 112-6 (at least two feet if no depth number is specified).*

**ARTICLE V**  
**Variance Procedure**

**§ 112-18. Appeals Board.**

*A. The Zoning Board of Appeals as established by the Village of Celoron shall hear and decide appeals and requests for variances from the requirements of this chapter.*

*B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.*

*C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.*

*D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:*

- (1) The danger that materials may be swept onto other lands to the injury of others;*
- (2) The danger to life and property due to flooding or erosion damage;*
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;*
- (4) The importance of the services provided by the proposed facility to the community;*
- (5) The necessity to the facility of a waterfront location, where applicable;*
- (6) The availability of alternative locations for the proposed use which are not subject*

- to flooding or erosion damage;*
  - (7) The compatibility of the proposed use with existing and anticipated development;*
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;*
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;*
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;*
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and*
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.*
- E. Upon consideration of the factors of § 112-18D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.*
- F. The local administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.*

**§ 112-19. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the items in § 112-18D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.*
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:*
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and*
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.*
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:*
- (1) The criteria of Subsections A, D, E, and F of this section are met; and*
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.*
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.*
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
- F. Variances shall only be issued upon receiving written justification of:*
- (1) A showing of good and sufficient cause;*
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and*
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.*
- G. Notice.*
- (1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:*
    - (a) The issuance of a variance to construct a structure below the base flood level*

*will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and*

*(b) Such construction below the base flood level increases risks to life and property.*

*(2) Such notification shall be maintained with the record of all variance actions as required in § 112-12H of this chapter.*

## **Chapter 119, Games of Chance.**

This chapter is amended in its entirety to read as follows:

### **§ 119-1. Authorization; license required.**

*It shall be lawful for any authorized organization, upon obtaining a license as provided in Article 9-A of the General Municipal Law, to conduct games of chance within the Village of Celoron, subject to the provisions of this chapter, Article 9-A of the General Municipal Law and the New York State Racing and Wagering Board.*

### **§ 119-2. Sundays; holidays.**

*The conduct of games of chance on Sunday is only permitted when it is specifically provided for in the license issued. No games of chance, however, shall be conducted on Easter Sunday, Christmas Day, New Year's Eve, Rosh Hashanah or Yom Kippur.*

### **§ 119-3. Enforcement.**

*The Chief Law Enforcement Officer of the Village of Celoron shall exercise control over and supervision of all games of chance.*

## **Chapter 128, Notification of Defects.**

- A. Section 128-1 is revised as follows:  
No civil action shall be maintained against the Village of Celoron (hereinafter referred to as the "Village") or the Village Superintendent of Highways of the Village (hereinafter referred to as the "Superintendent"), for damages or injuries to person or property (including those arising from the operation of bicycles and snowmobiles) sustained by reason of any highway, crosswalk, bridge, culvert, highway marking, sign or device, or any other property owned, operated, or maintained by the Village being defective, out of repair, unsafe, dangerous, or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the Village, was actually given to the Village Clerk of the Village (hereinafter referred to as the "Clerk") ~~or the Village Superintendent of Highways of the Village~~, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger, or obstruction complained of; and no action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Village unless written notice thereof, specifying the particular place, was actually given to the ~~Village Clerk of the Village or the Village Superintendent of Highways of the Village~~ and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such a notice.
- B. Original § 128-2 of the 1966 Code, regarding the Superintendent's duties of notification, is repealed.
- C. Section 128-3 is renumbered to be § 128-2 and is revised as follows: "The ~~Village~~ Clerk of the ~~Village~~ shall keep an index record, in a separate book, of all written notices which the ~~Village~~ Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed

condition in or upon, or of any accumulation of ice and snow upon any Village highway, bridge, culvert, or a sidewalk, or any other property owned by the Village, or by an improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Village Clerk, upon receipt of such written notice, shall immediately ~~and~~ notify in writing the Village Superintendent of ~~Highways of the Village of the~~ receipt of such notice.”

## **Chapter 135, Parks and Recreation Areas.**

- A. Section 135-3B is amended as follows: “Motorized vehicles. No motorized vehicles shall be permitted to enter upon the premises known as “Village Parks” unless specifically authorized by the Board of Trustees.”
- B. Section 135-3E is amended to read as follows: “*Bicycles. No person shall bring, use or possess, or permit to be brought, used or possessed, a bicycle on the Village premises known as Lucille Ball Memorial Park.*”
- C. Section 135-5 is revised as follows: “Any violation of any provisions of this ~~chapter~~ local law by any person shall be punishable by the fine not to exceed \$250 or imprisonment not to exceed 15 days, or both \$100. Each week’s continued violation shall constitute a separate and additional violation.”

## **Chapter 139, Peace and Good Order.**

- A. Section 139-1 is amended to revise the existing definition of “disorderly conduct” to read “disorderly person” and to add four definitions, said section to read as follows:

### **§ 139-1. Definitions.**

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

*DISCHARGE — To shoot or fire a firearm.*

*DISORDERLY PERSON — Any person engaged in, joining in, promoting or prompting a riotous or tumultuous demonstration within said Village; and any person who shall do or join others in doing, or participate in doing or performing any act that disturbs the peace, moral propriety or welfare of the people of said Village, shall be a disorderly person.*

*FIREARM — Any pistol, revolver, shotgun, rifle, or air gun; but shall not mean a starter pistol used in an athletic event.*

*LAW ENFORCEMENT OFFICER — A member of the Town of Ellicott Police Department, Chautauqua County Sheriffs Department, New York State Police or other law enforcement officer authorized under the laws of the State of New York and/or the United States of America.*

*PENAL LAW — The Penal Law of the State of New York, as amended.*

*VILLAGE BOARD — The Board of Trustees in and for the Village of Celoron.*

- B. The following original sections of the 1966 Code are repealed: § 6-2C, regarding curfew hours for Lucille Ball Memorial Park; § 6-4, Firearms and fireworks; § 6-5, Bicycles.
- C. Section § 139-4 is added to read as follows:

### **§ 139-4. Firearms.**

*It shall be unlawful for any person to discharge a firearm within the Village of Celoron, except that this prohibition shall not apply to the following:*

- A. *Any law enforcement officer while engaged in the lawful discharge of his duties.*
- B. *The defense of one’s person or property or the person or property of another, provided that such discharge of a firearm is permitted as a justified use of deadly physical force as*

*provided in the Penal Law.*

*C. The regulated use of a range for the discharge of firearms operated and maintained by an organization duly organized by law for such purposes, which has been approved by the Village Board.*

*D. Programs conducted by a public school or persons certified by the National Rifle Association and approved by the New York State Department of Environmental Conservation offering instruction and training in the use of firearms, which has been approved by the Village Board.*

*E. Discharge of a firearm, provided that such discharge shall not propel any projectile, as part of a ceremony celebrating a national holiday or other similar occasion.*

- E. Section 139-5 is revised as follows: ~~“Any violation of this chapter shall constitute disorderly conduct and any person violating the same shall be a disorderly person. Any person convicted of violating any provisions of this chapter shall be punishable by a fine not to exceed \$250 or by imprisonment for not more than 15 days, or both such fine and imprisonment \$100. Each day’s continued violation shall constitute a separate and additional violation.”~~

### **Chapter 143, Peddling and Soliciting.**

- A. In §§ 143-6A and 143-7, references to the Mayor are revised to read “Village Clerk.”
- B. Section 143-9 is revised to read as follows: *The fees for all licenses are found in Chapter 98, Fees, of the Code of the Village of Celoron. All fees are nonrefundable.*

### **Chapter 149, Property Maintenance.**

- A. Section 149-2 is revised as follows: ~~“The intent of the Board of Trustees of the Village of Celoron is to implement a local law to implement a local law to authorize the zoning officer and the Code Enforcement Officer to enforce a maintenance code.”~~
- B. The last sentence of § 149-3A is revised as follows: ~~“Any resident shall not drain water from their premises in a manner that directs allows it to go onto another resident’s premises so as to create a nuisance.”~~
- C. Subsection 149-5 is revised to read as follows:

*A. Violation of this chapter shall be punishable by any of the following or combination thereof:*

- (1) Imprisonment for not more than 15 days.*
- (2) A fine of not more than \$250.*

*B. For the purpose of this section, each day that an offense occurs shall be deemed to be a separate offense and shall be punishable by any of the above remedies or combination thereof for each day that the property remains in violation.*

### **Chapter 156, Records, Public Access to.**

This chapter is adopted to read as follows:

#### **Chapter 156 RECORDS, PUBLIC ACCESS TO**

##### **§ 156-1. Purpose and scope.**

*A. The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Access to such*



*information should not be thwarted by shrouding it with the cloak of secrecy of confidentiality.*

*B. These regulations provide information concerning the procedures by which records may be obtained.*

*C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.*

*D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.*

**§ 156-2. Designation of records access officer.**

*A. The Board of Trustees is responsible for insuring compliance with the regulations herein, and designates the following person(s) as records access officer(s): Village Clerk-Treasurer; 21 Boulevard Avenue, P.O. Box 577, Celoron, NY 14720-0577; Clerk@celoronny.org.*

*B. The records access officer is responsible for insuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so. The records access officer shall insure that agency personnel:*

*(1) Maintain an up-to-date subject matter list.*

*(2) Assist persons seeking records to identify the records sought, if necessary, and when appropriate, indicate the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records.*

*(3) Contact persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that personnel may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested.*

*(4) Upon locating the records, take one of the following actions:*

*(a) Make records available for inspection; or*

*(b) Deny access to the records in whole or in part and explain in writing the reasons therefor.*

*(5) Upon request for copies of records:*

*(a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 156-8; or*

*(b) Permit the requester to copy those records.*

*(6) Upon request, certify that a record is a true copy; and*

*(7) Upon failure to locate records, certify that:*

*(a) Village of Celoron is not the custodian for such records, or*

*(b) The records of which Village of Celoron is a custodian cannot be found after diligent search.*

**§ 156-3. Location.**

*Records shall be available for public inspection and copying at:*

*Village Hall*

*21 Boulevard Avenue*

*Celoron, New York*

**§ 156-4. Hours for public inspection.**

*A. Requests for public access to records shall be accepted and records produced during all hours regularly open for business.*

*B. These hours are: Monday, Tuesday, Thursday and Fridays, 9:00 a.m. to 5:00 p.m.*

**§ 156-5. Requests for public access to records.**

*A. A written request may be required, but oral requests may be accepted when records are readily available.*

*B. If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.*

*C. A response shall be given within five business days of receipt of a request by:*

*(1) Informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;*

*(2) Granting or denying access to records in whole or in part;*

*(3) Acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than 20 business days after the date of the acknowledgment, or if it is known that circumstances prevent disclosure within 20 business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or*

*(4) If the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within 20 business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.*

*D. In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the agency, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.*

*E. A failure to comply with the time limitations described herein shall constitute a denial of a request that may be appealed. Such failure shall include situations in which an officer or employee:*

*(1) Fails to grant access to the records sought, deny access in writing or acknowledge the receipt of a request within five business days of the receipt of a request;*

*(2) Acknowledges the receipt of a request within five business days but fails to furnish an approximate date when the request will be granted or denied in whole or in part;*

*(3) Furnishes an acknowledgment of the receipt of a request within five business days with an approximate date for granting or denying access in whole or in part that is unreasonable under the circumstances of the request;*

*(4) Fails to respond to a request within a reasonable time after the approximate date given or within 20 business days after the date of the acknowledgment of the receipt of a request;*

*(5) Determines to grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request, but fails to do so, unless the agency provides the reason for its inability to do so in writing and a date certain within which the request will be granted in whole or in part;*

*(6) Does not grant a request in whole or in part within 20 business days of the acknowledgment of the receipt of a request and fails to provide the reason in writing explaining the inability to do so and a date certain by which the request will be granted in whole or in part; or*

*(7) Responds to a request, stating that more than 20 business days is needed to grant or deny the request in whole or in part and provides a date certain within which that will be accomplished, but such date is unreasonable under the circumstances of the request.*

**§ 156-6. Subject matter list.**

A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.

B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

C. The subject matter list shall be updated annually. The most recent update shall appear on the first page of the subject matter list.

**§ 156-7. Denial of access to records.**

A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual or body established to determine appeals, who or which shall be identified by name, title, business address and business phone number.

B. If requested records are not provided promptly, as required in § 156-5 of these regulations, such failure shall also be deemed a denial of access.

C. The following person or persons or body shall determine appeals regarding denial of access to records under the Freedom of Information Law:

Board of Trustees  
21 Boulevard Avenue  
P.O. Box 577  
Celoron, NY 14720-0577  
716-487-4175

D. Any person denied access to records may appeal within 30 days of a denial.

E. The time for deciding an appeal by the individual or body designated to determine appeals shall commence upon receipt of a written appeal identifying:

- (1) The date and location of requests for records;
- (2) A description, to the extent possible, of the records that were denied; and
- (3) The name and return address of the person denied access.

F. A failure to determine an appeal within 10 business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

G. The person or body designated to determine appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to:

Committee on Open Government  
Department of State  
One Commerce Plaza  
99 Washington Avenue, Suite 650  
Albany, NY 12231

H. The person or body designated to determine appeals shall inform the appellant and the Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth Subsection G of this section.

**§ 156-8. Fees.**

A. There shall be no fee charged for:

- (1) Inspection of records;
- (2) Search for records; or
- (3) Any certification pursuant to this part.

B. Copies may be provided without charging a fee.

C. Fees for copies may be charged, provided that:

- (1) The fee for copying records shall not exceed \$0.25 per page for photocopies not exceeding nine inches by 14 inches.
- (2) The fee for photocopies of records in excess of nine inches by 14 inches shall not

*exceed the actual cost of reproduction.*

*(3) An agency has the authority to redact portions of a paper record and does so prior to disclosure of the record by making a photocopy from which the proper redactions are made.*

*D. The fee an agency may charge for a copy of any other record is based on the actual cost of reproduction and may include only the following:*

*(1) An amount equal to the hourly salary attributed to the lowest-paid employee who has the necessary skill required to prepare a copy of the requested record, but only when more than two hours of the employee's time is necessary to do so; and*

*(2) The actual cost of the storage devices or media provided to the person making the request in complying with such request; or*

*(3) The actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, and if such service is used to prepare the copy.*

*E. When an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve or extract such record or data electronically. In such case, the agency may charge a fee in accordance with Subsection D(1) and (2) above.*

*F. An agency shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.*

*G. An agency may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.*

*H. An agency may waive a fee in whole or in part when making copies of records available.*

#### **§ 156-9. Public notice.**

*A notice containing the title or name and business address of the records access officers and appeals person or body and the location where records can be seen or copies shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.*

## **Chapter 162, Restroom Facilities, Temporary.**

Section 162-5 is revised to read as follows: *Each violation of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both such fine and imprisonment.*

## **Chapter 175, Solid Waste.**

### **Article I, Garbage and Recycling.**

A. In § 175-2, definition of "nonrecyclable materials," §§ 175-2B and C, 175-3, 175-4 and 175-8, references to "recyclable rubbish" and "nonrecyclable rubbish" are amended to read "recyclable materials" and "nonrecyclable materials."

B. In § 175-2, the definition of "recyclable rubbish" is amended to read as follows:  
*RECYCLABLE MATERIALS -- Those materials specified by the Village of Celoron or the State of New York by law, ordinance, rule or regulation which are not hazardous and which are to be separated from the waste stream and held for reuse or which have, or may have in the future, market or other value. These materials shall include but not be limited to glass containers, plastic containers, corrugated cardboard, newspapers and metal cans.*

C. In addition to the phraseology cited in Subsection A above, § 175-3 is further amended as follows:

- (1) Subsection A is revised to read as follows: *All refuse shall be in a container commercially manufactured for this purpose and not exceeding 32 gallons in size, watertight, and shall have a tight-fitting cover with a maximum filled weight of 60 pounds; or suitable plastic garbage bags.*
  - (2) Subsection F is revised as follows: "Cardboard boxes and newspapers should be broken down and/or tied in bundles, ~~newspapers should be tied in bundles.~~ Either item may be placed in other suitable containers. Neither item should be placed in a plastic bag."
- E. Original § 27-5D of the 1966 Code, regarding no removal by the Village of brush, tree parts, leaves and clippings produced by commercial contractors, is repealed.
- F. Section 175-7B is revised to read as follows: *A person convicted of violating any provision of this article shall be guilty of a violation, which is punishable by a fine not more than \$250 or imprisonment for 15 days, or both.*
- G. The following new §§ 175-9, 175-10, 175-11 and 175-12 are added to this article, to read as follows:

**§ 175-9. Placement and removal of containers for pickup.**

*Refuse containers shall be placed for collection in a visible and accessible area behind the curbline immediately adjacent to the premises. Such containers shall not be placed for collection before 5:00 p.m. and not later than 11:00 p.m. on the evening before collection. Containers shall be removed from the roadside within a reasonable time following such emptying and in no event later than 6:00 p.m. of the collection day.*

**§ 175-10. Maintenance of containers in good condition.**

*Containers shall be maintained clean and in good condition. Any container that does not conform to the provisions of this article, or that may have ragged or sharp edges or any other defect liable to hamper or injure the persons collecting the contents thereof, must be promptly replaced by a proper receptacle upon receipt of notice to that effect from the Highway Superintendent, and if not so replaced within 10 days after the receipt of such notice, such nonconforming or defective container may be collected and disposed of as waste.*

**§ 175-11. Mixing of recyclable materials with solid waste.**

*It shall be unlawful for a person to collect from a resident and dispose of solid waste which consists of recyclables combined with other forms of solid waste.*

**§ 175-12. Collection or removal of recyclables placed for pickup.**

*From the time any person places any recyclable materials at or near any curb, sidewalk or street for purposes of collection, those recyclable materials shall become the property of the Village or its authorized agent. No person who is not acting under authority of the Village, county, or their authorized agents shall collect, pick up, remove or cause to be collected, picked up or removed any recyclable materials so placed for collection, and each such unauthorized collection, pickup or removal shall constitute a separate violation of this article. However, where the Department or county has refused to collect certain recyclable materials because they have not been placed or treated in accord with the provisions of this article, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or street side in accord with the provisions of this article.*

## **Chapter 181, Streets and Sidewalks.**

### **Article I, Street Specifications.**

- A. The third sentence of § 181-3 is revised as follows: “This turnaround should ~~preferable~~ exit from the street/road to the left when traveling toward the dead end.”
- B. Section 181-6 is revised as follows: “When and in the event a private street/road development shall have or cause adverse effects from watershed or any other problems on neighboring towns, villages, or cities, ~~or property owners, etc.~~ written approvals from these ~~establishments~~ municipalities must accompany any offer of dedication to the Village. A permanent easement shall be provided by the owner across private property and reserved to the Village of Celoron for the installation and/or maintenance of a ditch or a storm sewer to a natural watercourse shown on the map and included in the deed of dedication to the Village. Such permanent easement shall be not less than 30 feet in width.”

## Chapter 188, Taxation.

### Article I, Senior Citizens Exemption.

Article I is amended in its entirety to read as follows:

**§ 188-1. Exemption granted.**

*A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.*

**§ 188-2. Maximum income level.**

*The maximum income level for the fifty-percent exemption is established at \$14,000.*

### Article III, Utility Tax.

- A. In § 188-5, the reference to “Article 3-b of the Public Service Law” is revised to read “§ 240 et seq. of the Transportation Law.”
- B. Section 188-6 is revised in its entirety to read as follows: *The terms used in this article shall be defined as provided in § 186-a of the Tax Law and Subdivision 4 of § 5-530 of Village Law.*
- C. Section 188-14 is revised as follows: “The tax imposed by this article shall be charged against and be paid by the utility and ~~shall not may~~ be added as a separate item to bills rendered by the utility to customers ~~or others, but shall constitute a part of the operating costs of such utility.~~”

## Chapter 195, Vehicles and Traffic.

- A. Section 195-1 is revised as follows: “As used in this chapter all words and phrases defined in ~~Section 2~~ Article I of the Vehicle and Traffic Law are herein included and made a part of this chapter.”
- B. The following entry in § 195-2A is amended as indicated:
 

Name of Street	Side	Location
Boulevard <u>Avenue</u>	<del>Both</del> South	For a distance of 50 feet from Dunham Avenue
- C. Original § 18-2B, C, and D, regarding parking prohibitions near stop signs, hydrants, and private driveways, respectively, are repealed as duplicative of state statute.
- D. Section 195-7 is amended to read as follows:

**§ 195-7. Speed limit.**

*Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of the Village of Celoron, New York.*

- E. Section 195-11 is revised as follows: "Every person convicted of a traffic infraction for violation of any of the provisions of this chapter which is not a violation of any provisions of the Vehicle and Traffic Laws of the State of New York shall, upon for a first conviction thereof, be punished by a fine of not more than \$250 or imprisonment not to exceed 15 days, or by both such fine and imprisonment \$100; ~~for a second such conviction within a 12 months thereafter, such person shall be punished by a fine not more than \$200; upon a third or subsequent conviction within 12 months after the first conviction, such person shall be punished by a fine of not more than \$200.~~"

**Chapter 210, Zoning.**

A. Section 210-4A.

- (1) Subsection 210-4A(2) is revised as follows: "No building shall hereinafter be erected or altered without a building permit."
- (2) Subsection 210-4A(2)(d) is revised as follows: "See ~~§ 210-58~~§ 84-4B, Building permits/zoning permits Exemptions, for exceptions to this rule."

B. Section 210-6, Definitions.

- (1) The following original definitions are repealed: "accessory dwelling unit;" "alteration;" "fence, barrier;" "fence, farm;" "fence, nonbarrier;" "floodplain;" "one-hundred-year flood;" "private camp;" "solar structure;" and "travel trailer camp – commercial campground."

- (2) The definition for "adult use and entertainment establishments" is added to read as follows:

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

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

*B. ADULT BOOKSTORE or ADULT VIDEO STORE --*

- (1) *A commercial establishment that has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its interior business advertising from the sale or rental for any form of consideration any one or more of the following:*
- (a) *Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, videocassettes*

*or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or*

*(b) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.*

*(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, principal business purpose shall mean 25% or more of any of the following:*

*(a) The number of different titles or kinds of such merchandise;*

*(b) The number of copies or pieces of such merchandise;*

*(c) The amount of floor space devoted to the sale and/or display of such merchandise; or*

*(d) The amount of advertising that is devoted to such merchandise, either in print or broadcast media.*

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

*(1) Persons who appear in a state of nudity;*

*(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or*

*(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.*

*D. MASSAGE PARLOR -- Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any such person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of "adult use" shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.*

*E. NUDE MODEL STUDIO -- Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.*

*F. SEXUAL ENCOUNTER CENTER -- A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or exposure of specified anatomical areas, or activities between persons when one or more of the persons is in a state of nudity or seminude.*



- (3) The definition for “building permit” is revised as follows: “Written approval by the enforcement officer in accordance with this chapter or Chapter 81 to construct or alter a structure or use of a parcel of land in a specified way.”
- (4) The definition for “building setback line” is revised as follows: “An established line within .a property defining the minimum required distance between ~~the face of~~ any structure to be erected and the front property line of an adjacent highway, right-of-way or any adjoining property line.”
- (5) The definition for “business” is amended as follows: “Includes the purchase, sale or transaction involving the disposition of any article, substance or services, offices or recreational or amusement enterprises ~~conducted for profit.~~”
- (6) The definition of “junk vehicles is added to read as follows:  
*A. Any wrecked, discarded, dismantled, or inoperable motor vehicle or any parts thereof.*  
*B. Any vehicle that does not carry a current and valid motor vehicle registration or inspection, or is otherwise not in full condition for legal use on the public highway or waterway.*
- (7) The definition of “junkyards” is revised as follows: “See definition of ~~“scrap yards”~~ and “vehicle dismantling yards.”
- (8) The definition for “height” is amended to define “building height.”
- (9) The definition of “Enforcement Officer” is amended as follows: “The Code Enforcement Officer of the municipality.”
- (10) The definition of “excavation” is amended to add Subsection B thereto, to read as follows: “The movement of soil off the site generally for a commercial purpose. Note that the NYS Department of Environmental Conservation may have primary jurisdiction over this "gravel pit" operation.”
- (11) The definition of “minor” is added to read as follows: “A person less than 18 years of age.”
- (12) The definition of “motor vehicle” is added to read as follows:  
*Any automobile, bus, truck, tractor, mobile home, recreational vehicle, motorcycle, snowmobile, watercraft, all-terrain vehicle, and any other contraptions originally intended or usable in whole or in part as motorized transportation.*
- (13) The definition of “nudity or state of nudity” is added to read as follows: “*The appearance of specified anatomical areas.*”
- (14) The definition of “recreational vehicle” is added to read as follows:  
*Includes boats, motorcycles, ATVs, jet skis, trailers, snowmobiles, travel trailers and motor homes.*
- (15) The definition of “regularly” is added to read as follows: “*More than once annually.*”
- (16) The definition of “seminude” is added to read as follows: “A state of dress in which clothing covers no more than the specified anatomical area, as well as portions of the body covered by supporting straps or devices.”

- (17) The definition of “shooting range” is added to read as follows:

*A shooting range shall exist whenever firearms are discharged upon private property, whether at an organized club or not, with the target being anything other than live game.*

- (18) The definition of “specified anatomical areas” is added to read as follows:

*A. Unless completely and opaquely covered, human genitals, pubic region, buttocks, or female breasts below a point immediately above the top of the areola; and*

*B. Even if completely and opaquely covered, male genitals in a discernibly turgid state.*

- (19) The definition of “specified sexual activity” is added to read as follows:

*Includes any of the following:*

*A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;*

*B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;*

*C. Masturbation, actual or simulated; or*

*D. Excretory functions.*

- (20) The definition of “topsoil stripping” is added to read as follows:

*The moving of soil on a single parcel of property from one point to another point with absolutely no soil being taken off the property or sold. Generally included is general landscaping or preparation for the construction of a foundation.*

- C. Section 210-5 is amended in part as follows: “The word “person” includes a corporation as well as an individual or any other legal entity.”
- D. Section 210-7 is amended to add “Central Business/Shoreline Commercial District (C3)” to the enumeration of districts.
- E. Section 210-8 is amended as follows: “The boundaries of the aforesaid zoning districts are hereby established shown on the map entitled, “Zoning District Map of the Village of Celoron, New York,” dated December 2010, amended August 2013 and September 2013, which map accompanies and is made part of this chapter and shall have the same force and effect as if the Zoning Map, together with all notations, references, and other information shown thereon, were fully set forth and described herein.”
- F. Section 210-10 is revised to read as follows:

**§ 210-10. Single-Family Residential (R1) District. [Amended by L.L. No. 1-1990; 11-13-2012 by L.L. No. 3-2012<sup>29</sup>]**

*A. Purpose. R1 Districts are established to provide for the development of residential neighborhoods occupied primarily by single-family residences. No building or other structure or land shall be used and no building or other structure shall be built or altered for any purpose not listed under this section.*

*B. Uses by right.*

*Churches/rectories*

*Customary home occupations in accordance with § 210-30*

*Day-care center*

*Garage, accessory*

*Nursery (for children)*

*Office space - former Celoron Elementary School only*

*Outdoor storage of licensed utility trailer, boat on a licensed trailer, and recreational*

vehicles

Private swimming pools in accordance with § 210-36

Schools

Single-family dwelling (conventional, modular, prefabricated)

Storage structure

Utilities

C. Uses by special use permit. (Reserved)

D. Area standards. See § 210-22 for substandard sized lots. Not that state health laws may require more area than below.

(1) Single-family dwellings and other allowed uses shall meet the following:

(a) Minimum lot size: 10,000 square feet.

(b) Minimum lot width: 100 feet.

(c) Maximum lot coverage: 35%.

(d) Minimum setback, measured from front property line: 25 feet.

(e) Minimum rear yard: 10 feet.

(f) Minimum side yard: 10 feet.

(g) Maximum stories: 2 1/2.

(h) Minimum floor space: 800/640 square feet\*.

\* Note: 800 square feet for one-story dwelling and 640 square feet for first floor of a multilevel dwelling.

G. Section 210-11 is revised to read as follows:

**§ 210-11. Residential (R2) District.**

A. Purpose. R2 Districts are established to provide for the development of residential neighborhoods occupied by a variety of types of residential structures together with certain additional uses which are supporting to and compatible with residential neighborhoods.

B. Uses by right:

All uses permitted and regulated in R1 District

Accessory apartment

Apartment/condo/townhouse

Boarding homes

Cluster residential development in accordance with § 210-30

Duplex

Homes for the aged

Nursing homes/rest homes

Public park

Tennis courts, private

C. Uses by special use permit:

Windmill/tower in accordance with § 210-41

D. Area standards. See § 210-22 for substandard sized lots. Note that state health laws may require more area than below.

(1) Duplex dwellings and apartments shall meet the following standards:

(a) Minimum lot size per unit: 13,000 square feet.

(b) Minimum lot width: 110 feet, plus 20 feet per unit over three units.

(c) Maximum lot coverage: 35%.

(d) Minimum front yard, measured from front property line: 50 feet.

(e) Minimum rear yard: 25 feet.

(f) Minimum side yard: 25 feet.

(g) Maximum floor stories: 4 1/2.

(h) Minimum floor space: 600 square feet\*.

\* Note: For developments four units or under, the minimum lot size shall be 1/2 acre, while developments over four units shall require one acre minimum.

H. Section 210-12 is revised to read as follows:

**§ 210-12. Commercial (C1) District. [Amended 6-14-2011 by L.L. No. 2-2011<sup>31</sup>]**

*A. Purpose. C1 Districts are established to accommodate general retail, service, financial and related structures and uses.*

*B. Uses by right:*

*All uses permitted and regulated in R2 District*

*Antique shops*

*Auto sales/used car lots*

*Bakery*

*Banks*

*Barber and beauty shops*

*Bars*

*Boat storage - seasonal*

*Boat storage structure*

*Car wash*

*Catalog stores*

*Corner grocery store*

*Department and variety stores*

*Drive-in business*

*Drugstores*

*Florist shops*

*Fraternal meeting facilities*

*Funeral home*

*Furniture/appliance store*

*Gift and novelty shop*

*Hardware, glass, paint store*

*Heavy vehicle parking in accordance with § 210-46*

*Laundry and dry cleaning*

*Libraries, museums, galleries*

*Liquor stores*

*Locksmith shop*

*Monument sales*

*Municipal offices*

*Newsstand*

*Parking, commercial lot in accordance with § 210-37*

*Pet stores*

*Photography studio*

*Professional or business office*

*Realty office*

*Recreation facilities*

*Rental stores*

*Restaurants*

*Shopping center/mall*

*Upholstery shops*

*Wholesale business*

*C. Uses by special use permit:*

*Auto body repair as it relates to new or used car sales*

*D. Area standards. See § 210-22 for substandard sized lots. Note that state health laws may require more than below.*

*(1) Business uses and other allowed uses (excluding structures which house or are intended to house family units) shall meet the following standards:*

*(a) Minimum lot size: 12,000 square feet.*

*(b) Minimum lot width: 90 feet.*

*(c) Maximum lot coverage: 45%.*

*(d) Minimum front yard, measured from front property line: 30 feet.*

- (e) *Minimum rear yard: 25 feet.*
- (f) *Minimum side yard: 10 feet.*
- (g) *Maximum stories: 4 1/2.*

I. Section 210-13 is revised to read as follows:

**§ 210-13. Shoreline Commercial (C2) District.**

*A. Purpose. C2 Districts are established to provide for the establishment and maintenance of lakeshore business and recreational uses and certain additional uses which are supporting and compatible.*

*B. Uses by right:*

*Accessory apartment*

*Apartments/condos/townhouses*

*Bars*

*Boarding homes*

*Boat sales*

*Boat storage structure*

*Cluster residential development in accordance with § 210-28*

*Dock, pier, public*

*Duplex*

*Fraternal meeting facilities*

*Garage, accessory*

*Gift and novelty shop*

*Homes for the aged*

*Hotels, motels*

*Marinas*

*Nursing homes/rest homes*

*Outdoor storage of licensed utility trailers, boat on a licensed trailer, and recreational vehicles*

*Parking, commercial lot in accordance with § 210-37*

*Private boathouse*

*Private swimming pools in accordance with § 210-36*

*Public park*

*Recreational facilities*

*Recreational vehicle sales*

*Restaurants*

*Single-family dwelling (conventional, modular, prefabricated)*

*Tennis courts, private*

*Tennis courts, public*

*Utilities*

*Windmill/tower in accordance with § 210-41*

*C. Uses by special use permit. (Reserved)*

*D. Area standards. See § 210-22 for substandard sized lots. Note that state health laws may require more area than below:*

*(1) Business uses and other allowed uses (excluding structure which house or are intended to house family units) shall meet the following standards:*

*(a) Minimum lot size: 15,000 square feet.*

*(b) Minimum lot width: 110 feet.*

*(c) Maximum lot coverage: 40%.*

*(d) Minimum front yard, measured from front property line: 30 feet.*

*(e) Minimum rear yard: 20 feet.*

*(f) Minimum side yard: 15 feet.*

*(2) Dwellings and multiple dwellings shall meet the following standards:*

*(a) Minimum lot size per unit: 5,000 square feet.*

*(b) Minimum lot width: 120 feet, plus 20 feet per unit over three units.*

*(c) Maximum lot coverage: 45%.*

*(d) Minimum front yard, measured from front property line: 75 feet.*

- (e) Minimum rear yard: 60 feet.
- (f) Minimum side yard: 40 feet.
- (g) Maximum stories: 4 1/2.
- (h) Minimum floor space (each unit): 600 square feet.

J. Section 210-15B and C are revised to read as follows:

*B. Uses by right.*

<i>All uses permitted in C1 District</i>
<i>Auto body repair shop in accordance with § 210-34</i>
<i>Auto repair shop</i>
<i>Auto wrecker service in accordance with § 210-35</i>
<i>Blacksmith shop</i>
<i>Building contractor shop</i>
<i>Building material store</i>
<i>Custom workshop</i>
<i>Electronic and small parts manufacturer</i>
<i>General light, industrial</i>
<i>Golf courses, private and public</i>
<i>Laboratory and research</i>
<i>Machine shops</i>
<i>Mobile home/trailer sales</i>
<i>Nurseries, greenhouse</i>
<i>Service station in accordance with § 210-33</i>
<i>Shooting ranges operated by organized clubs</i>
<i>Storage of materials, fuel</i>
<i>Storage shed</i>
<i>Storage structure</i>
<i>Television and radio towers</i>
<i>Tennis courts, public</i>
<i>Truck terminals</i>
<i>Windmill/tower in accordance with § 210-41</i>

- C. Uses by special use permit:*  
*Adult uses/adult entertainment/sexually oriented business*

K. Section 210-16 B and C are revised to read as follows:

*B. Uses by right.*

<i>Accessory uses</i>
<i>Boat launch</i>
<i>Concession stand</i>
<i>Golf course</i>
<i>Libraries, museums, galleries</i>
<i>Municipal offices</i>
<i>Public park</i>
<i>Public pier</i>

<i>Public swimming pool</i>
<i>Restaurant</i>
<i>Tennis courts, public</i>
<i>Utilities</i>

- C. *Uses by special use permit. (Reserved)*
- L. Section 210-17C(8) is revised as follows: "Setback from lake. No structure shall be built within 50 feet of the Chautauqua Lake shoreline, except in the C3 District, where no structure shall be built within 100 feet of the Chautauqua Lake Shoreline. The shoreline shall be considered to be the natural waterline at 1,308 feet mean sea level."
- M. Original § 19-507 of the 1966 Code, Interpretation of permitted uses, is repealed.
- N. Original § 19-511 of the 1966 Code, Buffer zones, is repealed.
- O. In § 210-28B(1) and (3) and C(1), all references to "Municipal Board" are revised to read "Board of Trustees."
- P. Section 210-29:  
(1) Subsection A is revised as follows: "Setbacks. No principal structures intended for inhabitation shall be permitted within 50 feet of the shoreline, except in the C3 District, where no structure shall be built within 100 feet of the Chautauqua Lake shoreline, based on normal water levels of 1,308 feet mean sea level (MSL)."  
(2) Subsection B is amended as follows: "Accessory building not utilized for inhabiting shall be allowed by right when set back 50 feet or more from the shoreline, except in the C3 District where no structure shall be built within 100 feet of the Chautauqua Lake shoreline (based on high water level of 1,310.5 feet MSL). Accessory buildings less than 50 feet or 100 feet in the C3 District from the shoreline shall be allowed by special use permit with consideration given to the following:"  
(a) The phrase "150 feet" in Subsection B(2) is corrected to read "150 square feet."  
(3) Subsection D is amended as follows: "Fences. Any fence established within 50 feet, or 100 feet in the C3 District, of the shoreline (based on high water level of 1,310.5 feet MSL) shall be by special use permit only; consideration shall be given to the following:"
- Q. The lead-in paragraph of § 210-32 is amended as follows: "Drive-in businesses shall be allowed ~~by special use permit~~ in districts where they are listed as being allowed when the following conditions are met:"
- R. Section 210-36E is amended as follows: "Area requirements. Pools shall ~~preferably~~ be installed in accordance with the area requirements of the appropriate district. As a minimum, pools shall be located at least eight feet from side or rear boundary lines and behind the front line of existing dwellings."
- S. Section 210-37E is amended as follows: "Material composition. All open off-street parking spaces" ~~except those accessory to single family dwellings and duplexes~~ shall be surfaced with some all-weather dustless materials."
- T. In § 210-37F, the entry for required spaces for elementary school is revised from "20 students" to "12 students."

U. Section 210-39B(1)(a) is revised as follows: “No sign shall project more than 12 inches from the building wall to which it is attached.”

V. Section 210-39C is revised as follows:

Districts	Size of Signs (Maximum Square Feet)					
	Business Signs			Business Signs		
	On Premises	Off Premises	Temp-orary	On Premises	Off Premises	Temp-orary
<u>C3/Central Business/Shoreline Commercial</u>	R	S	NP	20	20	10

W. Section 210-39D(2)(b)[4] is revised to read as follows:  
*[4] Illumination. Illuminating arrangements for signs shall be such that the light is concentrated on the sign with a minimal spillover cast on the street, sidewalk, or adjacent properties and such signs may only be illuminated from 6:00 a.m. to 11:00 p.m.*

X. Original § 19-615 of the 1966 Code, Top soil stripping and excavation, is repealed.

Y. The lead-in paragraph of § 210-41 is amended as follows: “Towers and windmills shall be allowed where permitted by special use permit in all districts after the following conditions have been considered for inclusion in the permit:...”

Z. The lead-in paragraph of § 210-42 is amended as follows: “TV dish antennas shall be allowed ~~by special use permit~~ in districts where so designated with the following conditions being met:...”

AA. Section 210-43:

- (1) The definition of “shooting range” which appeared in original Subsection B is moved to § 210-6, Definitions.
- (2) Original Subsections E and F, regarding annual permits and preexisting ranges, are repealed.

BB. Section 210-44 is revised to read as follows:

**§ 210-44. Junk vehicles.**

*A. Title. This section shall be known as the “Junk Vehicle Law of the Village of Celoron.”*

*B. Purpose. It is declared to be of importance to the health, safety and welfare of the inhabitants of the Village of Celoron to regulate, restrain and eliminate junk vehicles within the Village of Celoron. This section is enacted in recognition of the findings that outdoor storage of even a single inoperable, unregistered, uninspected, unlicensed or junk vehicle as defined by this chapter constitutes a nuisance, an annoyance to owners and occupants of adjoining property and an unsightly condition adversely affecting the general public, including the value of property therein.*

*C. Junk vehicles prohibited; exceptions; removal.*



(1) *The keeping of any junk vehicles as defined in § 210-6 of this chapter is prohibited within the Village of Celoron, except as expressly permitted by this section.*

(2) *Exceptions:*

(a) *Storage of vehicles will be allowed in areas as permitted by the Village Code and that are maintained specifically for storage of vehicles. This area must be completely enclosed by a fence that has a gate that is not accessible to the general public. This storage area must be in an area of the Village of Celoron that is zoned an industrial area.*

(b) *One junk vehicle is permitted, provided that it is located within a fully enclosed garage so as not to be visible from neighboring properties or from a public street.*

(c) *The temporary storage of a junk motor vehicle is permitted on the New-York-State-licensed motor vehicle repair premises that is otherwise in compliance with the zoning laws of the Village of Celoron for a period not to exceed 30 days.*

(d) *One unregistered motor vehicle is permitted, provided that said vehicle:*

*[1] Does not fall within any of the provisions of Subsection A of the definition of "junk vehicles" in § 210-6 of this chapter.*

*[2] Carries a valid and current New York State inspection sticker or other state's valid and current inspection sticker; however, in no event shall such vehicle be stored for more than six months.*

*[3] Such vehicle is covered by a proper cover, such cover being manufactured to attractively cover the specific vehicle, and such cover being maintained as manufactured.*

(3) *Notice to remove.*

(a) *A junk vehicle not within the exceptions provided above shall be removed by the property owner upon which the junk vehicle is located within four days of the notification by the Code Enforcement Officer of the Village of Celoron or his assistant or designee.*

(b) *Notification by personal service or certified mail to the reputed owner of said vehicle, if known, or any property owner upon which said vehicle is located shall be sufficient.*

#### *D. Enforcement; penalties for offenses.*

(1) *The owner or owners of the premises upon which the junk vehicle is located, the owner of the junk vehicle, any person having possession or custody of a junk vehicle or any other person, firm, corporation or other entity which allows, permits or causes the keeping of a junk vehicle in violation of this chapter shall be punishable as provided by this chapter.*

(2) *In the event of the failure to remove a junk vehicle after the four-day notification to remove, the Code Enforcement Officer is authorized to initiate the assistance of the Town of Ellicott Police Department to cause the removal of said vehicle or vehicles; and all costs thereof, including storage, shall be at the sole expense of the property owner and/or owner of the junk vehicle. Said vehicle or vehicles, if unclaimed after four days, shall be deemed abandoned and may be sold or otherwise disposed of in accordance with § 1224 of the Vehicle and Traffic Law of the State of New York or other applicable provisions of law.*

December 9, 2013

(3) The notification form to be used pursuant to this Chapter is attached hereto and made a part hereof.

VILLAGE OF CELORON NOTICE TO REMOVE JUNK VEHICLES

TO:

YOU ARE HEREBY NOTIFIED that one or more junk vehicles are located on premises located at \_\_\_\_\_, Village of Celoron, New York in violation of § 210-44 of the Code of the Village of Celoron.

YOU ARE FURTHER NOTIFIED that all junk vehicles and any parts thereof located at the above premises must be removed no later than four days after your receipt of this notice.

A brief description of the junk vehicle(s) is as follows: \_\_\_\_\_

CHAPTER 210, § 210-44D(1) AND § 210-74 OF THE CODE OF THE VILLAGE OF CELORON PROVIDE AS FOLLOWS:

A. The owner or owners of the premises upon which the junk vehicle is located, the owner of the junk vehicle, any person having possession or custody of a junk vehicle or any other person, firm, corporation or other entity which allows, permits or causes the keeping of a junk vehicle in violation of this chapter shall be punishable as provided by this chapter.

B. Each violation of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both such fine and imprisonment, for each offense. Each day that a violation continues after four days from service of the notification to remove the vehicle shall constitute a separate offense and shall be punishable as herein provided

The Village of Celoron reserves the right to remove said vehicle(s) at the sole expense of the property owner and/or owner of the junk vehicle(s) and dispose of the same as provided by law; HOWEVER, THE PRIMARY RESPONSIBILITY TO REMOVE THE JUNK VEHICLE(S) REMAINS WITH THE PERSONS STATED IN (A) ABOVE AND THEY SHALL REMAIN SUBJECT TO THE ABOVE PENALTIES.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Code Enforcement Officer or Official Designee

- CC. Original § 19-618 of the 1966 Code, Solar energy systems, is repealed.
- DD. Original § 19-619 of the 1966 Code, Unsafe structures, as amended by L.L. No. 3-1989, is repealed.
- EE. In § 210-45, original Subsection C, regarding the effective date of this section, is repealed.
- FF. Section 210-50 is amended to read as follows:

**§ 210-50 Adult use and entertainment establishments.**

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

- (1) To preserve the character and the quality of life in the Village of Celoron.*
- (2) To control harmful and adverse secondary effects of adult uses, documented in the Village of Celoron, on the surrounding areas such as decreased property values, parking and traffic problems, increased crime, excess noise, litter and loitering.*

*(3) To restrict minors' access to adult uses.*

*(4) To maintain the general welfare and safety for the Village of Celoron residents.*

*B. Allowed zoning districts. All adult use and entertainment establishments as defined herein may only be created, opened, commenced or operated within the Industrial (I) Zoning District within the Village of Celoron by special use permit issued by the Village Board. All adult use and entertainment establishments shall obtain site plan approval from the Planning Board in accordance with § 210-66 of this chapter.*

*C. Location within allowed zoning districts.*

*(1) An adult use and entertainment establishment shall be allowed after issuance of a special permit and approved site plan only in the allowed zoning districts set forth in Subsection D hereof, and, within such district, shall have minimum area requirements as described in § 210-14D of this chapter, and the structure the adult use is located in and any accessory use/structure shall not be allowed:*

*(a) Within 100 feet of the property line of a parcel used for residential purposes in the Village;*

*(b) Within 750 feet of the property line of a parcel containing a church, synagogue, other place of worship, active cemetery, library, school, licensed day-care facility, park, playground, government facility commonly visited by the public (i.e., post office, Village office, state/federal/county office), nursing home, adult home, or hospital, whether or not such use is located in the Village;*

*(c) On the same parcel as another adult use and entertainment establishment; or*

*(d) Within 750 feet of the property line of another adult use and entertainment establishment, whether or not such use is located in the Village.*

*(2) The above distances of separation shall be measured from the nearest exterior wall or corner of the structure containing the adult use and entertainment establishment.*

*D. Standards appropriate to special use permit and site plan for adult use and entertainment establishments. The Village of Celoron intends to protect the scenic beauty of the Village and the value of property in the Village. Therefore, adult use and entertainment establishments shall meet all applicable requirements in this chapter and shall be designed to be as least intrusive as possible by using the following additional standards:*

*(1) Such use and parking area shall be adequately fenced and/or buffered (landscaping/berms) for screening from any adjacent property, and lighting shall be directed away from adjacent property and public highways.*

*(2) Parking shall be located in the side or rear yard, and no parking space may be located less than 50 feet from any property line.*

*(3) Any structure containing the adult use and entertainment establishment and any accessory structure shall have a residential appearance similar to existing dwelling units (excluding mobile homes) in the Village of Celoron. Building design shall avoid areas of blank wall sections and windows or one-way windows shall comply with Subsection E, Display prohibited.*

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

*F. Penalties for offenses.*

*(1) Any person, firm, corporation or entity found to be violating any provisions of this chapter shall be served with a written notice by the Code Enforcement Officer, stating the nature of the violation and providing for immediate correction thereof. Such notice shall be served by one of the following methods:*

*(a) By personal service;*

*(b) By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Celoron: or*

*(c) By posting of such notice in a conspicuous place upon the premises affected, and a copy thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Village of Celoron.*

*(2) Any person, firm, corporation or entity that shall violate any portion of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$250 or by imprisonment for not more than 15 days, or both . The continuation of a violation of the provisions of this chapter shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.*

*(3) The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.*

*(4) Any person, firm, corporation or entity violating any of the provisions of this chapter shall become liable to the Village for any expense or loss or damage occasioned the Village by reason of such violation.*

*(5) The imposition of penalties herein prescribed shall not preclude the Village or any person from instituting appropriate legal action or proceedings to prevent a violation of this chapter, or to restrain or enjoin the use or occupancy of a building, premises or part thereof in violation of this chapter.*

GG. Original Article VII of the 1966 Code, Administration by Enforcement Officer, as amended by L.L. Nos. 5-1991, 2-2008 and 5-2009, is repealed.

HH. Original § 19-627 of the 1966 Code, Mobile home park, is repealed.

II. In § 210-63, original Subsection F, Flood variances, is repealed.

December 9, 2013

JJ. Section 210-65 is revised as follows: "The ~~Municipal Board~~ Mayor, subject to the approval of the Board of Trustees, shall appoint a Planning Board of five members and the Chairperson as prescribed by law. ~~The chairman shall be appointed by the Municipal Board.~~"

KK. The first sentence of § 210-75 is revised to read as follows: "Each violation of this chapter shall be punishable by a fine not exceeding \$250, imprisonment for not more than 15 days, or both such fine and imprisonment, for each offense."

**MAYOR'S COMMENTS:**

None

**OPPORTUNITY FOR PUBLIC COMMENT:**

None

Trustee Mattison motioned to adjourn the meeting. Trustee Kogut seconded the motion.

Carried: 4 ayes

The meeting was adjourned at 7:14 p.m.

Shirley A. Sanfilippo, MMC/CMFO  
Village Clerk-Treasurer