

Initial Ordinance of the Village of Elba 1940

Article I – Section I (Corporation Seal)

The Corporation Seal of the Village of Elba, Genesee County, New York, shall consist of the word “SEAL” inside a circle and the words “VILLAGE OF ELBA, GENESEE COUNTY, NEW YORK” in a circle around a circle.

Article II – Section 2 (Description of boundaries of the Village of Elba, Genesee County, NY)

The boundaries of the Village of Elba, Genesee County, New York, are those boundaries set down on a map on file in the office of the Clerk of the County of Genesee at Book 1 of Maps at Page 1 Map #2 and a copy of which Map is on file in the Village Board rooms.

Article III – Section 3 (Good Order at Fires)

No person shall willfully or maliciously obstruct the operation of the Fire Department or fire apparatus in the Village of Elba, New York, or willfully or maliciously neglect or refuse to obey, or attempt to prevent or obstruct the execution of any lawful order of the Trustees of said Village or officers of the Fire Department thereof.

Any person violating any provision of this Section shall forfeit and pay a penalty of not to exceed Twenty-five (\$25.00) Dollars for each offense.

Section 4 – (Obstruction of Fire House and Hydrants)

No person shall permit any motor or other vehicle to stand in front of the street entrance to any building in the Village of Elba, New York, in which the fire apparatus of said Village is kept for use, or within ten feet of any hydrant used by said Village to obtain water for use by the Fire Department of said Village.

Any person violating any provision of this ordinance shall forfeit or pay a penalty of not to exceed Ten (\$10.00) Dollars for each offense.

Section 5 – (Inspection of Buildings for Fire Hazards)

It shall be the duty of the Chief of the Fire Department to inspect or cause to be inspected by Fire Department officers or members, as often as may be necessary, all buildings, premises and public thoroughfares for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of the provisions or intent of any ordinance of the Village affecting the fire hazard. In private dwellings, such inspections shall be restricted to cellars and basements.

Whenever any officer or member shall find in any building or upon any premises or other place, combustible or explosive matter, or dangerous accumulation of rubbish or unnecessary accumulation of waste paper, boxes, shavings or any other highly inflammable material, especially liable to fire obstructions on fire escapes, stairs, passageways, doors or windows liable to interfere with the operations of the Fire Department or egress of occupants in case of fire, he shall order the same to be removed or remedied and such order shall forthwith be complied with by the owner or occupant of such premises or buildings, subject to appeal within twenty-four (24) hours to the Mayor, who shall, within ten days, review such order and file his decision thereon, and unless the order is revoked or modified, it shall remain in full force and be obeyed by such owner or occupant.

Any owner or occupant failing to comply with such order within ten days after said appeal shall have been determined or, if no appeal is taken, then within ten days after the service of the said order shall be liable to a penalty as hereinafter stated.

The service of any such order shall be made upon the occupant of the premises to whom it is directed by either delivering a true copy of the same to such occupant personally, or by delivering the same and leaving it with any person in charge of the premises, or, in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door of the entrance of said premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with said person a true copy of said order, or if such owner is absent from the jurisdiction of the officer making the service, by mailing such copy to the owner's last known Post Office address.

Any person or persons, firms or corporations violating any of the provisions of this ordinance or any of these sections, shall upon conviction, pay a fine of not more than Twenty-five (\$25.00) Dollars for each offense and not more than Twenty-five (\$25.00) Dollars for every day thereafter so long as the said violation exists, and a fine of not more than One Hundred (\$100.00) Dollars for subsequent violations.

Section 6 – Subdivision (a) (Disorderly, Noisy, Riotous or Tumultuous Conduct)

No person shall engage in any disorderly, noisy, riotous or tumultuous conduct within the Village of Elba, New York, or otherwise disturb the peace and quiet of the said Village or any meeting or assembly therein.

Subdivision (b) (Public Intoxication)

No person shall be intoxicated on any public streets, avenue, sidewalk, alley or land or in any public place in the Village of Elba, New York.

Any person violating any provision or any portion of any provision of this section shall forfeit and pay a penalty of not to exceed Twenty-five (\$25.00) Dollars for each offense.

Section 7 – (Obstruction of Sewers)

No person, firm or corporation shall throw or deposit or cause to be thrown or deposited into any sewer, storm sewer, drain catch-basin, manhole or gutter in the Village of Elba, any substance which may cause obstruction or injury thereto or nuisance therein, nor shall any person disturb or stop the flow of any drains or sewers or storm sewers or gutters in the Village of Elba.

Any person violating any of the provisions of this section shall forfeit and pay a penalty of not less than Ten (\$10.00) Dollars for each offense.

Section 8 – (Obstruction of Storm Sewers)

No person, firm or corporation shall use or attach any outlet to or in any way deposit drainage of any type or description in any storm sewer or water in the Village of Elba.

Any person violating this section of any provisions thereof, shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars for each offense.

Section 9 – (Discharging and Exploding of Fire Arms)

No person shall fire or aid or assist in firing any kind of firearms within the Village of Elba, New York, to the danger or annoyance of any person; or discharge any firecrackers or other explosives within said Village

to the disturbance or annoyance of any person or persons therein, or fire any cannon or make or assist in making any bonfire or burn any fireworks at a general entertainment at the close of a celebration in any street or public place in said Village without the permission of a majority of the trustees of said Village in writing, designating the place or places where such fire may be had and where such bonfires may be made, or build a fire in any street in said village, except the burning of leaves, without the consent of the President or one of the Trustees of said Village who shall designate the place of said fire.

Any person violating this section shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars for each offense.

Section 10 – (Discharging and Exploding of Fire Works)
Subdivision (a)

The discharge, firing or use of firecrackers, rockets, torpedoes, roman candles or other fireworks or substances designed or intended for pyrotechnic displays and of pistols, caps and cannons using a blank cartridge or cap containing chlorate or potash mixture is hereby prohibited, provided that the Mayor or Trustees may order the public display of fireworks by properly qualified individuals.

Subdivision (b) The sale of fireworks is prohibited in the Village of Elba.

Any person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and be fined not less than Five nor more than Twenty-five (\$25.00) Dollars for each offense.

Article IV. Section 11 (Removal of Snow and Ice from Sidewalks)

All snow, ice, dirt or other obstruction upon any sidewalk in the Village of Elba shall be removed by the owner or occupant of the adjoining land immediately after such snow, ice, dirt or occupant of the adjoining premises fails to remove the snow, ice, dirt or other substances from the sidewalk in front of such premises so owned and occupied by him within six hours from the time when such snow, ice or other obstruction shall have been deposited thereon or within one hour after notice from any member of the Village Board of Trustees to remove the same, such owner or occupant shall forfeit and pay a penalty of not to exceed Five (\$5.00) Dollars for each offense and it is further provided that, whenever the owner or occupant of

adjoining land fails to remove the snow, ice, dirt or other obstruction from the sidewalk in front of the premises so owned or occupied by him within six hours from the time when such snow, ice, dirt or other obstruction shall be deposited thereon or within one hour after notice from any member of the Village Board of Trustees to remove the same, it shall be the duty of any member of the Board of Trustees to order the removal of said snow, ice, dirt, or other obstruction from such sidewalk and to order cleaned the said sidewalk and the expense thereof shall be a lien upon the adjoining premises and charged and assessed against the same.

Section 12

No person shall make any excavation or dig any ditch, trap, or hole in any of the public streets in said Village, without first obtaining a permit thereof from the Board of Trustees and all such excavations shall be properly guarded by barriers and red lights or flares to protect all persons from damage or injury.

Any person, firm, or corporation violating any provision of this section shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars for each offense.

Section 13

It shall be unlawful for any person or persons, firm or corporations to construct any walk or curb in the Village of Elba, NY without first obtaining a permit to specify the width, grade, line and type of material to be used in constructing said sidewalk or curb.

Section 14

The Board of Trustees of said Village shall have the power to order the construction or repair of any street or curb in the Village of Elba whenever it deems it necessary that such construction or repair be made for the convenience of the public in said Village.

Section 16

No person except a fireman or an employee of the Village of Elba, for the use of the fire department or the use of the Village, shall open or tamper with any hydrant, valve, stopcock, or any water meter owned by the Village

of Elba, connected with the water works of said Village without the written consent of the Board of Trustees of said Village.

Any person violating any provision of this section shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars.

Section 17

No person shall willfully or maliciously break, mar, injure, remove or deface any building, fence, awning, sign, sign-board, tree, shrubbery or other ornamental thing in the Village of Elba, New York, or pile up before any door or sidewalk or street, any baskets, casks or other things to tear down any notice or handbill lawfully posted in said Village or deface any building or property by any markings of any kind or posts bills upon any shade tree upon any building or any other property belonging to said Village.

Any person, firm or corporation violating any provision of this section shall forfeit a penalty of not to exceed Ten (\$10.00) Dollars.

Section 18

The owner or occupant of any lot adjoining any of the streets or public places in said Village shall keep the trees adjoining the sidewalk in front of said property trimmed up to at least ten feet above the sidewalk. In case of any person neglecting or refusing to trim such trees within one week after notice from any member of the Board of Trustees, such trees shall be trimmed to a point ten feet above the sidewalk by order of the Board of Trustees of said Village and the expense of such trimming shall be assessed against the adjoining land, which charge shall be paid by said owner in excess of the penalty hereinafter described.

The owner or occupant of any lot adjoining any of the streets or public places in the said Village of Elba shall remove any trees or limbs which shall be dangerous to the users of the said streets or public places within 12 hours after notice is served upon him by the Board of Trustees of said Village and in the event that such owner or occupant fails to remove said dangerous trees or limbs, it shall be the duty of the Board of Trustees to cause said trees to be removed and the expense of such removal shall be assessed against the adjoining land, which charge shall be paid by said owner in excess of the penalty hereinafter described.

The owner or occupant of any lot adjoining any of the streets or public places in said Village shall keep the shrubs trimmed so that the branches or

leaves thereof shall not come within one foot from the inside of the sidewalk at any time.

Any person, firm or corporation violating any provision of this section shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars for each offense.

Section 19

No person shall in any wise injure or destroy any shade tree in the streets or public places in the Village of Elba, New York, or hitch any horse or horses or any other animals in the streets of public places in said Village.

Any person, firm or corporation violating any provision of this section shall forfeit and pay a penalty of not to exceed Ten (\$10.00) Dollars.

Article V – Section 25 (Articles Relating to Sanitary Conditions and Begging)

The owner or occupant of any lot or premises fronting or abutting on any street or highway or portion thereof and on which a sewer has not been constructed in the Village of Elba, and upon which any privy, outdoor closet or any similar arrangement for the disposal of human waste is maintained or used, shall cause such privy, outdoor closet or similar arrangement for the disposal of human waste to be thoroughly cleaned and disinfected at any time such privy, outdoor closet or similar arrangement for human waste shall give off noxious and offensive odors and shall endanger the health of the inhabitants of the said Village.

Section 26 – No person shall allow stable manure to accumulate in places in the Village of Elba; so as to become a menace or nuisance and the same shall be removed at least once a week.

Any person violating any of the provisions of the above section shall forfeit or pay a penalty of not to exceed Ten (\$10.00) Dollars.

Section 27 – No person shall loaf, lounge, idle, or beg in any public place in the Village of Elba.

Any person violating any provisions of this section, or failure to move when requested so to do by the Peace Officer of said Village shall forfeit or pay a penalty of not to exceed Five (\$5.00) Dollars.

Article VI – Section 30 (Provisions Relating to Tractors)

No tractor or other vehicle or machine shall be driven, propelled or passed over any pavement in the Village of Elba if such vehicle, tractor or machine shall have lugs or treads on its wheels or be in any wise so constructed as to cause damage to the pavement when in transit, unless written permission in advance be obtained from the Board of Trustees of said Village, specifying the streets to be so traversed.

Any person violating any of the provisions of the above section shall forfeit or pay a penalty of not to exceed Ten (\$10.00) Dollars.

Article VII – Section 35 (Provisions Relating to Traffic Regulations)

DEFINITIONS: Unless otherwise expressly stated in any of the following sections, all words are to be defined in accordance with the provisions of Section 2 of the Vehicle and Traffic Law of the State of New York and any amendments thereto.

Section 36 – The driver of a vehicle emerging from an alley, driveway, garage or stable shall stop such vehicle immediately before crossing any sidewalk and entering the intersecting roadway and thereafter shall enter the roadway with care.

Section 37 – Extreme caution must be exercised by vehicles when passing a school building, fire house and churches and in crossing the streets in close proximity to the above named buildings.

Section 38 – No vehicle other than those specifically given the right of way by the provisions of these regulations may be driven through any procession or parade except under the direction of a Police Officer.

Section 39 – A gong or siren whistle shall not be attached to or used upon any vehicle other than an ambulance or vehicle operated by the Police Department, Fire Department, Sheriff, or authorized executive of a Utility Company when on emergency calls.

Section 40 – Except in an emergency or when directed to do so by a Police Officer, no vehicle shall be stopped, left standing or parked under any of the following conditions: (a) on any crosswalk or street crossing or alley corner or in front of any driveway or alley (b) within ten (10) feet of any fire hydrant unless personally attended by some person capable of driving it,

with motor running in condition to be moved promptly in case of emergency.

Section 41 – No person shall ride any motor cycle, bicycle or other vehicle propelled by the hands or feet of the rider along or upon any public sidewalk or footpath intended for the use of pedestrians. This section shall not apply to children under ten years of age or to persons who cannot walk by reason of being invalids or cripples.

Section 42 – No person shall neglect or refuse to comply with any reasonable order of a Peace Officer engaged in the direction of traffic or with any lawful traffic regulations displayed in any highway.

Section 43 – The use of a motor muffler cutout is prohibited on any street within the limits of the Village of Elba and no person shall drive any vehicle, motor vehicle in such a manner as to cause unnecessary noise or nuisance.

Section 44 – No vehicle shall remain parked on Main Street in the Village of Elba, for a period of longer than five (5) hours between the hours of 6 a.m., and 6 p.m., for a distance of one hundred fifty (150) feet south of the center line of the intersection of Mechanic and Chapel Streets and Main Street in said Village, nor three hundred (300) feet north of the centerline of said intersection of Mechanic and Chapel Streets and Main Street in said Village. No vehicle shall remain parked for a period of longer than five (5) hours between the hours of 6 a.m. and 6 p.m. on Chapel Street in said Village within a distance of one hundred fifty (150) feet from the point where the centerline of said Chapel Street intersects the center line of Main Street. No vehicle shall remain parked on Mechanic Street for longer than five (5) hours between the hours of 6 a.m. and 6 p.m. within a distance of one hundred fifty (150) feet from the point where the centerline of said Mechanic Street intersects the centerline of Main Street in said Village.

Section 45 – The speed limit of motor vehicles and motorcycles on the public streets in the Village of Elba shall be twenty-five miles per hour except on Main Street between the south bounds of Elba Central School property and the north bounds of the Presbyterian Church property where the speed limit shall be twenty miles per hour.

Any person violating any provisions of this section shall be liable to a fine of not to exceed the sum of Fifty (\$50.00) Dollars.

Section 46 – Every person guilty of violating any provisions of the regulations of the Village of Elba, governing traffic shall be punished by a fine of not to exceed Fifty Dollars (\$50.00) unless otherwise specified in the above sections.

Article VII – Section 50 (Provisions Relating to Hawking, Vending and Peddling)

Hawking, vending, peddling, soliciting orders, crying of goods, wares and merchandise, excepting the peddling of meats, fruit, fish, and farm produce by farmers and persons who produce such commodities, in the streets and public places and by going from house to house within the corporate limits of the Village of Elba, NY, by the individual, person, firm, or corporation is prohibited without first obtaining a license and paying a license fee therefore as herein provided.

There shall be excepted from the provisions of this ordinance hawking and peddling by an honorably discharged soldier, sailor, or marine who is crippled as a result of injuries received while in the naval or military services of the United States or a holder of a license granted pursuant to Section 32 of the General Business Law.

Section 51 – The fees for license issued in pursuance to Section 50 shall be \$3.00 per day per person; \$10.00 per month per person; and \$25.00 per year, which fees are hereby ordained and established therefore. Each such license shall be issued by the Mayor of the Village, specifying therein the fee to be paid therefore, to such person, firm, or corporation as he shall deem fit and proper for such trade or occupation but such license shall be refused for any of the occupations above specified which shall, in the judgment of the Mayor, be likely to disturb the peace and order of the Village.

Every such license shall be countersigned by the Clerk of the Village who shall keep a record thereof and the amount of the fee paid thereof and the said Clerk shall endorse thereon, his receipt of the license fee. The license shall not take effect until the receipt of the Clerk shall have been endorsed thereon. Any applicant, who shall have been refused such license by the Mayor, may apply to the Board of Trustees therefore at the meeting thereof and the same may be granted or refused by the Board. The Mayor may suspend any such license until the next meeting of the Board of

Trustees and thereupon the said license may be revoked or continued by the Board.

Section 53 – The Board of Trustees of the Village of Elba, shall have the power to collect any bills for services rendered or materials rented or sold to any person, firm, or corporation in the same manner as taxes are collected by assessing the same against the real property of the person, firm, or corporation owing such bill in the same manner that taxes are assessed.

Article VIII – Section 55 (Provisions Relating to Quarantine)

It shall be unlawful for any person to violate any quarantine restrictions placed upon such person or such person’s home by the Health Officer of the Village of Elba, NY.

Any person violating any provision of this section shall forfeit and pay a penalty of not to exceed Twenty-five (\$25.00) Dollars for each offense.

Section 56 – It shall be unlawful for any parent, guardian, or other person having the legal custody of any person under sixteen years of age to permit such person under such age while in his legal custody, to violate any quarantine restrictions, placed upon such person or the house where such person resides, by the Health Officer of the Village of Elba, NY.

Any person violating any provision of this section shall forfeit and pay a penalty of not to exceed Twenty-five (\$25.00) Dollars for each offense.

Article IX – Section 60 – Subdivision 1 (Enforcement)

Obedience to the foregoing ordinances may be enforced either by criminal information or by civil action but a judgment in, or a pendency of a criminal prosecution for an alleged violation of any provision of any section of this ordinance, or a judgment in, or a pendency of any civil action shall be a bar to the other proceeding.

Subdivision 2

Whenever the word person or firm or corporation is used in any of the foregoing ordinances, the same shall be construed to mean and include persons, firms or corporations.

Subdivision 3

Whenever a penalty prescribed for the violation of any section of any of the foregoing ordinances shall be imposed upon conviction of the defendant, the Court imposing such penalty may also require the defendant to pay the cost of the proceeding. Unless the Penalty and the costs if imposed, be paid upon conviction of the defendant, the Magistrate shall commit the defendant to the County Jail of Genesee County, the County in which said Village of Elba is situate, for the term not exceeding one day for each dollar of penalty imposed.

Subdivision 4

Whenever a penalty prescribed for the violation of any provision of any section of the foregoing ordinances is absolute, in amount and no discretion is given to the Court in imposing the same, and such Court is satisfied that the convicted person, in the commission of the offense did not act willfully, want only or with malice, such Court may impose, in its discretion, a penalty of an amount less than that prescribed for.

Article X – Section 65 (Repealing Former Ordinances)

All ordinances of the Village of Elba heretofore enacted and adopted, affecting any of the subjects herein dealt with are hereby repealed but nothing herein contained shall affect or impair any right or remedy existing at the time the foregoing ordinances take effect.

By order of the Board of Trustees of the Village of Elba, New York.

Village Clerk

Dated February 23, 1940.

LOCAL LAW #1 of 1941

An ordinance of the Village of Elba in relation to fixing Standard Time therein:

Section 1: That at 2 o'clock ante meridian of the first Sunday in June of each year, commencing on the first day in June in the year 1941, the standard time within the corporate limits of the Village of Elba shall be advanced one hour from that of the 75th meridian of longitude west of Greenwich and thereafter be continued so advanced until 2 o'clock ante meridian of the first Sunday in September of each year, such standard time as so advanced shall be retarded to the mean astronomical time of such 75th meridian west from Greenwich.

Section 2: This ordinance shall be done and become effective on the first day of June 1941, at 2 A.M.

1953 Parking Regulation on Route 98 – Westside

WHEREAS, due deliberation has been had,

NOW, THEREFORE, the Board of Trustees of the Village of Elba, Genesee County, New York, does hereby enact the following ordinance:

PROHIBITION OF PARKING IN DESIGNATED LOCATIONS

SECTION 1. The parking of vehicles is prohibited on the west side of Main Street, Route 98, between the northerly and southerly property lines of the Elba Central School a distance of approximately 530 feet.

SECTION 2. Any person violating any of the provisions of Section 1 of this ordinance shall be punishable for the first offense by a fine of not to exceed ten dollars and for the second offense by a fine of not less than ten dollars or more then twenty-five dollars or by imprisonment for not less than two nor more than fifteen days. The third or any subsequent offense within one year shall be punishable by a fine not exceeding one hundred dollars or by imprisonment not exceeding six months or by both such fine and imprisonment.

SECTION 3. This ordinance shall be effective on December 30, 1953.

1965 Village of Elba – Park Use Ordinance

At a Special Meeting of the Board of Trustees of the Village of Elba, held in the Village Hall on the 29th day of June, 1965, the following ordinance was moved by Trustee Stewart G. Hare and seconded by Trustee William L. Coughlin:

RESOLVED:

WHEREAS, it has been deemed advisable to establish hours for the closing of the Village Park and to prohibit persons, unless members of an organized group, from loitering and congregating in the Village Park during certain hours and,

WHEREAS, a notice of public hearing was duly posted and published according to law and ten (10) days notice thereof given and

WHEREAS, a public hearing was held this 29th day of June, 1965,

WHEREAS, it is deemed to the best interest of the preservation of good order, safety and the public interest of said Village; The Board of Trustees of the Village of Elba, New York, for the preservation of the peace and good order of the Village, do hereby enact or ordain as follows:

SECTION 1: OPENING AND CLOSING OF VILLAGE PARK:
The Village Park shall be closed from 9:30 o'clock P.M., lawful time, to 6:00 o'clock A.M., lawful time of each day.

SECTION 2: LOITERING OR CONGREGATING: No person shall loiter or congregate in or upon, or be in the Village Park during the hours in which it is closed, except as a member of an organized group, meeting pursuant to a permit issued by the Village Clerk or Village Board of Trustees.

SECTION 3: PENALTY: The penalty for each and every violation of any of the provisions hereof shall be and hereby is fixed at the sum of TEN DOLLARS (\$10.00).

SECTION 4: EFFECTIVE DATE: This Ordinance shall take effect immediately.

1949 Original Zoning Ordinance and 1966 Updated Zoning Ordinance are on file in the Local Law section of files in the Village Clerk's Office.

**The current updated Zoning Law and Ordinance is located in this book.
(See Table of Contents)**

**The original Sewer Ordinance from 1971 is in the Local Laws file in the Village Clerk's Office. The updated Sewer Ordinance is Local Law No. 3 of 1983 located in this book.
(See Table of Contents)**

LOCAL LAW NO. 1 of 1970 VILLAGE OF ELBA

A Local Law to Provide for the Annexation of Certain Territory to the Village of Elba.

Be It Enacted by the Board of Trustees of the Village of Elba, New York as follows:

SECTION 1. The Village of Elba shall contain, on and after the effective date of this section, in addition to the territory theretofore contained within its boundaries, the following described territory, to wit:

All that Tract or Parcel of land, situate in Lot No. 5, and 6, Section 2, Township 13, Range 2, Town of Elba, County of Genesee, State of New York bounded and described as follows:

Beginning at an iron pipe on the southerly line of land of Zambito Bros., said iron pipe marking the northwesterly corner of a parcel of land now or formerly owned by Martin Hull, being also the northeasterly corner of a parcel of land owned by the Village of Elba, and said point of beginning being North 9° 07' East as measured along the property line of the properties of Martin Hull and the Village of Elba, 808.52 feet from the intersection of said property line with the center line of Church Street, extended; and running thence from said point of beginning, North 81° 06' 30" West along the northerly line of land of the Village of Elba and passing through a point in a thirty-inch Elm tree 111.50 feet distant marking the northwesterly corner of the Village of Elba property and continuing on the same course 199.42 feet farther along land of Zambito Bros., comprising a total distance of 310.92 feet to an iron pipe thence North 7° 50' 30" East along land of Zambito Bros. 815.41 feet to an iron pipe; thence South 82° 15' East along the southerly line of land reputedly owned by one Shuknecht, 799.22 feet to a point; thence South 9° 29' 30" West along land of Zambito Bros., 814.82 feet to a point; thence North 83° 08' West along the northerly line of the aforementioned Martin Hull property, 464.96 feet to the point and place of beginning, comprising an area of 14.791 acres.

SECTION 2. The territory described in Section 1 of this act is hereby annexed to the Village of Elba pursuant to the provisions of Section 706 of the General Municipal Law.

SECTION 3. The territory described in Section 1 of this act and annexed to the Village of Elba by this act shall be included in the only election district #1 of the said Village.

SECTION 4. The annexation of the above territory described in Section 1 of this act shall become effective on the 1st day of June, 1970.

SECTION 5. This act shall take effect immediately.

LOCAL LAW #1 of 1976 Dog Control

SECTION 1: TITLE. The title of this law shall be “DOG CONTROL LAW WITHIN THE VILLAGE OF ELBA.”

SECTION 2: PURPOSE. The purpose of this local law shall be to preserve the public peace and good order in the Village of Elba and to contribute to the public welfare, preservation and protection of the person and the property of the inhabitants thereof by declaring and enforcing certain regulations and restrictions on the activities of dogs within the Village limits.

SECTION 3: DEFINITION OF TERMS.

- (a) “Dog” shall mean both male and female dogs, both licensed and unlicensed.
- (b) “Owner” shall mean any person, firm, association or corporation owning, harboring, keeping or having care, custody, charge or control of any dog within the Village of Elba, and the parents, guardian or adult person with whom any person under twenty-one (21) years of age, who owns a dog resides.
- (c) “At Large” shall mean other than on the premises of the owner or on the premises of another person, firm, association or corporation without the knowledge, consent and approval of said other person, firm, association or corporation.

SECTION 4: CONTROL OF DOGS.

- (a) No owner of any dog shall allow or permit such dog at any time to run at-large within the corporate limits of the Village of Elba unless such dog shall be effectively restrained by a chain or leash not exceeding six (6) feet in length, which chain or leash shall be held by a person having sufficient ability to control and restrain the dog by means of said chain or leash.
- (b) No owner of a dog within the Village limits shall suffer or permit any dog or dogs to create any unreasonably loud or disturbing noise of such an intensity and duration as to be detrimental to the

life, health or welfare of any individual, or so as to disturb the quiet of the neighborhood.

- (c) Except as hereinafter provided, no owner of a dog shall permit or allow any dog to urinate, defecate or commit any other nuisance or damage to public property in any park, public building, parking lot, alley or sidewalk, or on any private property of another without the consent of the owner of said property.
- (d) Dogs shall be permitted to urinate and defecate in streets, roads and highways next to the curb of said street, road and highway of a curb exists; otherwise in close proximity to the edge of said street, road or highway.
- (e) The owner of any dog which is vicious or dangerous to persons shall at all times restrain and control such dog so as to prevent injury to persons lawfully conducting themselves onto property, and so as to prevent such dogs from putting any person on fear of immediate bodily harm, provided that such a person is lawfully conducting himself at the time. The owner shall also restrain and control such dog so as to prevent it from running at large with a pack of other dogs and from chasing automobiles, moving vehicles, other animals and children.
- (f) The dog warden or any peace officer is hereby authorized to seize or direct the confinement of any dog which is reported to have attacked or injured a human being. Any such dog shall be confined by the owner of such dog for such length of time as may be necessary for the purpose of determining whether such dog is affected by rabies and if so affected, it may be destroyed. The owner of such dog shall upon demand deliver the possession of such dog to the dog warden, or any officer authorized to seize same, and shall upon demand, pay to the city the cost of confinement and treatment of the dog.

SECTION 5: ENFORCEMENT. The Village of Elba shall appoint a Dog Warden or Wardens as needed pursuant to Section 119 of the Agricultural and Markets Law of the State of New York. It shall be the duty of such Dog Warden or Wardens to enforce this law and the appropriate provisions of the Agricultural and Markets Law of the State of New York with respect to dogs in the Village of Elba. In addition, any peace officer or any designated representative of the Commissioner of Agriculture and Markets shall enforce Section 4 (a) of this law.

SECTION 6: SEIZURE AND IMPOUNDING OF “AT LARGE DOGS.”

Any dog running at large within the Village of Elba contrary to the provisions of Section 4 (a) of this law shall be seized and impounded by the Dog Warden, any peace officer or designated representative of the Commissioner of Agriculture and Markets.

SECTION 7: REDEMPTION SEIZED DOGS

- (a) Every dog seized shall be properly fed and cared for at the expense of the Village of Elba until disposition thereof is made as provided in this section and in accordance with the applicable provisions of the Agricultural and Markets Law of the State of New York.
- (b) If any dog seized bears a license tag, the Dog Warden, other peace officer or representative of the Commissioner of Agriculture and Markets so seizing said dog shall ascertain the owner of the dog and shall give immediate notice by personally serving such owner, or an adult member of his family, with a notice in writing stating that the dog has been seized and will be destroyed unless redeemed within the period herein provided.
- (c) The owner of a dog seized may redeem the dog within seven (7) days, except that the owner of a dog bearing a license tag may redeem the dog within twelve (12) days by paying to the Village Clerk the sum of \$2.00 as the cost of seizure. If not so redeemed, the owner shall forfeit all title to the dog and the dog shall be sold or destroyed by the Dog Warden, other peace officer or such representative of the Commissioner of Agriculture and Markets. In the case of sale, the purchaser must pay the purchase price to the Village Clerk and procure a proper license for the dog if unlicensed.
- (d) The Dog Warden, any other peace officer or representative of the Commissioner of Agriculture and Markets destroying a dog under the provisions of this Section shall immediately dispose of the carcass and make a written report of such destruction and disposition to the Village Clerk or Dog Warden. No Dog Warden, other peace officer or representative of the Commissioner of Agriculture and Markets failing to make such report shall be entitled to compensation for destroying such dog. The Village Clerk or Dog Warden shall make and preserve a record of such destruction and disposition.

- (e) No action shall be maintained to recover the possession or value of a dog, or for damages for injury of for compensation for destruction of a dog destroyed pursuant to the provisions of this section.

SECTION 8: PENALTIES.

- (a) Any violation of Section 4 (a), (b), or (c), of this law shall constitute a violation pursuant to the Penal Law of the State of New York. Any person, upon conviction thereof shall be subject to a fine of not more than \$250.00 or by imprisonment for a period of not more than fifteen (15) days, or both. This law may also be enforced by injunction.

SECTION 9: SEVERABILITY. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Effective date: July 1, 1976

LOCAL LAW #2 of 1976

REGULATION DRINKING OF ALCHOLIC BEVERAGES AND POSSESSING OPEN CONTAINERS THEREOF WITHIN THE VILLAGE OF ELBA

SECTION 1: STATEMENT OF FINDINGS AND PURPOSE. The Board of Trustees of the Village of Elba, New York finds that the consumption of beer and other alcoholic beverages and the possession of open containers thereof on public streets, public sidewalks, public parking areas, public parks on any public highway, or in any vehicle or in any public place except under certain conditions is detrimental to the health, safety, welfare, peace and good order of its residents and the protection and security of their property, causes unsightly and unsanitary conditions and creates a nuisance.

SECTION 2: DEFINITIONS. For the purpose of this law, alcoholic beverages shall include any commodity for which a license is required under the Alcoholic Beverage Control Law.

SECTION 3: RESTRICTIONS. No person shall drink or consume or have in his possession any open bottle or container containing liquor, beer, wine or other alcoholic beverage while such person is on any public street, public sidewalk, public parking area, public park, on any public highway, in or on any vehicle or any public place within the Village of Elba excepting those premises duly licensed for sale and consumption of alcoholic beverage on the premises.

SECTION 4: PRESUMPTION. Any open bottle or container in any vehicle shall be presumptive evidence that the same is in the possession of all the occupants thereof and in violation hereof.

SECTION 5: EXEMPTIONS. The foregoing restrictions shall not apply in the event of a fair, field day, public or other community gathering for which special permission has been granted by the Board of Trustees.

SECTION 6: PENALTIES. Each violation of this law or of any regulation, order or rule propogated hereunder shall be punishable by

a fine or not more than Two Hundred and Fifty (\$250.00) Dollars for each offense.

SECTION 7: SEVERABILITY. Should any section or provision of this local law be decided by the courts to be unconstitutional or invalid such decision shall not effect the valid of the local law as a whole or any part thereof other than the part so decided to be unconstitutional.

LOCAL LAW #3 of 1976

REGULATING THE USE OF GLASS BEVERAGE CONTAINERS IN THE VILLAGE PARK WITHIN THE VILLAGE OF ELBA

SECTION 1: STATEMENT OF FINDINGS AND PURPOSE. The Board of Trustees of the Village of Elba, New York finds that the use of glass beverage containers used by, or in the possession of individuals in the Village Park is detrimental to the health, safety, welfare, and good order of its residents and the protection and security of park property.

SECTION 2: Within all village parks no person shall have in his possession or in a basket or other container owned by him any glass beverage container regardless of the contents of such container.

SECTION 3: PRESEMPATION. Any glass beverage container in any vehicle within the Village Park shall be presumptive evidence that the same is in the possession of all the occupants thereof and in violation hereof.

SECTION 4: PENALTIES. Each violation of this law or of any regulation, order or rule prorogated hereunder shall be punishable by a fine of not more than Two Hundred and Fifty (\$250.00) Dollars for each offense.

SECTION 5: SEVERABILITY. Should any section or provision of this local law be decided the courts unconstitutional or invalid, such decision shall not effect the validity of the local law as a whole or any part thereof other than the part so decided to be unconstitutional.

LOCAL LAW # 4 of 1976

ESTABLISHING SEWER RENTS FOR THE VILLAGE OF ELBA

Section 1. Article ten of the Sewer Ordinance is hereby amended to read as follows:

ARTICLE X

Sewer Rental Rates

The sewer rental rate is based upon water consumption per unit, with a unit constituting a single family with separate facilities using the sewer system. The rental charge is based upon the following table:

<u>GALLONS</u>	<u>QUARTERLY SEWER RENT</u>
1 to 5,000.....	\$25.00
5,001 to 10,000.....	28.00
10,001 to 15,000.....	31.00
15,001 to 20,000.....	34.00
20,001 to 25,000.....	37.00
25,001 to 30,000.....	40.00
40¢ per 1,000 in excess	

Section 2. This local law shall take effect immediately.

LOCAL LAW # 1 of 1977

ENVIRONMENTAL QUALITY REVIEW ACT

A local law of the Village of Elba pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

1. (a) Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this local law shall have the same meaning as those defined in section 8-0105 of the environmental conservation law and Part 617 of Title 6 NYCRR.

(b) “County”, “city”, “town”, “village” shall mean the Village of Elba.
2. No decisions to carry out or approve an action other than an action listed in section 3 (b) hereof or section 617.12 of NYCRR as Type II action, shall be made by the Board of Trustees or by any department, board, commission, officer or employee of the Village until there has been full compliance with all requirements of this local law and Part 617 of Title 6 NYCRR, provided however, that nothing herein shall be construed as prohibiting.
 - (a) the conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do commit the Village to approve, commence or engage in such action, or
 - (b) the granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this local law and Part 617 of Title 6 NYCRR have been fulfilled.
3. (a) Consistent with Part 617 of Title NYCRR and the criteria therein, the following actions, in addition to those listed in section

617.12 of Title 6 NYCRR as Type I actions, are likely to have a significant effect on the environment:

(c) Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the following actions, in addition to those listed in section 617.12 of Title 6 NYCRR as Type II actions, are deemed not to have a significant effect on the environment:

4. For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a written statement with the Village of Elba Clerk-Treasurer setting forth the name of the applicant; the location of the real property affected, if any; a description of the nature of the proposed action; and the effect it may have on the environment. In addition, applicants may include and detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves an application, the statement shall be filed simultaneously with the application for the action. The statement provided herein shall be upon a form prescribed by resolution by the Board of Trustees and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the Board.
5. Upon receipt of a complete application and a statement, the Clerk-Treasurer shall cause a notice thereof to be posted on the signboard, if any, of the Village maintained by the Village and may also cause such notice to be published in the official newspaper of the Village, if any, or in a newspaper having general circulation within the Village, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the Clerk-Treasurer no later than a date specified in such notice.
6. (a) The Board shall render a written determination on such application within 15 days following receipt of a complete application and statement, provided however, that such period may be extended by mutual agreement of the applicant and the Board. The determination shall state whether such proposed action may or

will not have a significant effect on the environment. The Board of Trustees, may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.

- (b) The time limitations provided in this local law shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance or regulation of the Village.
7. Every application for determination under this local law shall be accompanied by a reasonable fee set forth in this section to defray the expenses incurred in rendering such determination. The fees shall be as follows:
- (a) If an environmental impact statement is not required, there will not be a charge.
 - (b) If an environmental impact statement is required, a fee will be charged not the exceed one half of one percent of the action's total cost.
8. If the Village of Elba Board of Trustees determines that the proposed action is not a exempt action, not an action listed in section 3(b) hereof or section 617.12 of Title 6 of 6 NYCRR as
- (a) Type II action and that it will not have a significant effect on the environment, the Board shall prepare, file, and circulate such determination as provided in section 617.7(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this local law. If the Board determines that the proposed action may have a significant effect on the environment, the Board shall prepare, file and circulate such determination as provided in 617.7 (b) of Title 6 NYCRR and thereafter the proposed action shall be reviewed and processed in accordance with the provisions of this local law and Part 617 of Title 6 NYCRR.
9. Following a determination that a proposed action may have a significant effect on the environment, the Board shall, in accordance with the provisions of Part 617 of Title 6 NYCRR.

- (a) in the case of an action involving an applicant, immediately notify the applicant of the determination and shall request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement or:
- (b) in the case of an action not involving an applicant, shall prepare a draft environmental impact statement.

If the applicant decides not to submit an environmental impact report, the Board shall prepare or cause to be prepared the draft environmental impact statement, or in its discretion notify the applicant that the processing of the application will cease and that no approval shall be issued. The Board may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing same if it is prepared by the applicant. Such fees shall be determined as follows:

10. Upon completion of a draft environmental impact statement prepared by or request of the Village, a Notice of Completion containing the information specified in Section 617.7(d) of Title 6 NYCRR shall be prepared, filed and circulated as provided in section 617.7(e) and (f) of Title 6 NYCRR. In addition, it shall be published in the official newspaper, if any, of the Village or if none, a newspaper having circulation within the Village, and a copy thereof shall also be posted on a signboard of the Village. Copies of the draft environmental impact statement and the Notice of Completion shall be filed, sent and made available as provided in section 617.7(e) and (f) of Title 6 NYCRR.

If the Board determines to hold a public hearing on a draft environmental impact statement, notices thereof shall be filed, circulated and sent in the same manner as the Notice of Completion and shall be published in the official newspaper of the Village, if any, or if none, in a newspaper having general circulation within the Village at least ten days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received. The hearing shall commence no longer than 15 calendar days nor more than 60 calendar days of the filing of the draft environmental impact statement, except as otherwise provided

where the Board of Trustees determines that additional time is necessary for the public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under other applicable law.

11. If, on the basis of a draft environmental impact statement or a public hearing thereon the Board determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this local law.
12. Except as otherwise provided herein, the Board shall prepare or cause to be prepared a final impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR provided further that if the action involves an application, the Board may direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs, provided however, the Village Board may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in this section to defray the expenses of the Village in preparing and/or evaluating same. The fee shall be determined as follows:
13. A notice of Completion of a final environmental impact statement shall be prepared, filed, and sent in the same manner as provided in section 10 herein and shall be sent to all persons to whom the Notice of Completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.
14. No decision to carry out or approve an action which has been the subject of a final environmental impact settlement by the Board or by any other agency shall be made until after the filing and consideration of the final environmental impact statement. Where the Board has been the lead agency for an action, it shall make a

decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

15. When a Board decides to carry out or approve an action which may have a significant effect on the environment it shall make the following findings in a written determination:

- (a) consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements and
- (b) all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

16. For public information purposes, a copy of the determination shall be filed and made available as provided in Part 617 of Title 6 NYCRR.

17. The Village shall maintain files open for public inspection of all Notices of Completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the Board.

18. Where more than one agency is involved in an action, the procedures of sections 617.4 and 617.8 of Part 617 of Title 6 NYCRR shall be followed.

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

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

* These sections are optional since they track precisely existing requirements of Part 617 of Title 6 NYCRR, regulations of statewide applicability to government bodies.

** Section 617.7(c) provides that an agency may require an applicant to submit an environmental impact report and such additional data and information from the applicant or other sources at any time it determines they are necessary to assist the agency in carrying out its responsibilities under Article 8 of the Environmental Conservation Law.

*** See Section 617.11 of Title 6 NYCRR for maximum amount of fee permitted. Of course, lower fees can be charged.

**** Newspaper publication of Notice of Completion not required by Part 617 and is therefore optional unless it also contains a hearing notice.

LOCAL LAW #1 of 1978

Publication of Abstracts of all Local Laws

A LOCAL LAW AMENDING SECTIONS 7-706 of the Village Law of the State of New York, as amended, to provide for the publication of abstracts of all local laws, and any amendments, changes, additions, modifications, corrections, alterations or deletions thereto instead of entire texts thereof.

SECTION 1: Any law to the contrary notwithstanding in any case on which the Village of Elba is or may be required or permitted pursuant to Village Law Section 7-706 of the Village Law of the State of New York to publish entire text of any local law which said Village is or may be authorized by law to adopt in the official newspaper of the said Village or in a newspaper of general circulation in the said Village so as to make such local laws effectual, it shall be sufficient to publish in such newspapers as may be required, an abstract describing the subject of such local laws and a notice stating that the whole of such local law is on file with the Village Clerk of said Village, provided that a copy of such local law is kept on file with the Village Clerk during the period of such publication in lieu of publishing the entire text of such local laws in such newspaper or newspapers.

Local Law #2 of 1978 is a zoning update local law which is on file in the Local Laws file of the Village Clerk's Office. The current Zoning Law is part of this book. (See Table of Contents)

LOCAL LAW #1 of 1979 Parking Regulations

A local law to restrict parking in the Village of Elba on the east and west sides of Main Street, Route 98, between a point 15 feet north of the northerly line of Mechanic Street to a point 250 feet northerly on Main Street during specific hours as herein provided:

1. Parking shall be limited to 2 hours between the hours of 6:00 A.M. and 9:00 P.M. on Monday through Friday.
2. Parking shall be limited to 2 hours between the hours of 6:00 A.M. and 2:00 P.M., Saturday and Sunday.
3. Parking shall be prohibited daily between the hours of 2:00 A.M. and 6:00 A.M.

Local Law #1 of 1982 Building Construction Code of the Village of Elba, NY

SECTION 1. TITLE.

This local law shall be known as the “Building Construction Code of the Village of Elba, New York.”

SECTION 2. PURPOSE AND SCOPE.

The purpose of this local law is to require that all construction of multi-family and general buildings commenced after the effective date of this local law, and subsequent alterations and additions thereto, comply with the provisions of the New York Construction Code promulgated by the State Building Council applicable to Multiple Dwellings and General Building Construction together with the Plumbing provisions which apply to multi-family and general buildings.

This local law is not intended to cover one or two family dwellings, and its provisions shall not apply to existing multi-family and general buildings or those under construction prior to the effective date of the local law, or to any alterations or additions to such multi-family and general buildings.

The Building Construction Code of the Village of Elba, New York, is further enacted to provide the said Village with a building construction code prior to March 1, 1982, in accordance with the provisions of section 373 (1) of the New York Executive Law.

SECTION 3. MULTIPLE DWELLINGS

- A. This local law hereby incorporates by reference those portions of the New York State Building Construction Code applicable to Multiple Dwellings in effect as of April 1, 1981, except for Section B 105-2, subsections B 105-2.2, and B 105-.23, applicable to existing multiple dwellings, which are excluded by reference.
- B. The provisions of subsection “3A” above are limited only to new construction of multiple dwellings commenced after the effective date of this local law, and alterations and additions thereto.

SECTION 4. GENERAL BUILDING CONSTRUCITON

- A. This local law hereby incorporates by reference those portions of the New York State Building Construction Code applicable to General Building Construction in effect as of April 1, 1981, except for section C 105-2, subsections C 105-2.1, C 105-2.2, and C 105-

2.3 applicable to existing general buildings, which are excluded by reference.

- B. The provisions of subsection “4A” above are limited only to new construction of general buildings commenced after the effective day of this local law, and alterations thereto.

SECTION 5. PLUMBING

- A. This local law hereby incorporates by reference those portions of the New York Building Construction Code applicable to Plumbing in effect as of April 1, 1981, except for section P 105-2, subsections P 105-2.1, P 105-2.2, P 105-2.3, and P 105-2.4, applicable to existing plumbing systems which are excluded by reference.
- B. The application of the provisions of subsection “5A” above is limited to new construction of multi-family and general buildings covered by sections “3” and “4” of this local law, and alterations and additions thereto.

SECTION 6. ENFORCEMENT

The provisions of this local law shall be administered and enforced by the Building Construction Code Official of the Village of Elba, New York (hereinafter referred to as building official), who shall be the same person as the Village’s Zoning Enforcement Officer.

SECTION 7. BUILDING PERMIT

- A. No building subject to the provisions of this local law shall be erected, altered or added to until the owner or his agent obtains a building permit from the building official.
- B. Application for such building permit shall be made at the Village Clerk’s office and shall be accompanied by plans and specifications detailing the work to be performed. In making such application, the owner or his agent shall certify that such proposed plans, specifications and the work to be performed shall comply with the applicable provisions of this local law.

SECTION 8. CERTIFICATION OF OCCUPANCY

- A. No building hereafter constructed, which is subject to the provisions of this local law, shall be used or occupied in part or in whole until a certificate of occupancy is obtained from the building official certifying that such construction is complete and

complies with the provisions of this local law applicable to such buildings.

- B. No building hereafter altered or added to, which subjects to the provisions of this local law, shall be used or occupied for more than thirty (30) days after completion of such alteration or addition unless a certificate of occupancy is obtained from the building official certifying that such alteration or addition complies with the provisions of this local law applicable to such buildings.
- C. The owner or his agent shall make application for the certificate of occupancy at the Village Clerk's Office. Accompanying such application shall be an affidavit of a registered architect, or licensed professional engineer, or some other recognized and authoritative inspection service, bureau or agency acceptable to the building official, certifying that the work has been carried out in accordance with the plans and specifications submitted with the application for the building permit and that the work complies with the applicable provisions of the Building Construction Code of the Village of Elba, New York.
- D. Before issuing a certificate of occupancy, the building official shall have the right to enter the premises in question to examine the work performed, and he may also conduct such inspections as he deems appropriate for the discharge of his duties while the work for which a building permit has been issued is being carried out.
Such right of entry shall be exercised by the building official during reasonable working hours and upon the showing of proper credentials.
The building official shall keep a record of all such examinations and inspections together with a record of findings of violations.
- E. When the building official determines that the proposed work has been completed in accordance with the applicable provisions of this local law, he shall issue a certificate of occupancy upon a form provided by him. If it is found that the proposed work has not been properly completed, the building official shall not issue a certificate of occupancy and shall order that the work be completed in accordance with the applicable provisions of this local law.
- F. Notwithstanding any other provisions of this local law to the contrary, the building official may, in his discretion, make the determination to issue a certificate of occupancy solely upon the

affidavit submitted by the owner or his agent under subsection “8C” above.

SECTION 9. RECORDS AND REPORTS

- A. The building official shall keep records of all applications received, permits and certifications issued, inspections and examinations performed and findings of violations.
- B. All such records shall be public records open to public inspection during normal business hours at the Village Clerk’s Office.

SECTION 10. PENALTIES FOR VIOLATION

- A. Violations of this local law shall be deemed an offense punishable by a fine not exceeding \$250.00 or by imprisonment for a period not exceeding 15 days, or both such fine and imprisonment. Each week such violation continues shall be considered a separate offense.
- B. The provisions of subsection “10A” above shall in no way restrict the Board of Trustees from seeking any other remedy it has in law or equity to restrain, correct or abate a violation of this local law. Such remedies shall be in addition to the penalties provided for in said subsection “10A”.

SECTION 11. SEVERABILITY

If any term, part, provisions, section, subsection or paragraph of this local law shall be held unconstitutional, invalid or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subsections or paragraphs thereof.

SECTION 12. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State in accordance with section 27 of the New York Municipal Home Rule Law.

Local Law #1 of 1983 – Flood Damage Prevention

The people of New York State have in the New York State Constitution, Article 9, Section 2, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore,

1.2 STATEMENT OF PURPOSE

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in areas of special flood hazard;
- (6) 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;
- (7) To insure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 Definitions

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

“Area of special flood hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year,

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Development” means any man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

“Flood or Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

“Flood Hazard Boundary Map” (FHBM) means the official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

“Mobile Home” means a structure that is transportable in one or more sections, built on an permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

“Structure” means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally above ground.

“Substantial Improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not, however, include either;

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

- (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 3.0 General Provisions

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

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

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), No. HO2, dated January 24, 1975 and any revisions thereto, are adopted by reference and declared to be a part of this local law. The FHBM is on file at the Village Office, South Main Street, Elba, New York.

3.3 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes based on all available knowledge of past floods. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside the delineated flood hazard areas or that land uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Village of Elba, New York or any officer or employee thereof, for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

3.4 INTERPRETATION, CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion

of the public health, morals, safety, or the general welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.5 VALIDITY

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

3.6 PENALTIES FOR NON-COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this local law and other applicable regulations. Violations of the provisions of this local law by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than two hundred fifty dollars (\$250.00) or imprisoned for not more than fifteen (15) days, or both so fined and imprisoned for each offense, and in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Village of Elba, New York from taking such other lawful action as necessary to prevent or remedy any violation.

SECTION 4.0 Administration

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit shall be made to the Zoning Officer in accordance with Zoning Local Law, Article III, Section 4, and application should include, but not be limited to: plans in duplicate drawn to scale 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.

4.2 DESIGNATION OF THE ZONING OFFICER

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

4.3 DUTIES AND RESPONSIBILITIES OF THE ZONING OFFICER

Duties of the Zoning Officer shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- (1) Review all Development Permits to determine that the permit requirements of this local law have been satisfied.
- (2) Review all Development Permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all Development Permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purpose of this local law, “adversely affects” means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse affect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If it is determined that there is an adverse affect, then flood damage mitigation measures shall be made a condition of the permit.

4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, “BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD,” the Zoning Officer shall obtain, review, and reasonably utilize any flood base elevation data available from a Federal, State or other

source, in order to administer Section 5.2, “SPECIFIC STANDARDS.”

4.3-3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structure, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structure:
 - (i) obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed,
 - (ii) maintain the floodproofing certification required in Section 5.2-2(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this local law.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 Interpretation of FHMB Boundaries

Make interpretations whose needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

SECTION 5.0

Provisions For Flood Hazard Reduction

5.1 GENERAL STANDARDS

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

5.1-1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing an anchoring system designed to withstand a wind force of 90 miles per hour.

5.1-2 Construction Material and Methods

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

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them of containment from them during flooding.

5.1-4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contains at least 50 lots or 5 acres (whichever is less).

5.1-5 Encroachments

Any proposed development shall be analyzed to determine effects on the flood carrying capacity of the area of special flood hazard as set forth in Section 4.3-1(3), Permit Review.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

5.2-2 Nonresidential Construction

New construction or substantial improvement of any commercial, industrial, or other nonresidential structure shall have either the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 4.3-3(2).

SECTION 6.0 Variance Procedure

6.1 APPEAL BOARD

6.1-1 The Zoning Board of Appeals as established by the Village of Elba, New York shall hear and decide appeals and requests for variances from the requirements of this local law.

6.1-2 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 Zoning Officer in the enforcement or administration of this local law.

6.1-3 Those aggrieved by the decision of the Zoning Board of Appeals, or any taxpayer, may appeal such decision to the county court as provided in the New York State Constitution, Article 6, Section II.

6.1-4 In passing upon such applications the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law, and:

- (1) the danger that materials may be swept onto other lands to the injury of others;
- (2) the danger of 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 the existing and anticipated development;
- (8) the relationship of the proposed use to the comprehensive plan and flood plain management program of the area
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (11) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

6.1-5 Upon consideration of the factors of Section 6.1-4 and the purposes of this local law, the Zoning Board of Appeals may

attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

6.1-6 The Zoning Board of Appeals shall maintain the records of all appeal actions including technical information and report any variances to the Federal Insurance Administration upon request.

6.2 CONDITIONS FOR VARIANCE

6.2-1 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

6.2-2 Variances shall only be issued upon:

- (1) a showing of good and sufficient causes;
- (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) a determination that 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 as identified in Section 6.1-4, or conflict with existing local laws or ordinances.

7.1 EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law.

**Local Law #2 of 1983 Declining Enforcement of the New York State Uniform Fire Prevention and Building Code is on file in the Village Clerk's Office of the Village of Elba. This Local Law is updated by Local Law #1 of 1986 which is in this book.
(See Table of Contents)**

Local Law #3 of 1983 A LOCAL LAW REGULATING THE USE OF SEWERS

A local law regulating the use of public and private sewers and drains, private sewage disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system (s): and providing penalties for violations thereof:

Be it enacted by the VILLAGE BOARD OF TRUSTEES of the Village of Elba as follows:

ARTICLE 1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this local law shall be as follows:

SECTION 101. “BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter.

SECTION 102. “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

SECTION 103. “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal.

SECTION 104. “Combatable Pollutant” shall mean Biochemical Oxygen Demand (BOD), total suspended solids (TSS), ph, fecal coliform bacteria, chlorine demand phosphorus and phosphorus compounds, fats, oils, and greases of animal origin, if the wastewater treatment system was designed to treat such pollutants and does remove such pollutants to a substantial degree, except as prohibited herein.

SECTION 105. "D.E.C." shall mean New York State Department of Environmental Conservation.

SECTION 106. "E.P.A." shall mean United States Environmental Protection Agency.

SECTION 107. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage and sale of produce.

SECTION 108. "Incompatible Pollutant" shall mean any pollutant, which the plant is not designed to remove.

SECTION 109. "Industrial User" shall mean:

- a) A nongovernmental, nonresidential user which discharges more than the equivalent of 25,000 gallons per day of sanitary waste and which is identified in the Standard Industrial Classification Manual under divisions A, B,
- b) a user which discharges any wastewater containing toxic pollutants or which has any other adverse effect on the treatment works; and
- c) a commercial user of an individual system.

SECTION 110. "Industrial Wastes" shall mean liquid wastes from industrial manufacturing processes, trade, or business as distinct from domestic sewage.

SECTION 111. "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

SECTION 112. "Person" shall mean any individual, firm, company, association, society, corporation, or group.

SECTION 113. "PH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

SECTION 114. "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

SECTION 115. “Public Sewer” shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

SECTION 116. “Sanitary Sewer” shall mean a sewer, which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

SECTION 117. “Sewage” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

SECTION 118. “Sewage Treatment Plant” shall mean any arrangement of devices and structures used for treating sewage.

SECTION 119. “Sewage Works” shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

SECTION 120. “Sewer” shall mean a pipe of conduit for carrying sewage.

SECTION 121. “Shall” is mandatory; “May” is permissive.

SECTION 122. “Slug” shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quality of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

SECTION 123. “Storm Drain” (sometimes termed “storm sewer”) shall mean a sewer, which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SECTION 124. “Superintendent” shall mean the (Treatment Plant Operator of the Village of Elba) or his authorized deputy, agent, or representative.

SECTION 125. “Suspended Solids” shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering as prescribed in “Standards

Methods for the Examination of Water and Wastewater” and referred to as nonfilterable residue.

SECTION 126. “User” shall mean:

- a) An individual dwelling, occupied or unoccupied;
- b) in the case of multi-family housing, the rental or housing units served from one water meter, occupied or unoccupied
- c) in the case of public educational institutions, the total number of enrolled students, teachers, and administrators divided by 10, to be determined each September 30th by the Village Clerk.

SECTION 127. “Watercourse” shall mean a channel in which a flow of water occurs, either continuously or intermittently.

SECTION 128. Terms not otherwise defined herein shall be as adopted in the latest edition of Glossary-Water and Wastewater Control Engineering, published by the American Public Health Association and the Water Pollution Control Federation.

ARTICLE II

Use of Public Sewers Required

SECTION 201. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Village of Elba, or in any area under the jurisdiction of said Village, any human or animal excrement, garbage, or other polluted or objectionable waste.

SECTION 202. It shall be unlawful to discharge to any natural outlet within the Village of Elba, or in any area under the jurisdiction of said Village any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

SECTION 203. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other

facility intended or used for the disposal of sewage within the Village or in any are under the jurisdiction of said Village.

SECTION 204. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Village of Elba, is hereby required at their expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is accessible and available.

ARTICLE III

Private Sewage Disposal

SECTION 301. Where a public sanitary sewer is not available under the provisions of Article II, Section 204, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

SECTION 302. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Genesee County Health Department Superintendent. The application for such permit shall be made on a form furnished by the Village which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Genesee County Health Department Superintendent.

SECTION 303. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Genesee County Health Department. The department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Genesee County Health Department when the work is ready for final inspection, and before any underground portions are covered.

SECTION 304. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the

Genesee County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

SECTION 305. At such time as a public sewer becomes available to a property served by a private disposal system, a direct connection shall be made to the public sewer within one hundred twenty (120) days. The private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel.

SECTION 306. The property owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Village of Elba.

SECTION 307. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Department of Public Health, State of New York and/or Genesee County Health Department.

ARTICLE IV

Building Sewers and Connections

SECTION 401. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

SECTION 402. There shall be two (2) classes of building sewer permits:

- a) for residential and commercial service, and
- b) for service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the Village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of (\$25.00) dollars for a residential or commercial building sewer permit and (\$50.00) dollars for an industrial building sewer permit shall be paid to the Village at the time the application is filed.

SECTION 403. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village of Elba from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

SECTION 404. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through and adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

SECTION 405. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

SECTION 406. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village of Elba. In the absence of code provisions or in amplification thereof, the materials and procedures shall be subject to the approval of the Superintendent, but in no event shall the internal diameter of the building sewer be less than four (4) inches. The slope of such four inch pipe shall not be less than one-quarter (1/4) inch per foot except where unusual circumstances establish a proven hardship, in the opinion of the Superintendent. All building sewers shall be laid to uniform grade and in straight alignment insofar as possible and changes in direction shall be made only with properly curved pipe fittings. The depth of the sewer shall be sufficient to afford protection from frost. Building sewers shall be extra heavy cast iron soil pipe, cement asbestos pipe (class 2400) or PVC schedule 80. All such connections shall be watertight.

SECTION 407. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

SECTION 408. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

SECTION 409. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village of Elba. In absence of code provisions or in amplification thereof, cast iron soil pipe shall be used for the building drain through the wall of any building and at least five (5) feet from the building to the connection to the building sewer.

SECTION 410. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under supervision of the Superintendent or his representative.

- b) (cont'd)
of the wastewater treatment systems, or that will pass through the system without being treated to the required degree.
- c) Any waste which will cause corrosion or deterioration of the wastewater treatment system. All wastes discharged to the public sewer system must have a pH value in the range of 5.5 to 9.5 standard units. Prohibited materials, include, but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.
- d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater treatment system such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and bones; paper dishes, cups, milk containers, etc.; either whole or ground by garbage grinders, spent lime, stone or marble dust, metal, glass, grass clippings, spent grains, spent hops, wastepaper, asphalt residues, residues from refining or processing of fuel or lubricating oil and similar substances.

This prohibition includes any wastewater which by interaction with other waters or wastes in the public wastewater treatment systems forms suspended solids which obstruct the flow in the sewer or create a condition that interferes with the proper operation of the wastewater treatment system.

- e) Any wastewater containing fats, wax, grease or oils whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C).
- f) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65°C).
- g) Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half (1/2) inch in any dimension. The installation and operation of grinders, equipped with three-quarters (3/4) horsepower or greater shall be subject to approval by the Superintendent.
- h) Noxious or malodorous solids, liquids or gases, which either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.
- i) Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which all or may cause damage or hazards to the wastewater treatment system or personnel operating the system.
- j) Quantities of wastewater flow, concentrations, or both, which constitute a slug as defined herein.
- k) Wastes with color such as but not limited to dye water or vegetable tanning solution that is not removable by the treatment process.

SECTION 504. Limitation on Wastewater Discharges shall be as follows:

- a) No person shall discharge, convey, permit, or allow to be discharged or conveyed, to a public sanitary sewer any wastewater containing incompatible pollutants of such character of quantity that will:
 - 1) Violate pretreatment standards
 - 2) Cause the wastewater treatment works to violate its SPDES permit requirements.
- b) The following are the maximum concentrations of pollutants allowable in wastewater discharges to the wastewater treatment system. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of this ordinance

<u>Parameter</u>	<u>Concentration Limit (mg/l)</u>
Boron	1.0
Cadmium	0.4
Hex. Chromium	0.2
Total Chromium	4.0
Copper	0.8
Lead	0.1
Mercury	0.1
Nickel	2.0
Zinc	1.2
Arsenic	50.0
Available Chlorine	0.4
Cyanide-free	0.4
Cyanide-complex	1.6
Selenium	0.2
Sulfide	3.0
Barium	4.0
Manganese	4.0
Gold	0.1

Silver	0.2
Fluorides – To Fresh Water	3.0
To Saline Water	18.0
Phenol	4.0

c) In cases where the effluent characteristics of an industrial or commercial discharge exceeds the permissible limits for the compatible pollutants listed below, the acceptability so such waste will be left to the engineering judgment of the Village, or any other Federal, State or Local Agencies having jurisdiction. If in the judgment of the Village and responsible authorities, the admission of such waste will not overload the wastewater treatment system, permission to discharge said compatible pollutants may be granted. However, the Village will require the payment of an additional operation and maintenance and a user and assessment charge for the additional capital construction costs to cover the cost of treating the excessive strength wastewater. This charge is in addition to any sewer charges for the non-excessive waste discharge. The basis for these additional charges is in Article XII. Excessive strength wastewater is defined as:

- 1) Concentrations of suspended solids which are defined as concentration exceeding 250 mg/l (such as but not limited to, fullers earth, lime slurries, and lime residues) or dissolved solids (such as but not limited to, sodium chloride) in concentrations greater than 500 mg/l.
- 2) Concentrations of B.O.D. which are defined as concentrations exceeding 250mg/l.
- 3) Chloride demand requirements exceeding 9.0 mg/l.
- 4) Concentrations of free ammonia which are defined as concentrations exceeding 25 mg/l.

Any user allowed to discharge excess compatible pollutants will be classified as a significant industrial user according to Article 1 and subject to all the applicable conditions included in this ordinance.

SECTION 505. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 503 and 504 of this Article, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- a) Reject the wastes,
- b) require pretreatment to an acceptable condition for discharge to the public sewers,
- c) require control over the quantities and rates of discharge, and/or
- d) require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Article XII of this article.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

SECTION 506. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

SECTION 507. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

SECTION 508. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

SECTION 509. Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent of Public Works for review and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify his facility as necessary to meet the requirements of this ordinance.

SECTION 510. If, for any reason, a facility does not comply with or will be unable to comply with the prohibition or limitations in this ordinance, the facility is responsible for such discharge shall immediately notify the Village Clerk so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the Village Clerk detailing the date, time and cause of accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges, shall be filed by the responsible industrial facility within five (5) days of the occurrence of the non-complying discharge.

SECTION 511. The Village of Elba hereby reserves the right to inspect any building sewer and building drain and appurtenances or private sewers that discharge wastewater directly or indirectly to the Village's wastewater treatment system. If it is found that such sewers or drains are used or maintained in such a way as to cause discharge of any: wastewater that violates Article V of this ordinance,

groundwater, or debris which exceeds the design criteria of said sewer, or any other substance deemed objectionable by the Superintendent of Public Works, the Village Clerk will give notice of unsatisfactory condition to the discharge and shall direct that the condition be corrected. In cases of continued non-compliance with the Village's directive, the Village may disconnect the said sewer from the Village's person or persons responsible for requiring any of the control actions specified in this article will be responsible for any and all costs incurred by the Village in carrying out the required control activities.

SECTION 512. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct.

ARTICLE VI

Industrial Wastewater Monitoring and Reporting

SECTION 601. Every significant industrial user shall file a periodic Discharge Report at such intervals as are designated by the Village Clerk. The Village may require any other industrial users discharging or proposing to discharge into the treatment system to file such periodic reports.

SECTION 602. The discharge monitoring report may include, but shall not be limited to:

- a) nature of process
- b) flow volume (daily, weekly or annual)
- c) time and duration of discharge
- d) average and peak wastewater discharge rates, including daily, monthly and seasonal variations, if any
- e) mass emission rates
- f) site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location and elevation

- g) description of activities, facilities, and plant process on the premises including all materials which are or could be discharged
- h) each product produced by type, amount, and rate of production
- i) number and type of employees and hours of work
- j) wastewater constituents and characteristics
- k) other information which relates to the generation of waste

Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they may not normally be discharged. The Village will evaluate the data furnished by the user and may require additional information.

SECTION 603. All significant industrial users who discharge or propose to discharge wastewater to the wastewater treatment system shall maintain such records of production and related factors, effluent (discharge) flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this ordinance and any applicable state or federal pretreatment standards or requirements.

SECTION 604. Such records shall be made available upon request by the Village Clerk. All such records relating to compliance with pretreatment standards shall be made available to officials of DEC or EPA. A summary of such data indicating the industrial user's compliance with this ordinance shall be prepared at intervals as requested by the Village Clerk and submitted to the Village Clerk.

SECTION 605. The owner or operator of any premises or facility discharging industrial wastes into the system shall, when required by the Village, install at his own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling, and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times. The sampling, analysis and flow measurement procedures, equipment and results shall be subject at any time to inspection by the Village.

SECTION 606. The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building. When such a location would be impractical or cause undue hardship on the user, the Superintendent of Public Works may allow such facility to be constructed in the public street or sidewalk area, with the approval of the public agency having jurisdiction over such street or sidewalk, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.

SECTION 607. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the Village requirements and all applicable standards and specifications as required in this ordinance.

SECTION 608. Compliance determinations with respect to Article V may be made on the basis of either instantaneous grab samples or composite samples of wastewater as determined necessary by the Superintendent of Public Works. Compository samples may be taken over a 24-hour period, or over a longer or shorter time span, as required to meet the needs of specific circumstances.

SECTION 609. Laboratory analysis of industrial wastewater samples shall be performed in accordance with the current edition of "Standard Methods", "Methods for Chemical Analysis of Water and Waste" published by the U.S. Environmental Protection Agency or the "Annual Book of Standards, Part 23, Water, Atmospheric Analysis" published by the American Society for Testing and Materials. Analysis of these pollutants not covered by these publications shall be performed in accordance with procedures established by the New York State Department of Environmental Conservation.

SECTION 610. Sampling of industrial wastewater for the purpose of compliance determination with respect to Article V, will be done at such intervals as the Superintendent requires.

SECTION 611. All information and data on a user obtained from reports, questionnaires and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Village Clerk that the release of

such information would divulge information processes or methods which would be detrimental to the user's competitive position. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for in making studies; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Village as confidential shall not be transmitted to any governmental agency or to the general public by the Village until and unless prior and adequate notification is given to the user.

SECTION 612. Special agreements and arrangements between the Village and any persons or agencies may be established when in the opinion of the Village Board unusual or extraordinary circumstances compel special terms and conditions.

ARTICLE VII

Powers and Authority of Inspectors

SECTION 701. The Superintendent and other duly authorized employees of the Village and representatives of EPA and DEC bearing proper credentials and identification shall be permitted to enter all properties of industrial users for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. These representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

SECTION 702. The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair,

and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE VIII

Sanitary Sewer Extensions

SECTION 801. Application to construct extensions or additions to any sewer district sanitary sewers shall be made to the Village Clerk, and shall be approved by the Village before submission to the Genesee County Health Department. Two (2) sets of detailed construction plans showing the proposed construction shall be submitted to the Village for preliminary review. Following preliminary review and approval, the applicant will submit sewer three (3) sets of applications to construct a sanitary sewer along with eight (8) sets of detailed construction plans and specifications showing the proposed construction. Five (5) sets of the applications and approved plans and specifications will be forwarded with a letter of approval to the Genesee County Health Department for acceptance. Evidence of Health Department approval as well as other required local, State and/or Federal approvals is required prior to final acceptance.

SECTION 802. Inspection during construction will be made by the Superintendent of Public Works or his representative. No sanitary sewers are to be covered until such inspection has been made. The Village Clerk will send a letter to the applicant certifying that inspection, testing and acceptance have been completed. Inspection and acceptance by the Village does not relieve the owner of the responsibility to keep the sewer operating in accordance with these regulations. A complete set of as-built construction plans showing the final constructions, y or tee locations and other information shall be submitted prior to final acceptance. The cost of the Village inspection and review will be the responsibility of the extension applicant.

SECTION 803. Extensions or additions to the sanitary sewer system shall be designed and constructed in accordance with the latest revisions of: the New York State Standards for Waste Treatment

Works”, the Water Pollution Control Federation Manual of Practice No. 9 “Design and Construction of Sanitary and Storm Sewers”, Genesee County Health Department Regulations, the American Society of Testing Material Specifications for Sanitary Sewer Construction.

SECTION 804. No connection of sanitary sewer extensions shall be permitted to the public sanitary sewer until completion of procedures outlined in this Section.

SECTION 805. Existing private or public sanitary sewers may be connected to the public sanitary sewer only when they are found upon examination and test by the Superintendent of Public Works to meet these regulations. Any testing costs will be the responsibility of the sewer extension applicant.

SECTION 806. A private developer, subdivider or municipality installing a sanitary sewer extension to the public sanitary sewer shall post a full maintenance bond, to be approved by the Village Clerk for 100% of the value of the sewer construction cost, with the Village, guaranteeing the sewer for a period of two (2) years from the time of acceptance by the Village. During this period, any defects in the sewer or appurtenances must be corrected at the applicant’s expense.

SECTION 807. Whenever pipe laying is not in progress the end of the pipe shall be securely closed with a tight fitting cover or plug. Any earth or other material entering the main sewer due to operations of the plumber, contractor or building owner shall be removed at his expense. All trenches must be protected by sufficient sheeting and bracing.

SECTION 808. Within highway right-of-way, backfilling and restoration of surface shall be in accordance with requirements of the highway agency having supervision.

ARTICLE IX

Penalties

SECTION 901. Any person found to be violating any provision of this ordinance except Article V, Section 512 shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

SECTION 902. Any person who shall continue any violation beyond the time limit provided for in Article VIII, Section 801, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding (\$100.00) dollars for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

SECTION 903. Any person violating any of the provisions of this ordinance shall become liable to the Village of Elba for any expense, loss, or damage occasioned the Village by reason of such violation.

ARTICLE X

Validity

SECTION 1001. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 1002. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

ARTICLE XI

Ordinance in Force

SECTION 1101. This ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

ARTICLE XII

Users Charges

SECTION 1201. There is hereby established in the Village of Elba a system of sewer charges which shall be used for payment of the cost of management, maintenance, operation, repair of and amortization of the capital construction costs of the wastewater treatment system.

SECTION 1202. The sewer charge shall be comprised of three components: Operation and Maintenance, Industrial Cost Recovery and User Charge/Debt Services.

- a) Operation and Maintenance Charges – Operation and maintenance charges shall be levied on all users of the wastewater treatment system. The operation and maintenance will result in the distribution of the cost of operation and maintenance including equipment replacement of the wastewater treatment system to do each user in proportion to such user's contribution to the total wastewater loading of the treatment works as required by the ordinance. Each user's contribution shall be based on water use unless the discharge contains excessive compatible pollutants in which case an industrial surcharge shall be levied to cover the additional operation and maintenance costs maintenance costs necessary to transport and treat these wastes in accordance with:
 - 1) A minimum charge shall be established by the Village Board which will be based on a minimum billable flow.
 - 2) Charges shall be computed based upon the previous quarter water consumption data. For users with no usage record, the user charge and minimum operation and maintenance charge shall be levied until a usage record is established, at which time the O&M charge shall be based upon usage.

3) Industrial operation and maintenance surcharge shall be levied on all industrial users discharging excessive compatible pollutants. This charge shall represent the proportionate share of the operation and maintenance costs based on wastewater flow and mass emission rate as required by the ordinance.

(a) The industrial operation and maintenance surcharge shall be determined as follows:

$$S_x = 8.345 \times V \times (\text{Conc}_x - \text{Conc}_{\text{max}}) \times T \times A_x$$

S_x = Operation and Maintenance surcharge for compatible pollutant x, in dollars for the billing period

V = Volume of the effluent in million gallons per day, MGD

Conc_x = Concentration of compatible pollutant x, based on daily averages, in mg/l.

Conc_{Max} = Maximum allowable concentration of compatible pollutant x, as listed in Article V, Section 504 in mg/l.

T = Number of day in billing period.

A_x = Additional operation and maintenance cost for compatible pollutant x, expressed in dollars per pound.

(b) The rate of surcharge for each of the excessive compatible constituents listed below shall be the Village of Elba rate of surcharge for each constituent in effect at the time, plus the Village administrative cost.

- (1) Biochemical-oxygen-demand
 - (2) Suspended Solids
 - (3) Chlorine Demand
 - (4) Free Ammonia Nitrogen
- b) User Charges – User charges shall be levied on all users of the sanitary sewer system. The user charges shall represent not more than the share of the Village’s capital costs as determined by the Village Board. Such charge shall be payable even if the user is not connected to the public sanitary sewer.

SECTION 1203. Levy and collection of sewer charges shall be as follows:

- a) The amount due each quarter for operation and maintenance; user charges and; industrial operation and maintenance surcharge may be stated on the regular Sewer Bill.
- b) All sewer charges shall be due and payable within thirty (30) days.
- c) Responsibility for payment of sewer charges is with the property owner and/or operator of an industrial or commercial facility.
- d) A ten percent (10%) penalty is added for non-payment by the end of the month in which the bill is rendered.

Section 1204. Except as herein provided, the sewer use shall be the total metered water use.

- a) In the event the owner of a lot, parcel of land, building or other premises discharging wastewater into a sanitary sewer, either directly or indirectly, uses metered Village water in excess of 20,000 gallons per quarter year and

claims a significant portion of the metered water does not return to the sanitary sewer, such owners shall file a written statement to that effect with the Village Clerk. Upon receipt of such statement, the Village Board of Trustees may authorize the installation, at the owner's expense, of a separate meter or meters to measure the metered water returning to the sanitary sewer. If the installation of such a meter or meters is not practical, the Village Board shall determine a method of measuring the wastewater entering the sewer. In such cases, the sewer charges may be used upon this determination. The significant undischarged portion of the metered water use must be in excess of that quantity of water use that a typical water user does not discharge into the sewer. The agreed upon water use reduction will only reflect that amount of undischarged water use that is in excess of what is typical.

- b) In the event the owner of a lot, parcel of land, building or other premises discharging wastewater to the sanitary sewer, either directly or indirectly, uses metered Village water and water other than metered Village water, or uses water other than metered Village water exclusively, the Village Board of Trustees shall determine a method of measuring or estimating the wastewater discharge entering the sanitary sewer. In such cases, the sewer surcharges shall be based on this determination.

SECTION 1205. Use of the Village Sewer System by users outside the Village limits shall be as follows:

- a) Connections to the Village Sewer System by users outside the Village shall only be by users in a legally constituted district. In exceptional cases individual users may be permitted by the Village Board to connect to the Sewer System.
- b) All connections from outside the Village, whether district or individual, shall be permitted only after a contract is entered into by the Village and prospective user or users.

This contract shall set forth all conditions for entry into the Sewer System including sewer charges.

- c) In those cases where a parcel of property is partially outside the Village, service shall be provide, and charges accessed, in the same manner as any Village user, provided that at least thirty percent (30%) of the total assessment is located within the Village.

SECTION 1206. Unless otherwise stated herein all charges shall be reviewed yearly by the Village Board.

SECTION 1207. The sewer rental is based upon water consumption per user, as defined herein; rates/charges as follows:

- a) Operation and Maintenance Charges

<u>Gallons</u>	<u>Quarterly Charge</u>
0 – 5,000	\$12.00
Over 5,000	\$ 1.75/1,000 gal.

Industrial operation and maintenance surcharge for excessive discharge - \$1.00 per pound for each pollutant.

- b) User Charge/Debt Service

\$12.25 per user unit per quarter.

LOCAL LAW #1 1984 Establishing a Centennial Fund

The purpose of this local law is to establish an appropriation fund for the Village of Elba budget, wherein, the Village of Elba will expend \$500.00 for Centennial Celebration expenses.

Effective Date: This local law shall take effect immediately.

LOCAL LAW #2 of 1984 Providing that the Village of Elba, New York, shall grant no exemptions established by section 458-a of the real property tax law of the State of New York

Section 1. The purpose of this law is to provide that no exemption from real property taxes shall be granted pursuant to section 458-a of the Real property Tax Law of the State of New York.

Section 2. Pursuant to the provisions of subdivision 4 of section 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to section 458-a of the Real Property Tax Law for purposes of real property taxes levied for the Village of Elba.

Section 3. This local law shall take effect immediately upon its filing with the Secretary of State.

**Local Law # 1 of 1985 is an amendment to Local Law # 2 of 1978.
Current zoning law is a part of this book. (See Table of Contents)**

Local Law No. 2 of 1985 – A local law in relation to the maximum exemption allowable for the alternative veterans exemption from real property taxation

SECTION 1. The purpose of this law is to reduce the maximum veterans exemption allowable pursuant to section 458-a of the Real Property Tax Law of the State of New York and to repeal Local Law No. 2 of 1984 of the Village of Elba, New York granting no exemptions pursuant to section 458-a of the Real Property Law of the State of New York.

SECTION 2. Pursuant to the provisions of subdivision 2(d) of section 458-a of the Real Property Tax Law of the State of New York, the maximum veterans exemption from real property taxes allowable pursuant to section 458-a of the Real Property Tax Law is established as follows:

- (a) Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of six thousand dollars or the product of six thousand dollars multiplied by the latest state equalization rate of the Village of Elba.
- (b) In addition to the exemption provided by paragraph (a) of this subdivision, where the veteran served in a combat theatre of combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of four thousand dollars or the product of four thousand dollars multiplied by the latest state equalization rate of the Village of Elba.
- (c) In addition to the exemptions provided by paragraphs (a) and (b) of this subdivision, where the veteran received a compensation rating from the United States veteran's administration because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by fifty percent of the veteran's disability rating; provided, however, that such exemption shall not exceed the lesser of twenty thousand dollars

or the product of twenty thousand dollars multiplied by the latest state equalization rate for the Village of Elba.

SECTION 3. This local law shall take effect immediately upon its filing with the Secretary of State.

Local Law #3 of 1985 A Local Law to repeal Local Law #2 of 1983 declining enforcement of the New York State Uniform Fire Prevention and Building Code and to allow for the enforcement by the Village of Elba the New York State Uniform Fire Prevention and Building Code. Local Law #2 of 1983 is a part of this book. (See Table of Contents)

LOCAL LAW #1 OF 1986

A local law for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code.

SECTION 1. ENFORCEMENT OFFICER

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

SECTION 2. BUILDING PERMITS

- A. No person, firm, corporation, association or other organization shall commence the erection, construction, enlargement, alteration, improvement, removal or demolition of any building or structure, except an agricultural building or structure, nor install heating equipment without having applied for and obtained a permit from the Code Enforcement Officer. However, no permit shall be required for the performance of necessary repairs which are not of a structural nature and which are done in conformance with the Uniform Code.
- B. Applications for a building permit may be obtained from the office of the Village Clerk. A completed application shall be delivered to the Code Enforcement Officer, and must include:
 - (a) The signature of the applicant or authorized agent;
 - (b) A description of the site on which the proposed work is to be done, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, showing the distance from lot lines;
 - (c) A statement of the use or occupancy of all parts of the land and of the proposed building or structure;
 - (d) A brief description of the proposed work;
 - (e) The estimated cost of the proposed work with appropriate substantiation;
 - (f) The full name and address of the owner and the applicant and, if either be a corporation, the names and addresses of responsible officers;

- (g) Three sets of plans and specifications for the proposed work;
- (h) The fee as specified;
- (i) A statement granting the applicants permission for the Code Enforcement Officer to enter the property and structure there on as frequently as he deems necessary to inspect the same for compliance with the Uniform Code;

The applicant may request that the requirement of plans and specifications be waived where the work to be done involves minor alterations or are otherwise unnecessary.

- C. The applicant shall notify the Code Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be determined to be completed and when the proposed work is determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained herein.
- D. A building permit issued pursuant to this Local Law shall be prominently displayed on the property or premises to which it pertains.
- E. A building permit issued pursuant to this Local Law may be suspended or evoked if it is determined that the work to which is pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been a misrepresentation or falsification of a material fact in connection with the application for the permit.
- F. A building permit issued pursuant to this Local Law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods provided that (i) the permit has not been revoked or suspended at the time the application for renewal is made, (ii) the relevant information in the application is up to date, and (iii) the renewal fee is paid.

SECTION 3. CERTIFICATE OF OCCUPANCY

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

SECTION 4. INSPECTION

- A. Work for which a building permit has been issued under this Local Law shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.
- B. Existing buildings not subject to inspection under subdivision (A) of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: All areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings –

every six (6) months; all buildings or structures open to the general public – every twelve (12) months; all other buildings – every eighteen (18) months. Notwithstanding any requirement of this subdivision to the contrary, no regular, periodic inspection of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

SECTION 5. INSPECTORS

- A. The inspections required by Section 4 of this Local Law may be performed by the Code Enforcement Officer. The Code Enforcement Officer is authorized to order, in writing, the correction of any condition in violation of the Uniform Code found in, on, or about any building. Such orders shall be served in person upon a responsible party or authorized agent or by certified mail sent to address of a responsible party set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. A responsible party who fails to correct the condition within the specified time shall be subject to a penalty as provided by law.
- B. A person subject to inspection under Section 4 may be required by the Code Enforcement Officer to have such inspection performed at his own cost and expense by a competent inspector acceptable to the Code Enforcement Officer. Such inspector may be a registered architect, licensed professional engineer, certified code enforcement officer, or other person whose experience and training has been demonstrated to the satisfaction of the Code Enforcement Officer. Such inspector shall certify the results of his inspection to the Code Enforcement Officer. Any person required by the Code Enforcement Officer to have an inspection performed at his own cost and expense, shall not be assessed the fees otherwise prescribed by this Local Law.
- C. If the Code Enforcement Officer is the owner of or is involved in work on the premises to be inspected, or if there shall otherwise be any conflict of interest, the officer or employee of another town or village charged with the enforcement of the Uniform Code shall perform the duties of the Village of Elba Code Enforcement Officer as regards such premises, or if he shall refuse to act, the

Village Board of Trustees shall appoint someone to perform such duties.

SECTION 6. FEES

All fees shall be established by resolution by the Elba Board of Trustees.

SECTION 7. PENALTIES

- A. If no other penalty for violation of any part of this Local Law or orders issued in compliance with this Local Law is provided otherwise by law, a person violating such part of this Local Law or such orders shall be punishable by a fine or Fifty Dollars (\$50.00), or imprisonment not to exceed thirty (30) days, or both, and each day such violation continues shall constitute a separate violation.
- B. An action or proceeding in the name of the Village of Elba may be commenced in any Court of competent jurisdiction to compel compliance with or restrain violation of this Local Law or orders issued in compliance with this Local Law.

SECTION 8. PARTIAL INVALIDITY

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

SECTION 9. EFFECTIVE DATE

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

Local Law No.1 of 1986 – Administration and Enforcement of NYS Uniform Fire & Building Code / **This amends the Law of 1983**

Local Law #1 of 1987 A Local Law to amend Local Law #2 of 1978 and to rescind Local Law #1 of 1985. A copy of Local Law #1 of 1987 is on file in the Village Clerk's Office and Local Law #2 of 1978 and Local Law #1 of 1985 are a part of this book. (See Table of Contents),

LOCAL LAW #2 of 1987 FLOOD DAMAGE PREVENTION

WITHIN THE VILLAGE OF ELBA, NEW YORK as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36, and rescind Local Law No. 1 of 1983, dealing with flood prevention.

FLOOD DAMAGE PREVENTION LOCAL LAW

SECTION 1.0

STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

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

1.2 STATEMENT OF PURPOSE

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

- (1) 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;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) qualify and maintain participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) 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;
- (6) 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 bright areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

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

“Appeal” means a request for a review of the Local Administrator’s interpretation of any provision of this Local Law or a request for a variance.

“Area of shallow flooding” means a designated AO or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of special flood hazard” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

“Base flood” means the flood having a one percent chance of being equalled or exceeded in any given year.

“Basement” means that portion of a building having its floor subgrade (below ground level) on all sides.

“Breakway wall” means a wall that is not part of the structural support of the building and is intended through design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“Building” means any structure built for support, shelter, or enclosure for occupancy or storage.

“Cellar” has the same meaning as “Basement”

“Costal high hazard area” means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM and ZONE V1-30, VE, VO or V.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other

structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

“Elevated building” means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

“Flood” and “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from;

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

“Flood Boundary and Floodway Map (FBFM)” means 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 water courses studied in detail in the Flood Insurance Study.

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

“Flood Insurance Rate Map (FIRM)” means 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” is the official report divided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

“Flood proofing” means any combination of structural and non-structural 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”.

“Floor” means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

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

“Highest adjacent grade” means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of structure.

“Lowest Floor” means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement or cellar is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

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

“Mean Sea Level” means for the purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

“Mobile Home” has the same meaning as “Manufactured home”.

“National Geodetic Vertical Datum (NGVD)” as corrected in 1929 is a vertical control used as reference for establishing elevations within the flood plain.

“New Construction” means structures for which the “start of construction” commenced or after the effective date of this Local Law.

“Principally Above Ground” means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

“100-year Flood” has the same meaning as “Base Flood”.

“Regulatory Floodway” means 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 Section 4.3-2 of this Law.

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Start of construction” means the initiation, excluding planning and design, or any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

“Structure” means a walled and roofed building, a manufactured home, or a gas liquid storage tank, that is principally above ground.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, excluding land values, either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

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

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

“Variance” means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the Village of Elba.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 361499A dated January 24, 1984 is hereby adopted and declared to be part of this Local Law. The FHMB or FIRM is on file at the Village Office, Elba, New York.

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.2 SEVERABILITY

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

3.3 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this Local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$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 Elba from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this Local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.4 WARNING AND DISCLAIMER OF LIABILITY

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

SECTION 4.0 ADMINISTRATION

4.1 The Code and Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;

- (b) Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;
- (c) When required, a certificate from a licensed professional engineer or architect that the utility flood-proofing will meet the criteria in Section 5.1-3(1);
- (d) Certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2-2; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate 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.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal,

State or local government agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, “adversely affects” means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5.1-5, Encroachments.

4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4(4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved flood-proofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been flood-proofed; and

- (ii) maintain the flood-proofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FHBM, FIRM OR FBFM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation date established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall

be subject to the penalties described in Section 3.5 of this Local Law.

- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this Local Law.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or the 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 either the Development Permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon a completion a Certificate of Compliance issued by the Local Administrator.

All certificates shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, flood-proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

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

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top of frame ties to ground anchors. This requirement is an addition to applicable State and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

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

5.1-3 UTILITIES

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

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

5.1-4 SUBDIVISION PROPOSALS

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

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2, the requirements of Section 5.3 FLOODWAYS, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2(1) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be flood-proofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without

human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area to subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be flood-proofed:
- (i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is flood-proofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

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

- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) 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;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens and other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 4.3-2, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by Village of Elba shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) 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 local law.

- (3) 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.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) 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.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) 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.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing item (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this local law.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1,4,5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Effective Date: This Local Law shall take effect immediately upon filing with the Secretary of State.

**Local Law #3 of 1987 Amending Local law No. 3 of 1983
regulating the use of sewers, Section 1207, Sewer Rental
Rates.**

SECTION 1207 The sewer rental rate is based upon water consumption per user, as defined herein; rates/charges as follows:

a) Operation and Maintenance Charges

<u>Gallons</u>	<u>Quarterly Charge</u>
0 – 5,000	\$13.00
Over 5,000	\$ 2.20/1,000 gal.

Industrial operation and maintenance surcharge for excessive discharge - \$1.00 per pound for each pollutant.

b) User Charge/Debt Service

\$20.00 per user unit per quarter

LOCAL LAW #1 1989 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

To amend Local Law 2 of 1987, Section 3.2. The areas of special flood hazard have been identified by the Federal Emergency Management Agency on Flood Insurance Rate Maps enumerated on Map Index No. 361499A 01- 02 January 20, 1984.

The above documents are, hereby, adopted and declared to be a part of this local law and are filed at the Village Office, Elba, New York.

LOCAL LAW #1 1990 Providing fort the extension of the term of office for the Mayor from a two-year to a four-year term.

SECTION 1

The term of office for Mayor of the Village of Elba shall be four (4) years. Effective the beginning of the official year following the next general village election.

SECTION 2

This Law was enacted pursuant to Village Law Section 3-302 subparagraph (5) (a).

SECTION 3

This Local Law is subject to a permissive referendum.

SECTION 4

That this Local Law shall take effect thirty (30) days after its adoption, unless a referendum shall take place, in which event it shall take effect upon compliance with the provisions of Article Nine of the Village Law.

Local Law #2 of 1990 is to amend Local Law #2 of 1978, a Village of Elba Zoning Law and to rescind Local Law #1 of 1987. This Local Law is on file in the Village Clerk's Office and also in this book under current Zoning Law. (See Table of Contents).

LOCAL LAW #1 of 1991 Providing for extension of the term of Office for the Trustees from a two-year to a four- year term.

SECTION 1

The term of office for the Trustees of the Village of Elba shall be four (4) years. Effective the beginning of the official year following the next general village election.

SECTION 2

This law was enacted pursuant to Village Law Section 3-302 subparagraph (5) (a).

SECTION 3

This Local Law is subject to a permissive referendum.

SECTION 4

That this Local Law shall take effect thirty (30) days after its adoption, unless a referendum shall take place, in which event it shall take effect upon compliance with the provisions of Article Nine of the Village Law.

Local Law #2 of 1991 A Retirement Incentive program as authorized by chapter 178, Laws of 191 for the eligible employees.

The Village of Elba hereby elects to provide all its eligible employees with a retirement incentive program authorized by Chapter 178, Laws of 1991.

The Commencement date of the retirement incentive program shall be November 1, 1991.

The open period during which eligible employees may retire and received the additional retirement benefit, shall be 60 days in length.

The actuarial present value of the additional retirement benefits payable pursuant to the provisions of this local law shall be funded over a five year period. The amount of the annual payment in each of the five years shall be determined by the Actuary of the New York State and Local Employees' Retirement System, and it shall be paid by the Village of Elba for each employee who receives the retirement benefits payable under this local law. This act shall take effect August 14, 1991.

Local Law #3 of 1991 is an amendment to the Zoning Law. A copy of this Local Law is on file in the Village Clerk's Office. The current Zoning Law is a part of this book. (See Table of Contents).

LOCAL LAW #1 of 1992

A local law for Source Separation and Recycling

BE IT ENACTED by the Village Board of the Village of Elba, New York as follows:

SECTION I. FINDINGS AND PURPOSE

- 1.1 The Village finds that the removal of certain materials from the Solid Waste stream will decrease the amount of Solid Waste disposed of in landfills and aid in the conservation of valuable resources.
- 1.2 The Village finds that the New York Solid Waste Management Act of 1988 requires all municipalities to adopt a local law or ordinance by September 1, 1992 requiring separation of recyclable and reusable material from Solid Waste.
- 1.3 The Village finds that in order to protect the health, safety, and welfare of the people of the Village, it is necessary for the Village to enact this Local Law in order to encourage and facilitate the maximum recycling practicable on the part of every household, business and institution within the Village.
- 1.4 The Village declares that the purpose of this Local Law is the establish and implement recycling related practices and procedures to be applicable to all Waste Generators and Waste Haulers within the Village.

SECTION II. DEFINITIONS

As used in this Local Law, the following terms shall have the following meanings:

- 1.1 Authorized Facility shall mean a public or private facility or facilities where Recyclables may be delivered for disposal, including but not limited to, dropoff centers, materials recovery facilities, or other such public or private facilities.

- 1.2 Village shall mean the Village of Elba, Genesee County, New York.
- 1.3 Recyclables shall mean any material designated from time to time by resolution of the Village Board, provided that such material is not hazardous and can be reasonably separated from the Solid Waste stream and held for material recycling or reuse value.
- 1.4 Solid Waste shall mean all putrescible and nonputrescible solid waste, including, but not limited to, materials or substances discarded or rejected as being spent, useless, or in excess to the owner's at the time of such discard or rejection, or are being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served, their intended use, or an industrial, commercial and agricultural waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the Department of Environmental Conservation.
- 1.5 Source Separation shall mean the segregation of Recyclable material from the Solid Waste stream at the point of generation for separate collection, sale or other disposition.
- 1.6 Waste Generator shall mean any person, household, business, governmental agency, municipality or other legal entity which produces Solid Waste requiring offsite disposal.
- 1.7 Waste Hauler shall mean any person or legal entity engaged in the commercial collection, transportation and/or disposal of Solid Waste and/or Recyclables generated, originated or brought within the Village.

SECTION III. PREPARATION OF RECYCLABLES FOR COLLECTION

- 3.1 Each Waste Generator in the Village shall Source Separate Recyclables from Solid Waste.
- 3.2 Each Waste Generator in the Village shall provide for the removal of Recyclables from the property on which they are generated either by a service provided by a municipality; or by a private hauler, or by direct haul by the individual Waster Generator to an Authorized Facility.
- 3.3 Said removal, whether done by the waster generator or a waster hauler, shall be done in such manner that the source separated recyclables shall remain segregated upon delivery to the site to which they are removed from the place of generation.
- 3.4 Recyclables or solid waste placed at roadside or other places for the purpose of facilitating pick-up and removal from the waste generating site shall not be so placed earlier than the afternoon on the day preceding the day for collection of such recyclables or solid waste.
- 3.5 Nothing in this Local Law is intended to prevent any Waste Generator from making arrangements for the reuse, private collection, sale or donation of Recyclables.

SECTION IV. WASTE HAULERS

- 4.1 All Waste Haulers shall offer or cause to be offered to all their customer's collection, transportation and disposal services for the Recyclables to the same extent any such Waste Hauler offers collection, transportation and diposal services for Solid Waste, such services shall be provided in the same day (s) as Solid Waste pick-up, transportation or disposal services are provided.
- 4.2 No Waste Hauler shall be required to accept for collection Solid Waste which has not been Source Separated or is hazardous waste.

- 4.3 All Waster Haulers must maintain records of Recyclables collected and supply such reports to the Village, as often as reasonably requested by the Village but at least once per year.

SECTION V. ENFORCEMENT

- 5.1 The Village may inspect all portions of vehicles and/or containers used in collection, transportation and/or disposal of Solid Waste and/or Recyclables, including, but not limited to, containers placed at the curbside or residences, to ascertain compliance with the terms and conditions specified in this Local Law.

- 5.2 Failure of a residential Waste Generator to comply with the provisions of this Local Law shall result in a fine for each violation as follows:

First Violation:	\$ 25.00
Second Violation in five years:	\$ 50.00
Third Violation in five years:	\$100.00
Each additional Violation in five years:	\$200.00

- 5.3 Failure of a commercial Waste Generator to comply with the provisions of this Local Law shall result in a fine for each violation as follows:

First Violation:	\$100.00
Second Violation in five years:	\$200.00
Third Violation in five years:	\$400.00
Each additional Violation in five years:	\$800.00

- 5.4 Failure of a Waste Hauler to comply with the provisions of this Local Law shall result in a fine for each violation as follows:

First Violation:	\$200.00
Second Violation in five years:	\$400.00
Third Violation in five years:	\$800.00
Each additional Violation in five years:	\$1600.00

5.5 The Village shall be primarily responsible for the enforcement of this Local Law and collection of all fines and penalties provided herein, however authority to delegate said responsibility shall be reserved to the Village.

SECTION VI. SEVERABILITY

If any part of this Local Law is for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Local Law.

SECTION VII. EFFECTIVE DATE

This Local Law shall take effect September 2, 1992.

VILLAGE OF ELBA
RESOLUTION DESIGNATING RECYCLABLES

1. WHEREAS, the Local Law Establishing Source Separation and Recycling provides in Section 2.03 that term recyclables in said Local Law shall mean any material designated from time to time by the Elba Village Board and
2. WHEREAS, the Village of Elba shares its recycling program with the Town of Elba, the Village defines its recyclables as the materials defined by the Town Board of the Town of Elba in their most recent resolution defining recyclables.

NOW THEREFORE BE IT RESOLVED:

1. For the purposes of SEQR, it is determined that this action will not have a significant adverse effect on the environment based on the

criteria contained in Section 617.11 of 6 NYCRR Part 617 and is therefore a Type II action which does not require an environmental impact statement or any other procedure or determination under said Part 617.

2. Currently the said term recyclables shall mean the following materials:
 - a. newspaper
 - b. corrugated board and cardboard
 - c. ferrous metal, including tin cans
 - d. clear glass
 - e. brown glass
 - f. green glass
 - g. plastic imprinted with the recycle symbol numbers 1 & 2
3. Subject to redefinition by the resolution of the Elba Village Board.

VILLAGE OF ELBA
RESOLUTION ADOPTING
LOCAL LAW 1 OF 1992
ESTABLISHING SOURCE SEPARATION
AND RECYCLABLES

WHEREAS, a proposed Local Law Establishing Source Separation and Recyclables has been prepared.

WHEREAS, a copy of said proposed Local Law has been duly provided to the members of the Village Board.

WHEREAS, notice of a public hearing on said proposed Local Law has been duly published, and the said public hearing duly held.

NOW THEREFORE BE IT RESOLVED:

1. For purposes of SEQRA, it is determined that this section will not have a significant adverse effect on the environment based on the criteria contained in Section 627.11 of 6 NYCRR Part 617 and is therefore a Type II action which does not require an environmental impact statement or any other procedure or determination under said Part 617.

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2. The said Local Law is hereby adopted in the form as revised by the Village Attorney following the public hearing held on said Local Law.

LOCAL LAW #1 of 1998

A local law to amend Municipal Parking Regulations of the Village of Elba

It is the intention of this law to rescind the parking regulations of the Village of Elba contained in Local Law 1 of 1979 and to substitute and impose the following regulations of parking in the Village of Elba as hereinafter provided:

2. There shall be no parking on all the Village streets contained in the corporate limits of the Village of Elba from the hours of 2:00 A.M. to 6:00 A.M. any day.
3. Parking in the business district of the Village of Elba shall be restricted to no more than two (2) hours from the hours of 6:00 A.M. to 2:00 A.M. of the following day.

The business district of the Village of Elba for the purpose of this regulation is defined as the following:

Commencing at a point on the west side of Main Street, also known as Route 98, at the intersection of the north line of Mechanic Street and the west line of Main Street, and

Additionally commencing at a point on the east side of Main Street at the intersection of the north line of Chapel Street and the east side of Main Street,

Thence from said points continuing north along Main Street along both east and west bounds a distance of two hundred and fifty feet (250).

Violations of this law shall be punishable as provided by the Vehicle and Traffic Laws of the State of New York.

This regulation shall be effective upon the date of filing with the Secretary of State of the State of New York.

LOCAL LAW #2 of 1998

A local law to amend the Maximum Exemption for the Alternative Veterans Exemption from Real Property Taxation Pursuant to Section 458 of the Real Property Tax Law

SECTION 1. The purpose of this Law is to amend and increase the maximum veterans exemption allowable pursuant to Section 458-a of the Real Property Tax Law of the State of New York, to the Local Law No. 2 of 1985 of the Village of Elba.

SECTION 2. Pursuant to the provisions of subdivision 458 (d) ii of the Real Property Tax Law, the veterans exemptions from the real property tax in the Village of Elba, provided for in the Local Law No. 2 of 1985 are amended as follows:

- (a.) Qualifying residential real property shall be exempt from taxation to the extent of fifteen percent of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of fifteen thousand dollars or the product of fifteen thousand dollars multiplied by the latest state equalization rate of the Village of Elba.
- (b.) In addition to the exemption provided by paragraph (a) of this subdivision, where the veteran served in a combat theatre or combat zone of operation, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of ten percent of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of ten thousand dollars or the product of ten thousand dollars multiplied by the latest state equalization rate of the Village of Elba.
- (c.) In addition to the exemption provided by paragraphs (a) and (b) of this subdivision, where the veteran received a compensation rating from the United States Veteran's Administration because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by

fifty percent of the Veteran's disability rating; provided, however, such exemption shall not exceed the lesser of fifty thousand dollars or the product of fifty thousand dollars multiplied by the latest state equalization rate for the Village of Elba.

SECTION 3. This local law shall take effect immediately upon its filing with the Secretary of State.

Local Law #1 of 2001 is an amendment to the Zoning Law. This Local Law is on file in the Village Clerk's Office. The current Zoning Law is a part of this book. (See Table of Contents)

Local Law # 2 of the year 2001

A LOCAL LAW SAFEGUARDING THE PUBLIC SAFETY, HEALTH AND GENERAL WELFARE OF THE INHABITANTS OF THE VILLAGE OF ELBA BY PROHIBITING THE EXCESSIVE GROWTH OF CERTAIN GRASS AND WEEDS AND BY PROHIBITING THE ACCUMULATION OF DEBRIS WITHIN THE VILLAGE

Be it enacted by the BOARD OF TRUSTEES of the VILLAGE OF ELBA as follows:

SECTION I DEFINITIONS

Except where specifically defined herein, all words in this Local Law shall carry the customary meanings. Words which denote the masculine shall also denote the feminine. Words used in the present tense shall include the future tense and the plural includes the singular. The word “shall” is always mandatory.

The following terms are specifically defined. As defined in this Local Law the following words shall have these meanings:

Debris – shall include, but shall not be limited to, accumulations of dead weeds, dead grass, or dead brush, or accumulations of wood, metal, tires, plastic, furniture, water tanks and/or piles of dirt, stones, asphalt, not intended for use as accumulated or any accumulations of such material which alter the topography of the land in its natural state.

Owner – when it appears without the phrase or “or occupant” means the person or entity in whom is vested the ownership, dominion or title to real property or the person or entity who owns the fee and who has the right to dispose of the property.

Owner or occupant – means any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the Village of Elba.

SECTION II EXCESSIVE VEGETATION GROWTH PROHIBITED ALONG PUBLIC STREETS

It is unlawful for any owner or occupant to permit or maintain on any lot or land, or on or along the sidewalks, street or alley adjacent to the same between the property line and the center of the alley, street of right-of-way, any growth of weeds, grass, plants or rank vegetation, other than trees, bushes, flowers, or other ornamental plants to a greater height than eight (8) inches on the average. Any such growth, exceeding such height, is hereby declared to be a public nuisance.

Individual trees and shrubs along lot lines, sidewalks, streets, and alleys shall be maintained so that they shall not pose a risk to public safety or health. Un-maintained growth or ornamental plantings, which propagate mosquitoes, shall be classified as rank growth and shall not be permitted. Deceased trees and shrubs shall be promptly removed if they pose a risk to the public and to private property of neighbors.

SECTION III GROWTH OF NOXIOUS WEEDS PROHIBITED

It is unlawful for any owner or occupant to cause suffer or allow poison ivy, ragweed, hogweed, or other poisonous or noxious plants, or any plants detrimental to health, to grow on any lot or land in such manner that any part of such ivy, ragweed, hogweed, or other poisonous or harmful weed shall extend upon, overhang or border any public or private place or allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.

SECTION IV GENERALLY

On any land within the Village of Elba, whether or not such land is contiguous to or adjacent to public streets or public lands no growth, as specified in Section I of this Local Law, shall be permitted at a greater height than eight (8) inches on the average. Any such growth, exceeding such height is hereby declared to be a public nuisance except as may be excepted by the Zoning Board of Appeals by prior application for a ruling. Any agricultural lands in the Village shall be exempt from this law.

SECTION V CUTTING AND REMOVAL

It is the duty of any owner or occupant of any lot or land to cut and remove or cause to be removed all such weeds, grass, or other rank, poisonous or harmful vegetation, as hereinabove specified, as often as may be necessary to comply with the provisions of this Local Law, provided that cutting and removing such weeds, grass, plants and vegetation at least once in every three (3) weeks between April 15 and November 15 of any given calendar year, or treatment by chemicals which does retard or prevent growth, shall be deemed to be a compliance with this Local Law. The above rules apply to all property that is within one hundred (100) feet of any residential property, school, business, churches, and public buildings.

SECTION VI DEBRIS

No owner or occupant having control of any land, whether occupied or unoccupied, shall permit or suffer accumulations of any debris upon such land which tends to or might tend to permit the existence thereon of mosquitoes, flies, vermin, such as rats or mice, or create a danger to public safety by creating a risk to inhabitants, children or passersby.

SECTION VII CODE OFFICER APPOINTED

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Building and Fire Code Enforcement Officer who shall have such powers as are conferred upon him by this Local Law and as reasonable may be implied therefrom. He shall be appointed by the Village of Elba Board of Trustees and shall receive compensation, as the Village Board shall determine. The Building and Fire Code Enforcement Officer shall have such other and further duties as may be assigned pursuant to this Local Law or otherwise.

SECTION VIII DUTIES OF THE CODE OFFICER

It shall be the duty of the Code Officer to cause any premises to be examined or inspected to determine whether or not they are in violation of the provisions of this Local Law.

The Code Officer shall be entitled to enter upon any premises for the purpose of inspection and observation, in performing the duties set forth in this Local Law, and for the further purpose of ascertaining whether the provision of this Local Law are being met. Owners or occupants of premises to be entered shall allow the Code Officer ready access at all reasonable times to all parts of the premises to carry out the actions specified herein. Where any owner or occupant has security measures in place which should require proper identification and clearance before entry upon the property, the owner or occupant shall make necessary arrangements so that upon presentation of suitable identification, the Code Officer will be permitted to enter, without delay, for the purpose of performing his specific responsibilities.

The Code Officer may enter private property on consent of the owner or occupant. In the event such consent is denied or if the Code Officer determines that it is preferable to obtain a search warrant without first seeking such consent, the Code Officer shall be entitled to obtain a search warrant pursuant to the applicable provisions of law from a court of competent jurisdiction to permit immediate entry and inspection.

SECTION IX NOTICE OF VIOLATION, HEARING AND LIEN PROCEDURES

Upon determination by the Code Officer that a violation of this Local Law Has occurred, he shall cause a written notice and order to be served upon the Owner or occupant of the affected premises. Service of the notice and order Shall be made in the manner provided in Section IX hereof.

A. The above mentioned notice and order, (1) shall specify the nature of the violation (2) shall direct the owner or occupant to correct the violation within 10 days of completion of service of the notice and order upon him, (3) shall specify that re-inspection shall occur immediately after the expiration of the ten (10) day period, (4) shall state that if the problem is not then corrected an appearance ticket shall be issued; and (5) shall list the penalties and remedies which may be invoked by the Village for failure to comply with provisions of the order.

B. 1. Service shall be made as follows:

a. By personal service of a copy of notice and order; or

b. by certified mail, return receipt requested, addressed to the last known address if the owner or occupant. If the certified mail is refused or returned, service shall be made by mailing a copy of the notice by first class mail to the owner or occupant by depositing the same in a post office or official depository under the exclusive care and custody of the United States Postal Service within the State of New York. For purposes of this subsection, the last known address of the owner or occupant shall be the address shown in the records of the Village Clerk-Treasurer.

c. When service is made by either certified or first class mail, as provided in subsection “b” above, an additional copy of the notice and order shall be securely affixed upon the premises, if practicable.

2. Service shall be deemed complete as follows:

If by personal service, the date service is made. If by certified or first class mail, service shall be deemed complete five (5) days, exclusive of Sunday, after the notice and order is deposited in a post office or in an official depository under the exclusive care of the United States Postal Service within the State of New York and after a copy of the notice and order is affixed to the affected premises, if practicable.

C. Upon issuance of an appearance ticket, and arraignment the Local Justice shall either accept a plea of guilty or shall set a trial date as soon as practicable, but not less than ten (10) days after arraignment.

D. At the date, time and place specified, the Local Justice shall conduct the trial. The trial shall be conducted informally. Any oral or documentary evidence pertinent to the facts and issues raised by the Inspector or any other interested parties shall be received without regard to admissibility under the rules of evidence, provided that all parties are provided with the basic safeguards of due process including, but not limited to, the right to counsel, the right to cross-examine witnesses, the right to present relevant evidence, as well as the right to review adverse evidence. No jury trial is required for a first violation.

E. Following the close of the trial, the Local Justice shall issue a written decision and order as to whether a violation of this Local Law has occurred, and if so, shall assess penalties including a fine of not less than Fifty Dollars (\$50.00) or more than Two Hundred

Fifty Dollars (\$250.00) for a first offense, for a second violation, a fine of not more than Five Hundred Dollars (\$500.00) or less than Two Hundred Fifty Dollars (\$250.00) or imprisonment in the county jail not more than thirty (30) days or both, for a third and subsequent violation of this Local Law a fine of One Thousand Dollars (\$1,000.00) not less than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not more than ninety (90) days or both. Additionally, the Village fees or costs together with a surcharge of fifty percent (50%) for the supervision and administration shall be charged to the owner or occupant or other responsible party. The Code Officer or his designated representative shall be the sole judge of what work shall be done to attain compliance with this Local Law.

F. After the work has been completed Public Works Foreman shall send a statement of the amount of cost and expenses, together with the amount of any surcharges to the person or persons served with the original notice and order under subparagraph (a) hereof. The statement shall be due and payable in full within thirty (30) days of the date of the statement. Failure to pay in a timely fashion shall result in the Public Works Foreman certifying the charges and filing with the Village Clerk-Treasurer a statement requesting that the charges be placed as a lien on the real property for which the work was performed.

G. Prior to filing the lien, the Village Clerk-Treasurer shall cause to be served upon the owner of the premises a written notice of the impending lien placement. Service shall be made in accordance with SECTION VIII (G). The notice should also inform the owner of a right to contest the lien placement by filing a written request within five (5) days of service of the notice being completed as provided in SECTION VIII (G).

H. Upon receipt of a lien hearing request, the Clerk-Treasurer shall set a date, time, and place for the same as soon as practicable. The Clerk-Treasurer shall cause written notice to be given to the Public Works Foreman and to the owner of the affected property not less than fifteen (15) days prior to said scheduled hearing. The hearing shall be held before the Local Justice and shall be in accordance to the

provisions contained in SECTION IX (D) and (E). If no written request for a hearing is received by the Clerk-Treasurer within the time limit specified in SECTION IX (G) or upon the statement of the amount due remaining unpaid for five (5) days after the Local Justice finding that the filing of the lien is proper, the charges shall be a lien on the affected real property to the same extent as the Village taxes and shall be included in the Village tax roll and enforced in the same manner as other Village taxes.

SECTION X REPEAL OF PRIOR ORDINANCES

This Local Law repeals all prior rules regulating grass, weeds regulation and debris removal and they shall be null and void after the effective date of this law.

SECTION XI SEVERABILITY

The invalidity, illegality or unconstitutionality of any clause, sentence, paragraph, section, subsection or provision, or part of this Local Law, or any of the rules or regulations adopted pursuant to this law, shall not affect the validity, legality or constitutionality of the remainder of the law, but shall be confined in operation to the clause, sentence, paragraph, section, subsection, provision, or part of this Local Law or rule or regulation promulgated pursuant to this law in which the finding of invalidity, illegality, or unconstitutionality was rendered.

SECTION XII WHEN EFFECTIVE

This Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with Section 27 of the New York State Municipal Home Rule Law.

Local Law # 3 of the year 2001

A LOCAL LAW SAFEGUARDING THE PUBLIC SAFETY, HEALTH AND GENERAL WELFARE OF THE INHABITANTS OF THE VILLAGE OF ELBA PROVIDING FOR A METHOD TO REMOVE OR REPAIR UNSAFE BUILDINGS WITHIN THE VILLAGE

Be it enacted by the BOARD OF TRUSTEES of the VILLAGE OF ELBA as follows:

Unsafe Buildings Law

Purpose.

The purpose of this law is to promote and preserve the health, safety and welfare of the public and residents and/or owners of property located within this village by providing a method for the removal or repair of buildings that, from any cause, may now be or shall hereafter become dangerous or unsafe to the public and residents and/or owners of property within the Village of Elba. Unsafe buildings serve as an attractive nuisance for young children who may be injured therein; may be a point of congregation by vagrants and transients; may attract rodent or insects; and may also attract illegal drug activity.

The powers conferred upon the Village of Elba by this law shall be in addition to all other powers conferred upon the village in relation to the same subject by State law.

Definitions

Building means any building, structure or portion thereof used by residential, business or industry.

Code Officer means the Code Officer of the Village of Elba or such other person appointed by the Village of Elba to enforce the provisions of this local law.

Unsafe Building includes all buildings which have any or all of the following defects:

- a. Those whose interior walls or exterior bearing walls or other vertical structural members list, lean or buckle to such an extent as to weaken the structural support they provide:
- b. Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage to or deterioration of the supporting member or members or fifty percent (50%) of damage to or deterioration of the non-supporting, enclosing or outside walls or coverings;
- c. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
- d. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this village.
- e. Those which have become or are so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease to those living therein or adjacent thereto;
- f. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein, with particular reference to the requirements of the New York State Uniform Fire Prevention and Building Code as a determinant;
- g. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communications, again referencing the New York /state Uniform Fire Protection and Building Code as a determinant;
- h. Those which have parts thereof which are so attached that they may fall and injure members of the public or property;
- i. Those which consist of debris, rubble or parts of buildings left on the ground after demolition, reconstruction fire or other casualty;

j. Those which, because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the Village of Elba.

Unsafe buildings prohibited

No person, firm, corporation or association owning, possessing or controlling a building in the Village of Elba shall permit, suffer or allow said building now or thereafter to be or become unsafe to the public and/or residents from any cause whatsoever.

Inspections

The Code Officer shall make inspections of all unsafe buildings within the Village of Elba and report to the Board of Trustees all unsafe buildings, which from time to time may be found within the limits of the Village of Elba.

Determination of unsafe buildings; notice to repair or demolish

a. The Board of Trustees shall consider the report of the Code Officer and, if in their opinion the report so warrants, shall determine that the building is unsafe and order its demolition or repair, if the same can be safely repaired, and further order that a notice shall be given to the owner as follows:

b. The notice shall contain the following:

- (1) A description of the premises;
- (2) A statement of the particulars in which the building is unsafe;
- (3) An order requiring the building to be repaired or demolished;
- (4) That the repairing or demolition of the building shall commence within thirty (30) days of the serving of the notice, as hereinafter provided, and shall be completed within sixty (60) days thereafter;
- (5) A date, time and place for a hearing before the Board of Trustees in relation to such unsafe building, which hearing shall be scheduled not less than five business days from the day of service of the notice;

(6) A statement that in the event of neglect or refusal to comply with the order to repair or demolish the building, the Board of Trustees is authorized to provide for its repair or demolition, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

Service of notice

Said notice shall be served in the following manner:

a. By personal service of a copy thereof upon the owner or some one (1) of the owners, executors, legal representative, agents, lessees, or any other person having a vested or contingent interest in the premises as shown by the last preceding completed assessment roll of the village, or of the county clerk, such service to be complete and the thirty-day time period recited in said notice to commence upon service; or

b. By mailing a copy of said notice to such owner as aforesaid by registered mail return receipt requested, addressed to the last known address of the owner and by affixing a copy of said notice to the premises, such service to be complete and the thirty-day time period recited in said notice to commence ten (10) days after the filing of the return receipt.

c. A copy of the notice shall also be filed in the office of the county clerk of the county within which such building is located, which notice shall be filed by such clerk in the same manner as a notice of pendency pursuant to article sixty-five of the civil practice law and rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided. A notice so filed shall be effective for a period of one year from the date of filing, provided, however, that it may be vacated upon the order of a judge or upon the consent of the village attorney.

Hearing

The hearing shall be conducted before the Board of Trustees. The Code Officer shall present his or her report to the Board of Trustees in writing. The owner or his or her representative, if present, shall call such witnesses as he or she deems necessary. The Board of Trustees shall make written findings of fact from the testimony offered as to whether or not the building in question is an unsafe building.

If such owner shall neglect, fail or refuse to comply and shall fail to appear at said hearing, then the Board of Trustees shall direct the repair or demolition of the building forthwith.

If such owner shall neglect, fail or refuse to comply and after appearing at said hearing the Board of Trustees finds that the building is a public nuisance and directs its repair or demolition, the owner shall repair or demolish said building within the time prescribed by the Board of Trustees.

If the owner fails or neglects to repair or demolish said building as directed by the Board of Trustees following the hearing, then the Board of Trustees shall direct the repair or demolition of same forthwith.

Noncompliance with order

In the event of neglect or refusal of the persons so notified to comply with said order of the Board of Trustees, the Board of Trustees, shall provide for the demolition and removal either by Village of Elba employees or by contract. Except in an emergency any contract in excess of \$20,000.00 shall be awarded by competitive bidding.

Emergency work

a. In case there shall be, in the opinion of the Code Officer, actual and immediate danger of the falling of a building so as to endanger public safety, life of property or actual or immediate menace to health or public welfare as a result of the conditions present in or about a building, he or she shall cause the necessary work to be done to render such a building temporarily safe, whether the procedure prescribed in this law for unsafe buildings has been instituted or not.

b. When emergency work is to be performed under this section, the Code Officer shall cause the owner thereof to be served personally or by registered mail, return receipt requested, and if served by registered mail, shall post on the premises a notice to comply containing a description of the premises, a statement of the facts in which the building is unsafe or dangerous and

orders and directions to correct the conditions which constitute an emergency within a specified period not be to exceed three (3) days from actual or constructive receipt of the notice.

c. In the event that the emergency does not permit any delay in correction the notice shall state the Village of Elba has corrected the emergency condition.

d. In both cases, the notice shall state that the corrective costs of the emergency will be assessed against the owner pursuant to the provisions of this law.

Application to Supreme Court for order

In addition to the remedies provided by this law, the Board of Trustees may request the Village Attorney to make an application to the Supreme Court of the State of New York for an order determining the building to be a public nuisance and directing that it shall be repaired and secured or demolished.

Assessment of costs

All costs and expenses incurred by the Village of Elba in connection with the administratively and/or judicially substantiated proceeding to remove or secure, including the cost of actually removing said building shall be assessed against the land on which said building is located.

The Village of Elba may commence a special proceeding pursuant to Section 78-b of the General Municipal Law to collect the costs of demolition, including reasonable and necessary legal expenses.

Savings Clause

If any part of this law is deemed or found to be unenforceable, illegal, unconstitutional, or otherwise void, such judgment shall not affect or impair the validity of the remainder of the law or the application thereof to other persons or circumstances.

Local Law #1 of 2003 to amend the Village Zoning Law to allow self-storage facilities as a new special use permit item in an R-1 and R-2 district. This Local Law is on file in the Village Clerk's Office. The current Zoning Law is a part of this book. (See Table of Contents)

LOCAL LAW #1 2005 TO REQUIRE PRIOR WRITTEN NOTICE OF CERTAIN DANGEROUS OR DEFECTIVE CONDITIONS FOR THE VILLAGE OF ELBA

Be it enacted by the Village Board of the Village of Elba as follows:

SECTION I. AUTHORITY.

The Village Board of the Trustees of Elba, pursuant to the authority granted it by Articles 2 and 3 of the Municipal Home Rule Law of the State of New York, hereby enacts as follows:

SECTION II. PURPOSE.

- A. No civil action shall be maintained against the Village of Elba (the "Village") or the Board of Trustees or the Mayor, or against any improvement district in the Village for damages or injuries to person or property (including any method of transportation that includes an operator) sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by any improvement district therein, 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, or any property owned, operated or maintained by any improvement district, was actually given to the Clerk of the Village or Mayor 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 such 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 or any property owned by any improvement district in the Village unless written notice thereof, specifying the particular place was actually given to the Clerk of the Village or Mayor 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 notice.

- B. No civil action will be maintained against the Village and/or the Mayor of the Village for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Village or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Village or the Mayor of the Village pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place was actually given to the Clerk of the Village or to the Mayor of the Village and there was a failure or neglect to remedy such defect, to remove such snow or ice, or to make the place otherwise reasonably safe within a reasonable time after receipt of such notice.

SECTION III. NOTICE / CORRECTIVE ACTION

The Mayor of the Village shall transmit, in writing to the Clerk of the Village, within five (5) days after the receipt thereof, all written notices received by him/her pursuant to this law, and he/she shall take any and all corrective action with respect thereto as soon as practicable.

SECTION IV. RECORD KEEPING REQUIREMENTS

The 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 an accumulation of ice and snow upon, any Village highway, bridge, culvert or sidewalk, or any other property owned by the Village, or by any 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 (5) years from the date it is received. The Village Clerk, upon receipt of such written notice, shall immediately and in writing notify the Mayor of the Village of the receipt of such notice.

SECTION V. EXISTING REQUIREMENT/STATUTE OF LIMITATIONS

Nothing contained in this law shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these cause of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Village, its officers and employees, and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

SECTION VI. REPEAL.

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

SECTION VII. SEVERABILITY / VALIDITY.

In the event that any work phrase of part of this local law shall be declared unconstitutional, the same shall be severed and separated from the remainder of this local law and shall not impact the remainder of said local law which shall remain in full force and effect.

SECTION VIII. EFFECTIVE DATE.

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided in section 27 of the Municipal Home Rule.

Local Law # 2 of 2005 relating to the termination of the Village of Elba's status as an assessing unit for Village Real Property Tax purposes.

A local law relating to the termination of a Village's status as an assessing unit for Village real property tax purposes.

Section 1. Legislative intent. The intent of the Board of Trustees of the Village of Elba is to implement section 1402(3) of the Real Property Tax law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this Local Law to abolish the position of Assessor (or Board of Assessors) and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Elba.

Section 2. On or after the effective date of this Local Law, the Village of Elba shall cease to be an assessing unit.

Section 3. The position of Assessor in the Village of Elba is hereby abolished.

Section 4. The Board of Assessment Review in the Village of Elba is hereby abolished.

Section 5. On or after the effective date of this Local Law, taxes in the Village of Elba shall be levied on a copy of the applicable part of the assessment roll of the Town of Elba with the taxable status date of such Town controlling for Village purposes.

Section 6. Within five days of the effective date of this Local law, the Board of Trustees of the Village of Elba shall file a copy of such Local Law with the Clerk and Assessor of the Town of Elba and with the State Board of Real Property Services.

Section 7. This Local Law shall take effect immediately upon filing with the Secretary of State, provided, however, that such Local Law is subject to a permissive referendum and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.

LOCAL LAW #1, OF 2006

PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

Be it enacted by the Village Board of the Village of Elba, in the County of Genesee, as follows:

SECTION 1. PURPOSE AND INTENT

This local law 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 local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS

In this local law:

"Building Permit" shall mean a permit issued pursuant to section 4 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Certificate of Occupancy" / "Certificate of Compliance" shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

"Code Enforcement Officer" shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

"Code Enforcement Personnel" shall include the Code Enforcement Officer and all Inspectors.

"Compliance Order" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

"Energy Code" shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

"Inspector" shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

"Operating Permit" shall mean a permit issued pursuant to section 10 of this local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Permit Holder" shall mean the Person to whom a Building Permit has been issued.

"Person" shall include 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" shall mean an order issued pursuant to section 6 of this local law.

"Temporary Certificate" shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

"Uniform Code" shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

"Village" shall mean the Village of Elba.

SECTION 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 local law. 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 local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Village 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 local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the Mayor. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time

prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor 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 local law.

(d) One or more Inspectors may be appointed by the Mayor 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 local law. 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*.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (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. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or 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 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) 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 6 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 section 16 (Fees) of this local law 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.

SECTION 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 subdivision (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, re-inspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 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 subdivision (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 section 15 (Violations) of this local law 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.

SECTION 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 sub-classification 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 sub-classification 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 or 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 or / 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 [6] 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 section 16 (Fees) of this local law must be paid at the time of submission of an application for a *Certificate of Occupancy / Certificate of Compliance* or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting 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.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this *Village* shall be identified and addressed in accordance with the procedures established by Local Law Number 3 of 2001, as now in effect or as hereafter amended from time to time.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) 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 section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

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

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (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 subdivision (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 section 16 (Fees) of this local law 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.

SECTION 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 twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every *thirty-six (36) months*].

(b) Inspections permitted. In addition to the inspections required by subdivision (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 subdivision 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 local law 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 section 156-e and Education Law section 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 twelve (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 twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.]

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law 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.

SECTION 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 local law, 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 section 15 (Violations) of this local law;

(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.

SECTION 13. RECORD KEEPING.

(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 sections 4 through 12, inclusive, of this local law, including; 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.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to Village 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 section 13 (Record Keeping) of this local law 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.

SECTION 15: VIOLATIONS

(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 local law. 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 local law; (4) specify the provision or provisions of

the Uniform Code, the Energy Code, or this local law 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 proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, 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 local law, 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 subdivision 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 local law, 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 local law. 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 local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, 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 subdivision shall be commenced without the appropriate authorization from the Village of Board 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 section 6 (Stop Work Orders) of this local law, in any other section of this local law, 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 section 6 (Stop Work Orders) of this local law, in any other section of this local law, 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 section 381 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 section 381 of the Executive Law.

SECTION 16: FEES

A fee schedule shall be established by resolution of the Village 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 local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

The Village 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 local law, 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.

SECTION 18. PARTIAL INVALIDITY

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

SECTION 19. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Village of Elba Water Rules and Regulations

A RESOLUTION SETTING RULES AND REGULATIONS FOR THE USE OF WATER PURCHASED FROM THE VILLAGE OF ELBA

Section 1	General
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Section 2.2	Connections From Curb Stop To Meter By Consumer
Section 2.3	Plumber as Agent Of; Owner Responsibility
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Section 8.1	Purpose
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Section 8.3	Protection of Public Water System at Service Connections
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Section 8.5	Recourse for Non-Compliance
Section 9	Effective Date
Section 9.1	When Effective
Appendix A	Fee Schedule

Be it Resolved By The Board of Trustees Of The Village Of Elba, Genesee County, New York as Follows:

Section 1 – GENERAL

1.1 APPLICABILITY

The following rules and regulations shall apply to any person or corporation whose property shall be supplied with water by the Village of Elba or any improvement district thereof.

Section 2 – WATER SERVICE CONNECTION REQUIREMENTS

2.1 SERVICE CONNECTIONS

All service connections with the principal mains and service pipes from said principal mains to approximately two feet (2') from lot line, including tapping of main, corporation corp, copper pipe, curb stop

and box for same shall be installed only be properly authorized persons acting under the direction of the Village or its agent at the expense of the consumer as contained in the fee schedule. Operation, maintenance and necessary replacement as deemed by the Village upon a completed installation are the responsibility of the Village. After an installed service is approved by the Village is shall be and remain the property of the Village.

2.2 CONNECTIONS FROM CURB STOP TO METER BY CONSUMER

All connections from the curb stop to the meter location shall be the responsibility of the consumer at his own expense under the supervision of the Village or its agent an all installations shall be subject to approval by the Village or its agent before water shall be turned on. Maintenance and replacement of this connection is the responsibility of the consumer.

2.3 PLUMBER AS AGENT OF OWNER; RESPONSIBILITY

The plumber or any other designated and employed by the owner of the premises shall be considered the agent of such owner while employed in the performance of the work of installing the service connection into such premises and in no sense as the agent of the Village. The Village will not be responsible for the acts of such persons.

2.4 APPLICATION FOR SERVICE

Every person desiring a supply of water from the Village system must make application at the office of the Village Clerk, Village of Elba, for a service pipe and connection with an existing main. Such application shall be made in writing upon the form furnished by the Village Clerk and must be signed by the owner of the property or his duly authorized agent and the meter connection charge must be paid in full. A drawing showing, as a minimum, location, street right-of-way, structures to be served and existing utilities shall accompany each application.

2.5 AVAILABILTY OF WATER

Approval for application for service shall be governed by the availability of water.

2.6 MATERIAL OF SERVICE PIPE

The service pipe between the curb stop and meter, wherever located, shall be pipe approved by the Village and as a minimum be not less than $\frac{3}{4}$ Class K Copper. The Village reserves the right to stipulate the size and type of service connections to be used.

2.7 OPENING OF CURB STOPS

The curb stop controlling any service shall not be opened by any person after connecting service at the curb, so that water may be supplied to such premise by said service, unless the service pipe installation has been approved by the Village and the meter installation completed. In case of building operations, special permission to open curb stops may be given by the Village under such conditions as it may prescribe. Operation of curb stops is the sole right of the Village.

2.8 INJURY OR DAMAGE TO MAINS, PIPES, FACILITIES

Any person responsible for any injury to any main, pipe, hydrant or any other water facility shall reimburse the Village therefore and for the loss of water cause thereby. He shall also be responsible for any damage by such escaping water.

2.9 RESPONSIBILITY FOR TRENCH

In the case of any excavation for the installation of any water pipe or connection under the authority of a permit from the Village, the owner will be held responsible for the trench excavation. Public safety and conveniences shall be duly regarded and conserved by the construction of such bridges across open trenches as may be required to insure safety to the public. Lights, barricades and all such other means of protection against accidents must be provided. Before trenches are backfilled, materials and workmanship shall be inspected by the Village and approved in writing.

2.10 SERVICE PIPE MAINTENANCE

The owner of the property into which water is introduced by a service pipe will be required to maintain to perfect order, at his own expense, the said service pipe from the curb stop to the meter on or for his premises, including all fixtures therein provided for delivering or supplying water for any purpose. In case such services and fixtures are not so kept in repair, the Village may discontinue service until all necessary repairs and renewals on parts thereof are made. The expense of such work and all materials and labor required shall be paid by the property owner.

2.11 STOP AND WASTE COCKS

Just inside of the basement wall of the building into which the service pipe extends, a stop and waste cock of a make and type approved by the Village shall be conveniently located in order to drain the meter, or in such other convenient place as the Village may approve.

2.12 EASEMENTS

Applicants for service shall deliver without cost to the Village, permanent easements or rights-of-way when necessary for the installation and maintenance of the service lines and service connections, in a form which is satisfactory to the Village.

The Village shall not be obligated to commence any construction until applicants have obtained for its satisfactory easements or rights-of-way, or have agreed to pay such costs as may be incurred if, at their request, the Village obtains such easements or rights-of-way, whenever these are required, from parties who are not applicants for service.

Section 3 – INSPECTIONS AND WATER PRESSURE

3.1 INSPECTORS ENTERING PREMISES

The Village and its officers or employees may enter upon any premises where water is being supplied by the Village, or upon any premises when application is made for a permit to connect plumbing

with the water pipes, for the purposes of installing, reading, removing or repairing meters, or for inspecting the plumbing and fixtures of the water services.

3.5 SHUTTING OFF

In the case of making or constructing new work, in making repairs or leakage tests, the right is reserved to shut off the water from any consumer without notice for as long a period as may be necessary. No water district, its employees or the Village shall be liable for any damage which may result to any person, property or premises from shutting off the water from any main or service for any purpose whatever, even in cases where no notice is given.

3.6 CHANGE OF PRESSURE

The Village shall not be liable for any damage or loss of any kind of property or persons which may arise from or be caused by any change, either increase or decrease, in pressure of water supplies, from any cause whatever.

Section 4 – METERS

4.1 ALL SERVICES TO BE METERED

All water furnished through service pipes, whether for residential, commercial or industrial use, shall be individually metered. Any meter larger than $\frac{3}{4}$ shall be purchased and installed by the owner of the premises at his expense. All $\frac{3}{4}$ meters will be furnished and installed by the Village after payment of the connection charge. The Village shall approve the location of the meter. All costs for vaults and appurtenances required for a meter installation shall be paid by the owner.

4.2 TESTING METERS

Any municipal water meter shall be tested upon complaint of the consumer upon payment of the required fee. If, upon test, the meter is not within three percent (3%) of being accurate, it shall be repaired or replaced and the collected fee returned to the consumer. The Village reserves the right to remove, test and/or replace any meter at any time.

The fee shall be in an amount set, from time to time by the Village or its agent and the amount shall be filed with the Village Clerk.

4.3 DAMAGE TO METERS

Any damage which the meter may sustain resulting from the carelessness of the owner, his agent or tenant, or from neglect of either of them to properly secure and protect the same, including any damage that may result from allowing said meter to become frozen or to be damaged by hot water or steam getting back from a boiler or hot-water tank, shall be paid to the Village by the owner of the premises.

4.4 ACCESS TO METERS

Whenever a meter is set in any building, the space occupied by the meter and the meter box shall at all times be kept free from rubbish or obstruction of any kind. The owner or tenant shall provide ready and convenient access to the meter so that it may be easily read and examined by agents of the Village.

4.5 METERS FOR BUILDING PURPOSES

Water meters for building purposes shall be set by the Village at the expense of the contractor or person making such application therefor. In case it is impracticable to place meters for such building purposes, water may be supplied to the contractor or owner at a flat rate.

4.6 METERS LARGER THAN TWO INCHES

The Village may require meters larger than two inches (2") in size to be installed in a meter vault and at a location along the inside property line of the owner. All meters larger than two inches (2") in size shall have a bypass for testing. All costs of any type of meter installation shall be paid by the owner.

4.7 METER LOCATION

Meters two inches (2") in size and under shall be set in a basement or utility room. When the front wall of a basement or utility room is

greater than seventy-five feet (75") from the property line, the Village may require that the meter be set near and inside the property line in an approved meter vault. A meter vault installation may be required in the case of a building with no basement or utility room.

4.8 DISCONTINUANCE OF SERVICE

Any consumer may discontinue water service by giving the Village written notice not less than two (2) weeks prior to the discontinuance. It is understood and agreed that failure to give written notice shall make the owner liable for all water charges against said premises until proper notice is given to the Village.

4.9 SEASONAL CUSTOMERS

A seasonal customer is the one who has his water turned off for one (1) or more quarters in any one (1) year. Seasonal customers must have the water turned off and then water turned on by an authorized agent of the Village.

Section 5 – RATE AND CHARGES

5.1 WATER RATES

Generally, all water consumed shall be recorded and paid for by meter registration and at rates to be fixed by the Village. Such rates may from time to time be changed as the Village may determine. Water rates for turning services on and off, selling meters and taking meters in and out of service will be on file in the Village Clerk's Office.

5.2 METER BILLS

Meters shall be read quarterly and billed in accordance with time of reading. Bills for metered water shall be due in the due date of the month following the end of the each calendar quarter. Payments not actually received at the Village Clerk's Office by the due date during the business hours thereof during such month shall be deemed late, payments for which a late penalty of ten percent (10%) shall be charged. However, if the last day for payment falls on a Saturday, Sunday or legal holiday, then the last day on which a payment can be

received in the mail or in person without penalty shall be the first business day thereafter. Said payments of water meter bills on any water meter account shall not be accepted by the Village Clerk.

5.3 ABATEMENTS

No abatement of the charges for water shall be allowed on account of the vacancy of any premises supplied with water, unless the water supply is turned off by the Village and the meter removed. The owner of the premises is still responsible for the debt service charge for the period of time the water is shut off.

5.4 ESTIMATED BILLS

The Village reserves the right to issue an estimated bill based on previous average billings during a corresponding period. Adjustments, if necessary, will be made on the subsequent reading of the meter.

5.5 UNPAID CHARGES

All charges for water, service pipe installation, repairs, damage caused by carelessness or neglect, penalties, etc. shall be made against the premises supplied and the owner of the premise shall be held responsible therefore. Such charges, if not paid, shall be a lien on the property benefited. All such unpaid charges shall be added to the next general tax against property.

5.6 SHUTTING OFF WATER SERVICE

In the event that a water bill remains unpaid for more than ninety (90) days, the Village may cause the supply of public water to such property to be shut off, as stated on the water bill.

Section 6 – HYDRANTS AND INSTALLATION OF SERVICE

6.1 HYDRANT CONTROL

All street fire hydrants or hydrants for private fire protection from unrestricted service lines are under control of the Village. No person,

except an authorized agent or employee of the Village or a person permitted by the Village to take water there from, shall operate, use or disturb any hydrant or any part thereof or take any water there from under any circumstances whatever, except fire companies for use to control, prevent or extinguish fires.

6.2 DAMAGE TO HYDRANTS

In case any damage to a street hydrant is done by any person or his agent having a permit for taking water from said hydrant the holder of the permit shall be responsible for any such damages and all costs and expenses that may be incurred by reason thereof, on demand, to the Village, including loss of water.

6.3 USE OF HYDRANTS

No person shall use any fire hydrant for construction or other purpose without first obtaining a permit for such use from the Village by making an advance payment demanded by the Village. The hydrant shall be operated only by a proper hydrant wrench, which shall be obtained from the Village. Water must not be allowed to run except when used. All persons using hydrants shall immediately obey any instructions or orders that may be issued by the Village to regulate the use of these hydrants. If required by the Village, a meter shall be applied to the connection made with the hydrant at the expense of the party using same and said party shall pay for all water by meter measurement at the stipulated rates. All requests for use of hydrants are subject to the review of the Village. The Village reserves the right to refuse any request.

6.4 VALVE CONTROL

No persons except a duly authorized representative of the Village shall open, or close in any way interfere with any valve in any water main or pipe. Any person who has disturbed or displaced a valve box or who has covered a valve box with dirt, paving, plank or other material shall immediately notify the Village. Costs for any valve box replacement and/or removal of the obstruction shall be paid by the party who initiated the required work to be performed.

6.5 LAYING OF SERVICE PIPES

Service pipe will be required to be in accordance with “Recommended Standards for Water Works – 1987” or subsequent amendments thereof.

6.6 MAIN EXTENSION AGREEMENT

Application for water service in areas not served by the Village shall be subject to review by the Village. As part of the application, the required preliminary approvals for water service shall be obtained by the applicant. Plans, drawings and a professional engineer’s report shall be submitted with the application. The extent of any application for water service shall first be reviewed with the Village.

Section 7 – SALE OF WATER

7.1 SALE OF WATER BY CONSUMER

No water flowing through the Village Water Works System shall be sold or furnished to any person without the written consent of the Village.

Section 8 – CROSS CONNECTION CONTROL

8.1 PURPOSE

The purpose of this section is to safeguard potable water supplies from potential contamination by preventing backflow from a water user’s system into the public water system and to comply with the requirements of the New York State Sanitary Code, Part 5, Section 5-1.31.

8.2 DEFINITIONS

- 1.) Cross-Connections – the term “cross-connection” as used in these regulations means any unprotected connection between any part of a water system use or intended to supply water for drinking purposes and any source or system containing water or

substance that is not or cannot be approved as equally safe, wholesome and potable for human consumption.

- 2.) Approved Water Supply – the term “approved water supply” means any water supply approved by the New York State Department of Health.
- 3.) Auxiliary Supply – the term “auxiliary supply” means any water supply non or available to the premises other than the approved public water supply.
- 4.) Vacuum Breaker – Non-Pressure type – a vacuum breaker designed so as not to be subjected to static line pressure.
- 5.) Vacuum Breaker – Pressure Type – a vacuum breaker designed to operate under conditions of static line pressure.
- 6.) Barometric Loop – a loop of pipe rising approximately 35’ at its topmost point, above the highest fixture it supplies.
- 7.) Approved Check Valve – the term “approved check valve” means a check valve that seats readily and completely. It must be carefully machined to have free moving parts and assured water tightness. The face of the closure element and valve seat must be bronze, composition or other non-corrodable material which will seat tightly under all prevailing conditions of field use. Pins and bushing shall be of bronze or other non-corrible, non-sticking material machined for easy, dependable operation. The closure element, e.g., clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.
- 8.) Approved Double Check Valve Assembly – the term “approved double check valve assembly” means an assembly of at least two (2) independently acting check valves, including tightly closing shutoff valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing water tightness of each check valve.

THIS DEVICE MUST BE APPROVED AS A COMPLETE ASSEMBLY

- 9.) Approved Reduced Pressure Principle Backflow Prevention Device – the term “approved reduced pressure principle backflow prevention device” means a device incorporating two or more check valves and a automatically operating differential relief valve located between two checks, two shutoff valves and equipped with the necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone

between the two check valves, less than the pressure on the public water supply of the device.

At cessation of normal flow, the pressure between check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to atmosphere, thereby providing an air gap in the device. To be approved, this device must be readily accessible for maintenance and testing and installed in a location where no part of the valve be submerged. The enclosure must be self draining, so that the large amount of water which the relief valve may vent will be disposed of reliably without submergence of the relief valve.

THIS DEVICE MUST ALSO BE APPROVED AS A COMPLETE ASSEMBLY

- 10.) Air-Gap Separation- the term “air-gap separation” means a physical break between a supply pipe and a receiving vessel. The air gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no case less than one inch (1”).
- 11.) Water Supervisor – the term “water supervisor” means the consumer or a person on the premises charged with the responsibility of complete knowledge and understanding of water supply piping within the premises and for maintaining the consumer’s water system free from cross-connections and other sanitary defects, as required by regulations and laws.
- 12.) Certified Backflow Prevention Device Tester – a person who is examined for the testing of backflow prevention devices. He shall be provided with appropriate identification card which must be renewed annually. Failure to perform his duties competently and conscientiously will result in prompt withdrawal of this certification.

Section 8.3 – PROTECTION OF PUBLIC WATER SYSTEM AT SERVICE CONNECTION

8.3.1 WHERE PROTECTION IS REQUIRED

- A.) Each service connection from a public water system for supplying water to premises having an auxiliary water supply

shall be protected against backflow of water from the premises into the public water system, unless the auxiliary water supply is approved as an additional source by the water surveyor and is satisfactory to the public health agency having jurisdiction with regard to quality and safety.

- B.) Each service connection from a public water system for supplying water to premises, on which any substance is handled under pressure in such fashion as to permit entry into the water system, shall be protected against backflow of the water from the premises into the public system. This shall include handling of process which may have been subject to deterioration, sanitary or chemical quality.
- C.) Each service connection from a public water system for supplying water to premises on which a substance or unusual toxic concentration or danger to health is handled in liquid form, even though it is not under pressure, shall be protected against backflow of the water from premises into the public system. Examples are plating factories using cyanide and hospitals. This is not intended to apply to normal household installations.
- D.) Backflow prevention devices shall be installed on the service connection to any premises that have internal cross-connection, unless such cross-connections are abated to the satisfaction of the water surveyor. It shall be the responsibility of the water user to provide and maintain these protective devices and each one must be acceptable to the State Health Department.

Section 8.3.2 TYPE OF PROTECTION

The protective device required shall depend on the degree of hazard as tabulated below:

- A.) At the service connection to any premises where there is an auxiliary water supply shall be protected against backflow of water from the premises into the public water system, unless the auxiliary water supply is approved as an additional source by the water surveyor and is satisfactory to the public health agency having jurisdiction with regard to quality and safety.
- B.) At the service connection to any premises where there is an auxiliary water supply where cross-connections are known to exist which cannot be presently eliminated, the public water

supply system shall be protected by an air gap separation or an approved reduced pressure principle backflow prevention device.

- C.) At the service connection to any premise on which a substance that would be objectionable (but not necessarily hazardous to health if introduced into the public water supply) is handled so as to constitute a cross-connection, the public water supply shall be protected by an approved double-check valve assembly.
- D.) At the service connection to any premise on which a substance of unusual toxic concentration or danger to health is or may be handled but not under pressure, the public water supply shall be protected by an air gap separation or an approved reduced pressure principle backflow prevention device. This device shall be located as close as practicable to the water meter; and all piping between the water meter and receiving tanks shall be entirely visible.
- E.) At the service connection to any premise on which any material dangerous to health or toxic substance in toxic concentration, is or may be handled under pressure, the public water supply shall be protected by an air gap separation. The air gap shall be located as close as practicable to the water meter and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure principle backflow prevention device, providing the alternative is acceptable to the water surveyor.
- F.) At the service connection to any sewage treatment plant or sewage pumping station, the public water supply shall be protected by an air gap separation. The air gap shall be located as close as practicable to the water meter and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure principle backflow prevention device.
- G.) The selected backflow prevention device shall be on the acceptance list as published by the New York State Department of Health.
- H.) ALL USERS OF BACKFLOW PROTECTIVE DEVICES MUST SUBMIT PLANS TO THE SUPPLIER OF WATER AND THE STATE FOR APPROVAL.

8.3.2 FREQUENCY OF INSPECTION OF PROTECTIVE DEVICES

It shall be the duty of the water user on any premise on account of which backflow protective devices are installed to have competent inspections made at least once a year, or more often in those instances where successive inspections indicate repeated failure. These devices shall be repaired, overhauled or replaced at the expense of the water user whenever they are found to be defective. These tests shall be performed by a qualified backflow prevention device tester and all test results will be provided to the water surveyor within 72 hours after the test is made. Records of such tests, repairs and overhaul shall also be kept and made available to the water surveyor and the local health officer.

8.4 PROTECTION OF POTABLE WATER SYSTEM WITHIN PREMISES

8.4.1 SEPARATE DRINKING WATER SYSTEMS

Whenever the plumbing inspector determines that it is not practical to protect drinking water systems on premises against entry of water from a source or piping system or equipment that cannot be approved as safe or potable for human use, an entirely separate drinking water system shall be used. An entirely separate drinking water system shall be installed to supply water at points convenient for consumers.

8.4.2 FIRE SYSTEMS

Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, wherever practical, be kept wholly separate from drinking water pipelines and equipment. In cases where domestic water system is used for both drinking and firefighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines are not used for fire fighting purposes.

Any auxiliary fire fighting water supply which is not approved for potable purposes, but which is so connected that it may be introduced into potable water piping during emergency, shall be equipped with an approved automatic chlorination machine. It is hereby declared that it

is the responsibility of the person or persons causing introduction of said unapproved or unsafe water into the pipelines to see

- 1) that a procedure is developed and carried out to notify and protect users of this piping system during the emergency and
- 2) that special precautions be taken to disinfect thoroughly and flush out all pipelines which may become contaminated before they are again used to furnish drinking water.

In the event the means of protection of water consumers is by disinfection of the auxiliary fire fighting supply, the installation and its use shall be thoroughly reliable.

The public water supply must be protected against backflow from such dual domestic fire system, as detailed in article 3.

8.4.3 PROCESS WATER

Potable water pipelines connected to equipment for industrial processes or operations shall be protected by a suitable backflow prevention device located beyond the last point from which drinking water may be taken, which device shall be provided on the feed line to process piping or equipment. In the event the particular process liquid is especially corrosive or apt to prevent reliable action of the backflow prevention device, air gap separation shall be provided. These devices shall be tested by the water user at least once a year or more often in those instances where successive inspections indicate repeated failure. The device shall be repaired, overhauled or replaced whenever they are found to be defective. These tests must be performed by a qualified backflow prevention device tester and records of tests, repairs and replacement shall be kept and made available to the water surveyor and the Health Department upon request.

8.4.4 SEWAGE TREATMENT PLANTS AND PUMPING STATIONS

Sewage pumps shall not have priming connections directly off any drinking water systems. No connection shall exist between the drinking water system and any other piping equipment or tank in any sewage treatment plant or sewage pumping station.

8.4.5 PLUMBING CONNECTIONS

Where the circumstances are such that there is special danger, to health by the backflow of sewage, as from sewers, toilets, hospital bedpans and the like, into a drinking water system, a dependable device or devices shall be installed to prevent such backflow.

The purpose of these regulations is not to transcend local plumbing regulations, but only to deal with those extraordinary situations where sewage may be forced or drawn into the drinking water piping. These regulations do not attempt to eliminate at this time the hazards of back-siphonage through flushometer valves on all toilets, but deal with those situations where the likelihood of vacuum conditions in the drinking water system is definite and there is special danger to health. Devices suited to the purpose of avoiding back-siphonage from plumbing fixtures and roof drains, barometric loops or separate pressure systems separately piped to supply such fixtures, recognized approved vacuum or siphon breaker and other backflow protective devices which have been proven by appropriate tests to be dependable for destroying the vacuum.

Inasmuch as many of serious hazards of this kind are due to water supply piping which is too small, thereby causing vacuum conditions when fixtures are flushed or water drawn from the system in other ways, it is recommended that water supply piping which is too small to be enlarged whenever possible.

8.4.6 MARKING SAFE AND UNSAFE WATER LINES

Where the premises contain dual or multiple water systems and piping, the exposed portion of pipelines shall be painted, banded or marked at sufficient intervals to distinguish clearly which water is safe and which is not safe. All outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

Water Supervisor- The Health Department and water purveyor shall be kept informed of the identity of the person responsible for the water piping on all premises concerned with these regulations. At each premises where it is necessary in the opinion of the water purveyor, a water supervisor shall be designated. The water supervisor shall be responsible for the installation and use of pipelines and equipment and for the avoidance of cross-connection. In the

event of contaminated or pollution of the drinking water system due to a cross-connection or the premises, the local health officer and water purveyor shall be promptly advised by the person responsible for the water system so that appropriate measures may be taken to overcome the contamination.

8.5 RECOURSE FOR NON-COMPLIANCE

No water service connection to any premises shall be installed or maintained by the water purveyor, unless the water supply is protected as required by State regulations and this rule.

Service of water to any premises may be discontinued by the water purveyor, if a backflow prevention device required by this rule and regulation is not installed, tested and maintained, if any defect is found in an installed backflow prevention device, if it is found that backflow preventive device has been removed or bypassed or if unprotected cross-connections exist on the premises. Service shall not be restored until such conditions or defects are corrected.

Section 9 – EFFECTIVE DATE

9.1 WATER RULES EFFECTIVE DATE

Water rules and regulations shall take effect this day of
1991 by resolution of the Village Board of the Village of Elba.

Signatures

VILLAGE OF ELBA

WATER RULES & REGULATIONS APPENDIX A
FEE SCHEDULE (TO BE AMENDED FROM TIME TO TIME)

1. RETAIL SERVICE
 - A. RESIDENTIAL – BILLED QUARTERLY
 - Base charge per connection
\$17.70
 - Charge per 1000 gallons
1.55
 - B. TANK TRUCK (BULK)
 - Charge per 1000 gallons
1.55
2. HYDRANTS
 - Hydrant installation at cost
3. SERVICE CONNECTION CHARGE
 - $\frac{3}{4}$ Tap & Connection at cost
 - ALL other at cost
 - BORED crossing at cost
4. FIELD SERVICE CHARGES
 - A. Meter Test – Customer Request
 - $\frac{3}{4}$ Meter \$25.00
 - All other sizes at cost
 - B. Service Shut Off And/or Meter Removal
 - Meter removal (seasonal) no charge
 - Meter set no charge
 - Service On/Off no charge
 - C. Meter Costs $\frac{3}{4}$ " at cost
 - All other sizes at cost
 - D. Replacement of Frozen Meter at cost

