

**Chapter 55**

**ZONING**

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[HISTORY: Adopted by the Board of Trustees of the Village of Saltaire 5-21-1923; revised in its entirety 8-28-1954. Re-adopted in its entirety 10-15-11 by LL 1 of 2011. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

- General provisions -- See Ch. 1.
- Building construction administration -- See Ch. 18.
- Flood damage protection -- See Ch. 28.
- Planning Commission -- See Ch. 42.

**§ 55-1. Definitions. [Amended 7-4-2009 by L.L. No. 4 of 2009; 10-15-11 by L.L. 2 of 2011; 3-1-2012 by L.L. 2 of 2012]**

The following words and phrases when used herein shall have the following meanings, unless otherwise required by the context:

**BAYFRONT AREA** -- The lots numbered and shown on Saltaire Map No. 114 and Supplemental Map of Saltaire No. 484, which are bounded on the north by the southerly line of Bay Promenade as laid down on said maps as the same may be extended hereafter, and as the same may from time to time be revised to reflect changes in physical increases and decreases in land areas. [Amended 9-22-1973]

**INTERIOR LOTTED AREA** -- All the lots numbered and shown on Saltaire Map No. 114 and Supplemental Map of Saltaire No. 484, other than the lots lying in the bayfront area and in the oceanfront area.

**OCEANFRONT AREA** -- Those lots numbered and shown on Saltaire Map No. 114, which are bounded on the south by the existing dune crest line at the time an application for a building permit is filed. [Amended 9-22-1973]

**PARTITION MAP OF 1878** -- The map of the partition of Great South Beach in the Towns of Brookhaven and Islip, made by Jonathan Sammis, Surveyor, and filed in the office of the Clerk of Suffolk County on July 16, 1878, under File No. 310.

**PRE-EXISTING NONCONFORMING BUILDING OR STRUCTURE** -- All buildings, structures and appurtenances on a conforming building lot, all of which were either, (i) at the time of their construction, commenced and completed as a matter of right pursuant to the statutes, ordinances and general rules of law then in effect at the time of construction, or (ii) issued a Certificate of Occupancy or Completion by the Village Building Inspector or other Village official acting in a similar capacity, or (iii) granted a variance from the Saltaire Zoning Board of Appeals for the non-conformity; but which no longer conform in whole or in part to the current regulations of the zoning district in which they are located. [Amended 3-1-2012]

**PRE-EXISTING NONCONFORMING USE** - Any use of a building, structure or land area lawfully existing that was commenced and maintained as a matter of right under the statutes, ordinances and general rules of law then in effect, or for which a variance was granted from the Saltaire Zoning Board of Appeals, but which no longer conform in whole or in part to the current regulations of the zoning district in which it is maintained. [Amended 3-1-2012]

**SALTAIRE MAP NO. 114** -- The map of property of Fire Island Beach Development Company, known as Saltaire, surveyed by Eugene R. Smith, Engineer and Surveyor of Islip, New York, and filed in the office of the Clerk of Suffolk County on March 29, 1911, as Map No. 114.

**SUPPLEMENTAL MAP OF SALTAIRE NO. 484** -- The supplemental map of

Saltaire, property of Fire Island Beach Development Company, made by L. A. Beach, Civil Engineer of Bay Shore, New York, and filed in the office of the Clerk of Suffolk County on January 20, 1913, as Map No. 484.

**SWIMMING POOL** -- Any body of water in an artificial or semi-artificial receptacle or other temporary, portable or permanent structure having (i) a depth of more than eighteen (18) inches and an area of more than fifty (50) square feet, or (ii) an area of more than fifty (50) square feet and a capacity of more than 500 gallons, whether located indoors or outdoors, above-ground or in-ground, including all structures, equipment, appliances and other facilities appurtenant thereto and intended for its operation and maintenance. A "swimming pool" shall be deemed to include a hot tub and similar facilities. If roofed by a permanent structure, the total area occupied by a pool shall be deemed an accessory structure subject to the maximum plot occupancy provisions of § 55-12 of the Village Code. If not roofed by a permanent structure, the total area occupied by a pool, any appurtenant decking and the required fencing shall be deemed a deck for purposes of § 55-12 of the Village Code. [Added 8-23-1986 by L.L. No. 4, 1986, Amended 7-4-09 by L.L. 4 of 2009]

**UNLOTTED ACREAGE AREA** -- All those sections or parts of Lot No. 5 shown on the Partition Map of 1878 and now within the corporate boundaries of the Village which were not subdivided into lots numbered and shown on Saltaire Map No. 114 and Supplemental Map of Saltaire No. 484; and the easterly quarter of the easterly half of Lot No. 4 shown on the Partition Map of 1878.

**§ 55-2. Districts established.**

For the purpose of regulating the use of land and the use and location of buildings and other structures thereon, all land within the corporate boundaries of the Village is hereby divided into three (3) districts to be known as "Residence Districts," "Business Districts" and "Utility Districts," respectively.

**§ 55-3. Residence Districts.**

Residence Districts shall comprise and include all land within the corporate boundaries of the Village not specifically designated hereafter as lying in Business and Utility Districts.

**§ 55-4. Business Districts. [Amended 10-8-94 by L.L. No. 3, 1994; 11-13-1999 by L.L. No. 11, 1999]**

Business districts shall comprise and include the land numbered as Lot Nos. 41 to 44, both inclusive, and Lot Nos. 518 to 542, both inclusive in Block No. 35 and Lot Nos. 45 to 52, both inclusive, and Lot Nos. 588 to 603, both inclusive, in Block No. 36 as shown on Saltaire Map No. 114; except said business districts shall not include part of Lot Nos. 41 and 42, and

all of Lot Nos. 43 and 44 and part of Lot No. 518, all in Block 35 as shown on Saltaire Map No. 114, which lots and parts of lots are particularly described as follows: Beginning at the corner formed by the intersection of the southerly side of Bay Promenade and the westerly side of Broadway; running thence southerly along the westerly side of Broadway, a distance of 105.33 feet; running thence westerly at right angles to the westerly side of Broadway, a distance of 85 feet; running thence northerly along the division line between Lot Nos. 40 and 41, a distance of 80.67 feet to the southerly side of Bay Promenade; and running thence easterly along the southerly side of Bay Promenade, a distance of 88.52 feet, to the corner at the point or place of Beginning.

#### § 55-5. Utility Districts.

Utility Districts shall comprise and include all lots of land numbered and shown as lying in Block Nos. 60 and 61 on Saltaire Map No. 114.

#### § 55-6. Permitted uses in Residence Districts. [Amended 9-22-1973; 9-6-1976 by L.L. No. 1, 1976; 9-29-1979 by L.L. No. 3, 1979; 11-13-1999 by L.L. No. 8, 1999, Amended 8-15-2005 by L.L. No. 3, 2005, 7-4-2009 by L.L. No. 4 of 2009]

- A. In Residence Districts no land shall hereafter be used and no buildings or structures shall hereafter be erected, altered, used or maintained for any purpose other than the following:
- (1) Single one-family private residential dwellings and accessorial structures designed and maintained for one (1) family unit and having not more than one (1) kitchen equipped with a range and sink and not more than three (3) bathrooms. As used herein and elsewhere in this chapter, the term "one (1) family" shall be defined as one (1) or more persons and their servants, if any, living, cooking and otherwise acting together as a single, nonprofit housekeeping unit in a household which is the functional and factual equivalent of a traditional family, whether or not such persons are related by blood, adoption, marriage or otherwise. The term "accessorial structure" as used herein means a structure ancillary and appurtenant to a residential dwelling and located on the same building plot, provided that no cooking or toilet facilities are installed or utilized therein, and further provided that, only on building plots of seventeen thousand (17,000) square feet or more in the interior lotted area, the ocean front area and the bay front area, and of twenty thousand (20,000) square feet of area or more in the unlotted areas, a swimming pool conforming to the construction, operational and maintenance provisions of Chapter 55, § 55-22, may be approved by the Board of Trustees and a permit issued for its installation by the Building Inspector.

- (2) Structures for religious worship.
- (3) Structures for libraries and educational institutions.
- (4) Structures, facilities and uses for any municipal or governmental purposes or for use by private clubs or organizations, membership in which is open to all village residents on an equal basis; such uses include playgrounds, parks, athletic fields and tennis courts, together with the structures and facilities customarily used in connection therewith.
- (5) A single one-family private residential dwelling and permanent accessory structures on the property may be used for a home occupation as defined in this paragraph and subject to the conditions in this paragraph. For purposes of this paragraph, "home occupation" shall be defined as any business, professional, artistic or educational activity conducted within a dwelling by any of the residents thereof, and "dwelling" shall be defined as a single one-family private residential dwelling and any permanent accessory structure on the property where the residential dwelling is located. Any home occupation shall meet the following conditions, in addition to complying with other applicable requirements of the Village Code:
  - (a) The space used for the home occupation shall occupy in the aggregate no more than 160 square feet in the dwelling.
  - (b) The residential character of the dwelling shall not be altered
  - (c) There shall be not more than one (1) sign on the property identifying the home occupation. The sign shall be located or posted only on the dwelling, and be placed behind the setback lines of the property. The sign shall be in color and style consistent with the color and style of the dwelling. The sign shall not exceed four (4) square feet in size, subject to rules as to size of signs as may be adopted by the Board of Trustees as it deems necessary. Notwithstanding the foregoing sign size requirement, a sign posted prior to April 1, 2005 (a "Pre-existing Sign") exceeding four (4) square feet may continue to be used until September 30, 2005, after which all locations with Pre Existing Signs must conform completely with the requirements of this section.
  - (d) The home occupation, including any assemblage, shall not be conducted out-of-doors on the property.
  - (e) There shall be no outdoor storage or display of goods or supplies visible from the public walks or from any property adjoining the property on which the dwelling is located.

- (f) There shall be no sales on the property other than occasional sales.
  - (g) Delivery or pickup of freight or parcels shall not be more frequent than would normally be expected for a residence without such home occupation.
  - (h) The home occupation shall not add to the quantity of waste material that would normally be expected for a dwelling without such home occupation.
  - (i) The home occupation shall not create environmental impacts (for example but not limited to noise, dust, odor or fire hazard) or any other hazard or nuisance to any greater or more frequent extent than would normally be expected for a dwelling without such home occupation.
- A. All uses other than those specified above are prohibited, including but not limited to the construction of in-ground swimming and diving pools and tennis courts. No private, aboveground swimming pool shall be constructed in the Saltaire Dune District. [Amended 5-13-1980 by L.L. No. 6, 1980; 8-23-1986 by L.L. No. 4, 1986]
- B. Enforcement of permitted uses for residential dwellings.  
The owners of a residential dwelling within the village shall not lease or otherwise permit such property to be used for any purpose other than those set forth in § 55-6A(1) of this chapter and shall cause to be included in any written or oral agreement pertaining to the leasing of any dwelling the following provisions:

"Both parties to this agreement understand and agree that, in accordance with § 55-6A(1) of the Code of the Village of Saltaire, occupancy of the demised premises shall be limited to one (1) or more persons and their servants, if any, living, cooking and otherwise acting together as a single, nonprofit housekeeping unit in a household which is the functional and factual equivalent of a traditional family, whether or not such persons are related by blood, adoption, marriage or otherwise; and that if, in addition to regular day-to-day occupancy, said premises are from time to time occupied or utilized by friends, guests or any other visitors, neither party will receive, directly or indirectly, any compensation from such friends, guests or visitors. [Added 9-29-1976 by L.L. No. 3, 1979; amended 7-19-1986 by L.L. No. 3, 1986; renumbered as §55-6 C. 11-13-99 by L.L. No. 8, 1999]

**§ 55-7. Permitted uses in Business Districts. [Amended 9-29-1979 by L.L. No. 3, 1979]**

In Business Districts no land shall hereafter be used and no buildings or structures shall hereafter be erected, altered, expanded or an existing use or manner of operation changed for any purpose other than:

- A. Uses hereinabove permitted in Residence Districts.
- B. By special permit from the Board and with the concurrence of the Fire Island National Seashore, stores in which goods and commodities are sold at retail or such other similar use as may be deemed to provide a necessary service to the residents of the village in support of community living.

**§ 55-8. Permitted uses in Utility Districts.**

In Utility Districts no land shall hereafter be used and no buildings or structures shall hereafter be erected, altered, used or maintained for any purpose other than the following:

- A. Uses hereinabove permitted in Residence Districts.
- B. Structures and facilities of any corporation subject to the jurisdiction of the Public Service Commission of the State of New York.
- C. Village structures and facilities. [Added 9-22-1973]
- D. Parking areas and facilities customarily used in connection therewith. [Amended 9-22-73]

**§ 55-9. Building plots for residential dwellings. [Amended 10-9-1965]**

- A. Building plots for residential dwellings in any district shall consist of:
  - (1) Not less than six (6) contiguous lots in the interior lotted and oceanfront areas. [Amended 9-22-1973]
  - (2) Not less than four (4) contiguous lots in the bayfront area. [Amended 9-22-1973]
  - (3) Not less than twelve thousand (12,000) square feet of land in the unlotted acreage area.
- B. On and after October 25, 1965, no property shall be divided so as to create plots less than the minimum areas prescribed herein. For the purpose of this chapter, a

plot shall be deemed to consist of contiguous lots if each lot therein has a common lineal boundary of any length on any side with another of such lots.

**§ 55-10. Setbacks for residential dwellings and business buildings. [Amended 10-9-1965; 9-22-1973; 9-29-1979 by L.L. No. 3, 1979; 8-23-1986 by L.L. No. 4, 1986, 9-1-2007 by LL 3, 2007, 7-4-2009 by L.L. No. 4 of 2009, 10-16-10 by L.L. No. 5 of 2010]**

- A. Interior lotted areas. No part of any building or structure in the residence district, including permitted non-residential buildings and accessory structures such as decks, open porches and swimming pools, shall be erected or altered in the interior lotted areas within twenty (20) feet of the front line and within fifteen (15) feet of the side and rear lines of a building plot, other than walks of not more than six (6) feet in width for access to village walks; bicycle racks; one (1) platform or enclosure for storage of garbage containers not to exceed twenty-five (25) square feet in area and to be set back at least two (2) feet and not more than three (3) feet from the adjacent village walk, and, if enclosed, the height of such enclosure not to exceed three (3) feet above the level of the adjacent village walk or four (4) feet in height above ground level; and a sewerage tank which shall be not less than ten (10) feet from the rear line of a building plot and not less than sixteen (16) feet from any water supply. The term "front line" on the interior lotted area shall mean that part of a building plot which abuts upon the north-south walks of the village, except in the case of parcels which abut upon both north-south and east-west walks of the village, whereupon the land abutting both walks shall constitute front lines, and no part of any building or structure in the residence district, including permitted non-residential buildings and accessory structures such as decks, open porches and swimming pools, shall be erected or altered within twenty (20) feet of such walks.
- B. Bayfront and oceanfront areas. No part of any building or structure in the residence district, including permitted non-residential buildings and accessory structures such as decks, open porches and swimming pools, shall be erected or altered in the bayfront area within twenty (20) feet and in the oceanfront area within forty (40) feet of the front line and within twenty (20) feet of the line abutting any village walk, and within ten (10) feet of all other lines of a building plot, other than walks of not more than six (6) feet in width for access to village walks, bicycle racks, one (1) platform or enclosure for the storage of garbage containers, as defined in § 55-10A, and a sewerage tank which shall be not less than fifteen (15) feet from the rear line of a building plot and not less than sixteen (16) feet from any water supply.
- (1) The term "front line" in the bayfront area shall mean that side of a building plot which abuts on Bay Promenade as the same may be extended hereafter. The term "front line" in the oceanfront area shall mean the dune crest line. The term "dune crest line" in the oceanfront area shall be a line drawn

parallel to the northerly boundary line of the plot from a point established as the highest median elevation above sea level encompassed by the building plot. The dune crest line shall be confirmed by a licensed surveyor and so indicated on the plot survey attached to the application for a building permit, and shall reflect the physical location of the crest of the dune as of the date of such survey.

- (2) No boardwalks, decks, stiles, steps or other similar structures shall hereafter be erected, altered or maintained to permit entrance or egress from oceanfront area building plots to the beach strand, except when erected by the Village as natural extensions of dedicated village walks.
- C. Unlotted acreage. No part of any building or structure in the residence district, including permitted non-residential buildings and accessorial structures such as decks, open porches and swimming pools and sewerage tanks, hereafter erected or altered in the unlotted acreage shall encroach within twenty (20) feet of the boundary lines of building plots other than a walk of not more than six (6) feet in width for access to village walks, bicycle racks, and one (1) platform or enclosure for the storage of garbage containers, as defined in § 55-10A.
- D. No part of any building or structure in the business district, including ancillary structures, decks and open porches, but excluding walks not more than ten (10) feet in width for access to village walks and bicycle racks, shall hereafter be erected or altered within twenty (20) feet of the front lot line, which, in the case of interior lotted areas, shall mean the north-south walks and, in the case of building plots on Bay Promenade, shall mean both the north-south walk and Bay Promenade, and within fifteen (15) feet of the side and rear lines of a building plot. Sewerage tanks shall not be less than ten (10) feet from side or rear lines of a building plot and not less than sixteen (16) feet from any water supply line. [Amended 9-22-1973; 10-8-88 by L.L. No. 9, 1988]
- E. Fences. [Added 10-8-1988 by L.L. No. 9, 1988, Modified 9-1-2007 by LL 3, 2007]
- (1) For purposes of this Section 55-10E, the terms Enclose, fence, Mesh Fence, Privacy Screen, Restrictive Fence, Split Rail Fence and Wall shall have the meanings ascribed to them in Section 55-19 of the Village Code.
- (2) A Mesh Fence shall not be erected at any point closer to the front line of the property than one-half (1/2) the distance of the front line setback as specified in §55-10 of this code. In the case of a property having two front lines, the setback as specified in this Section shall be applicable to both front lines. For the purposes of this Section, the term “front line” shall be as defined in §55-10 of this code. Mesh Fences shall not be erected within 5 feet of all other property lines, except when permission is granted by the adjoining property owner allowing installation of the Mesh Fence closer to the common property

line, as evidenced on such form and filing as shall be required by the Building Inspector.

- (3) A Privacy Screen otherwise conforming to the requirements set forth in §55-19 of the Village Code may be erected along the front, sides or rear of a building plot at any point no closer to the property line than one-half (1/2) the distance between such line and the setback line described in the appropriate Subsection of this Section.
- (4) A Restrictive Fence shall be subject to the setback requirement in §55-22 of the Village Code.
- (5) A Split Rail Fence otherwise conforming to the requirements set forth in §55-19 of the Village Code may be erected along the front, sides and rear of a building plot at any point from the property line to the setback line described in the applicable Subsection of this Section with respect to the location of the building plot on which the Split Rail Fence is located or is to be located.
- (6) A Wall greater than eighteen (18) inches in height from the average undisturbed grade, and otherwise conforming to the requirements set forth in §55-19 of the Village Code, shall meet the required setbacks of the applicable Subsection of this Section with respect to the location of the building plot on which the Wall is located or is to be located.

**§ 55-11. Maximum plot occupancy. [Added 9-22-1973; amended 9-29-1979 by L.L. No. 3, 1979, 7-15-1983 by L.L. No. 12, 1983; 8-23-1986 by L.L. No. 4, 1986; 11-13-1999 by L.L. No. 8, 1999, 10-16-10 by L.L. No. 5 of 2010]**

- A. In the lotted areas, no part of any building or structure in the residence or business districts, including accessorial structures, such as decks, open porches and private, aboveground swimming pools, wherever located, but excluding one (1) access walk not more than six (6) feet in width, extending from a village walk to the nearest construction of the building plot; and one (1) open platform for parking bikes, not exceeding sixty-four (64) square feet in area; and one (1) platform or enclosure abutting a village walk for storage of garbage containers, such platform or enclosure not exceeding twenty-five (25) square feet in area, hereinafter erected or altered shall occupy in excess of thirty percent (30%) of such plot, and not more than twenty percent (20%) of the building plot up to a maximum of one thousand eight hundred (1,800) square feet may consist of enclosed areas, such enclosed areas to include any permitted swimming pool roofed by a permanent structure.
- B. In unlotted areas where any structure is hereafter erected or altered in an unlotted area, the same provisions shall apply as in subsection A above, except that, as a further limitation, the total plot coverage shall not exceed twenty-five percent (25%) of such plot, and not more than sixteen and two-thirds percent (16 2/3%) of

the building plot up to a maximum of one thousand eight hundred (1,800) square feet may consist of enclosed areas, such enclosed areas to include any permitted swimming pool roofed by a permanent structure.

**§ 55-12. Minimum floor areas of residential dwellings. [Added 7-19-1958; amended 9-22-1973]**

The minimum required floor areas of residential dwellings hereafter erected shall, as to a single-story building, be eight hundred (800) square feet and, as to a structure in excess of one (1) story, be a combined total of one thousand two hundred (1,200) square feet. For purposes of this section, the term "floor area" shall mean the area contained within the exterior of the walls of a dwelling, exclusive of open porches, decks and any separate buildings, such as sheds.

**§ 55-13. Maximum height of residential dwellings and business structures. [Added 9-22-1973; amended 9-29-1979 by L.L. No. 3, 1979; 5-27-2002 by L.L. No. 4, 2002; 4-13-2008 by L.L. No. 4 of 2008, 10-16-10 by L.L. No. 5 of 2010]**

- A. No structure shall hereafter be substantially improved or erected to a height which shall exceed the *maximum height* as that phrase is defined in this subdivision A. of Chapter 55-13. *Maximum height* as used in this code, shall mean at the option of a permit applicant, either (i) the greater of twenty-seven feet measured minimally from the average of the four corner elevations or by using as many additional elevation points as the building inspector may require to reflect the average grade, to the peak of the roof of such structure, or (ii) the sum of twenty-three feet, plus the *Benchmark level* as defined in chapter 28. *Maximum height* shall be measured to the highest point on the roof of such structure, excluding stacks, chimneys and antennas.
- B. Irrespective of the permit applicant's choice of measurement standard of clause (i) or (ii) of the foregoing subdivision A of this Chapter 55-13, the applicant shall comply with elevation standards of section 28-17 or section 28-18 of this code as may be applicable.
- C. Section Deleted
- D. Radio, television and satellite dish antennas. Up to a maximum of two Television or FM antennas of the normal dipole type, and up to a maximum of two satellite dish antenna of a maximum diameter of 30 inches may be erected on the roof of any structure, provided that the supporting mast does not exceed four (4) feet in height above the peak or highest elevation of the roof structure as established by § 55-13 of this chapter. [Added 7-15-1983 by L.L. No. 9, 1983]
- E. Citizen band, amateur radio or marine frequency transmitting and receiving antennas may be erected on the roof or chimney of any structure, provided that the lead-in base of such antennas is located not more than two (2) feet above the peak

or highest elevation of the roof structure as established by § 55-13 of this chapter.  
[Added 7-15-1983 by L.L. No. 9, 1983]

F. (F)(1). For purposes of this Section, a wireless communication tower is any structure designed or constructed primarily for the purpose of supporting one or more antennas for telephone, radio or similar communications purposes, including, without limitation, radio and television transmission tower or antenna, microwave tower, common-carrier tower, cellular telephone tower or alternative tower structure, but not including Long Island Power Authority (LIPA) transmission poles, telephone poles and street light poles.

(F)(2). A wireless communication tower may be erected at ground level, provided it, and any accessory facility, are adequately anchored and protected on all four (4) sides by a suitable louvered or palisade fence not to exceed eight (8) feet in height and four hundred (400) square feet in area and shall not be within one hundred (100) feet of any residential structure, including a residential structure on the property with the tower and any accessory facility are to be located. Such tower and any accessory facility must adhere to (i) the normal building setback restrictions established by Section 55-10A, B and C, as well as set back a distance equal to 100% of the height of the tower from an adjoining lot line and (ii) the fence law and regulations in Chapter 55 as to use of material.

(F)(3). A special building permit will be required for such tower and any accessory structure. The information in the application for the special building permit shall include:

(a) A scaled site plan showing existing and proposed structures and vegetation and existing and proposed elevations, grades and topography.

(b) Setbacks between the proposed tower and the adjoining properties.

(c) Information establishing that the power tower has proper design and sufficient structure to sustain hurricane or stronger winds.

(d) A written description of the application's compliance with all applicable requirements of this article and with all applicable federal, state and local laws.

(F)(4) Any property owner who enters into negotiations with a wireless service provider for the construction of a wireless communications tower must within ten (10) days of the commencement of such negotiations notify the Village Administrator and all property owners within a two hundred foot (200') radius of the subject property of the proposed placement of such tower.

(G) Site Plan Aspects

(1) Visibility

(i) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.

(ii) Telecommunication towers shall not be artificially lighted except in accordance with the safety requirements of the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surrounding treeline unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or guyed tower) shall be preferable to free-standing towers for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

(iii) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

- (2) Existing Vegetation – Existing on-site vegetation shall be preserved to the maximum extent possible, and there shall be no cutting of trees prior to approval of the special permit use.
- (3) Screening – Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas.

(H) Authority to Impose Conditions:

The Board of Trustees shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special use or site plan.

(I) Removal Upon Abandonment:

Any tower or antenna which has been abandoned or the use of which as a telecommunications tower or antenna has been discontinued must be dismantled a tower or antenna and any associated equipment or accessory structures removed from the site, and the site restored to its original condition.

**§ 55-14. Temporary habitation. [Added 9-22-1973; amended 4-22-1978 by L.L. No. 2, 1978]**

No person shall erect, raise, establish or maintain any tent, trailer, mobile home, sleeping bag or any other temporary habitation to be used or occupied as a place or means for living or sleeping on any public or unimproved private property within the village.

**§ 55-15. Zoning Board of Appeals.**

- A. A Zoning Board of Appeals consisting of three (3) members to be appointed by the Mayor and approved by the Board for terms of three (3) years is hereby created. Members of the Zoning Board of Appeals shall be residents of or owners of record of real property in the village, shall serve without compensation and shall hold no other elected or appointed office in the village. [Amended 9-22-1973; 11-13-1999 by L.L. No. 8, 1999]
- B. [Amended 9-22-1973; 9-29-79 by L.L. No. 3, 1979; 11-13-1999 by L.L. No. 8, 1998; 8-15-2005 by L.L. No. 4 of 2005] The Zoning Board of Appeals shall have:
- (1) All of the powers conferred upon a Zoning Board of Appeals under § 7-712 of the Village Law or any amendment or renumbering thereof, including but not limited to:
    - (a) The power to retain jurisdiction of and to hear an appeal of a denial issued by the building inspector or Board of Trustees of the Village of Saltaire regarding any matter involving zoning or building and construction in the Village of Saltaire.
    - (b) The power to retain jurisdiction of and to hear a request for an interpretation of the Zoning Code of the Village of Saltaire, Chapter 55 of the Village Code.
    - (c) Any other power conferred on a Village Zoning Board of Appeals by Section 7-712(B) of the Village Law of the State of New York.
  - (2) The power to promulgate rules and regulations, not inconsistent with the provisions hereof, for the conduct of its proceedings.
  - (3) The powers conferred under subsections B(1) and (2) hereof shall be exercised only upon:
    - (a) The filing of written applications and appeals in the office of the Clerk within ninety (90) days after the written disapproval of the building application by the Building Inspector. [Amended 11-2-1985 by L.L. No. 3, 1985]
    - (b) The posting of notices of the filing of applications or appeals and of public hearings to be held thereon, at three (3) conspicuous places in the village for two (2) weeks prior to the hearings and a copy of such notice, together with a copy of the original application and

appeal, filed with the Superintendent of Fire Island National Seashore.

- (c) The mailing of such notices to each property owner in the village who shall have registered his name and address for such purpose with the Zoning Board of Appeals.
  - (d) The mailing of such notices to all persons listed on the Village assessment roll as the owners of property lying within a radius of two hundred (200) feet of the plots affected by said applications or appeals.
  - (e) The conduct of public hearings, the minutes of which shall be taken and filed.
  - (f) The affirmative concurrent vote of at least two (2) members of the Zoning Board of Appeals who shall make written findings and conclusions, copies of which shall be filed with the Village Superintendent and the Superintendent of Fire Island National Seashore, within ten (10) working days after making a determination.
- C. The Zoning Board of Appeals shall conform to the procedures of section 55-15 of the Saltaire Code and section 7-712 A, B and or C of the New York Village Law. The Zoning Board of Appeals shall schedule a variance hearing date within 62 days of applicants first request, as required by 7-712 A, B and or C of the Village Law. If the Zoning Board of Appeals does not schedule a hearing date within 62 days of applicants first request, the applicant has the right to demand that a hearing date be scheduled within 10 business days after receipt of written notice via certified mail return receipt requested from the applicant to the Zoning Board of Appeals and the Board of Trustees. Such demand notice may be made care of the Village Clerk. If the Zoning Board of Appeals does not schedule a hearing date within 10 business days of receipt of notice of demand for a hearing from applicant, the application is deemed approved by virtue of section 55-15 of the Saltaire Code.
- D. The Zoning Board of Appeals shall file its decision with the Village Clerk within 62 days of a hearing, as required by 7-712 A, B and or C of the Village Law. If the Zoning Board of Appeals does not file its decision with the Village Clerk within 62 days of a variance hearing, the applicant has the right to demand that a decision be filed within 10 business days after receipt of written notice via certified mail return receipt requested from the applicant to the Zoning Board of Appeals and the Board of Trustees. Such demand notice may be made care of the Village Clerk. If the Zoning Board of Appeals does not file its decision with the Village Clerk within 10 business days of receipt of notice of demand for a decision from applicant, the application is deemed approved by virtue of section 55-15 of the Saltaire Code.

- E. Alternate Members [Amended 10-27-2006 by L.L. No. 6, 2006]
1. The Board of the Trustees of the Village of Saltaire hereby creates the position of Alternate Member of the Zoning Board of Appeals pursuant to Section 7-712(11) of the Village Law of the State of New York.
  2. An Alternate Member shall serve pursuant to Section 7-712(11) of the Village Law of the State of New York and §55-15 of the Code of the Village of Saltaire.
  3. An Alternate Member shall be appointed by the Mayor subject to approval of the Board of Trustees, and must meet all the requirements of and serve according to subsection A of §55-15 of the Code of the Village of Saltaire..
  4. An Alternate Member shall be appointed only upon written request of the Chairman of the Zoning Board of Appeals to the Board of Trustees to fill a temporary vacancy for a particular case created by absence or recusal, and shall serve only for the specific purpose requested by the Chairman of the Zoning Board of Appeals.
  5. The Chairman of the Zoning Board of Appeals may request from 1 up to 3 Alternate Members for any particular case.
  6. The term of any Alternate Member shall be from the date of appointment until the conclusion of the specific case for which the request for Alternate Member was made by the Chairman of the Zoning Board of Appeals.
  7. In the event that an Alternate Member is appointed to replace the Chairman of the Zoning Board of Appeals on any case, the Board of Trustees will appoint one of the Members or Alternate Members as the Chairman of the Zoning Board of Appeals for that particular case.

**§ 55-16. Pre-existing Nonconforming Structures and Pre-existing Nonconforming Uses.  
[Amended in its entirety on 3-1-2012 by L.L. No. 2, 2012]**

- A. Any pre-existing nonconforming building or structure in existence as defined herein shall be deemed lawful and may be continued notwithstanding nonconformity with the existing provisions of this Chapter.

- B. A pre-existing nonconforming building or structure may not be expanded either (i) beyond its existing lot footprint, or (ii) beyond its existing exterior floors, walls or roofs, unless the expansion meets each of the following conditions:
1. All portions of any new work must conform to all sections of Chapter 55 of the Zoning Code of the Village of Saltaire.
  2. The aggregate square footage of the structure after expansion conforms to allowable enclosed and total property coverage limits pursuant to the provision of §55-11 of this Code in effect at the time of such expansion.
  3. The total width of the structure after expansion at its widest point, as measured in the direction of side yard to side yard, is not increased to exceed the width of the property minus the aggregate of the two side yard setback requirements.
  4. The total length of the structure after expansion at its widest point, as measured in the direction of the front yard to the rear yard, is not increased to exceed the length of the property minus the aggregate of the front and rear yard setback requirements.
- C. A pre-existing nonconforming building or structure that does not conform to the provisions of §55-10 for setback requirements, upon application seeking to have it either (i) reposted in its entirety or (ii) elevated, must be located on the lot at a location that as determined by the Building Inspector provides the optimum conformity with §55-10 then in effect at the time of application, provided that the Building Inspector cannot demand that the applicant rotate the structure from its current orientation or demand a reduction in the size of the pre-existing nonconforming building or structure.
- D. A pre-existing nonconforming building that is detached from the primary building and that is in a non-conforming location pursuant to the provisions of §55-10, upon application seeking to have it either (i) reposted in its entirety or (ii) elevated, must be relocated in conformance with the setback requirements when the accessory structure was initially constructed, but in no case less than 5 feet from any property line.
- E. A pre-existing nonconforming building or structure that is reconstructed after destruction by any cause representing more than fifty percent (50%) of the market value of the aggregate of all buildings and structures on the building parcel at the time of such destruction, as determined by the Building Inspector, may only be reconstructed in conformity with the provisions of Chapter 55 of the Code of the Village of Saltaire in effect at the time of reconstruction.
- F. Any pre-existing nonconforming use in existence as defined herein shall be deemed lawful and may be continued notwithstanding nonconformity with the provisions of this Chapter, provided that any pre-existing nonconforming use may not be expanded, and that any pre-existing nonconforming use shall not have been, to the

knowledge and belief of the Building Inspector discontinued for any continuous period of 18 (eighteen) months, after which it may not be resumed or replaced by any other nonconforming use.

**§ 55-17. Nonconforming building plots. [Added 10-9-1965; amended 9-22-1973]**

Notwithstanding any other provisions of this chapter, single one-family private residential dwellings may be erected on building plots of three (3), four (4) or five (5) contiguous lots in the interior lotted and oceanfront areas, on building plots of two (2) or three (3) lots in the bayfront area and on building plots of less than twelve thousand (12,000) square feet but not less than five thousand (5,000) square feet in the unlotted acreage area if, and only if, on October 25, 1965, such plots:

- A. Shall have been in single and separate ownership.
- B. Shall not have been under common ownership with any adjoining improved or unimproved property.
- C. Shall not after such date have come under common ownership with any adjoining improved or unimproved property.

**§ 55-18. Signs. [Added 9-22-73]**

- A. No illuminated signs shall be permitted in residence, business and utility districts.
- B. Sale or rental signs shall be limited in size to one (1) square foot in area and may be placed only on the property advertised for sale or rent and shall be limited to one (1) per premises and shall be removed immediately upon the sale or rental of such property. [Amended 9-29-1979 by L.L. No. 3, 1979; 9-17-1988 by L.L. No. 8, 1988]
- C. Except as permitted by subsection D of this section, commercial signs or advertising displays shall be restricted to property zoned for and in commercial use and shall not exceed four (4) square feet in area, be placed behind the setback lines of the property on which such commercial use occurs and be limited to one (1) per premises. [Amended 9-29-1979 by L.L. No. 3, 1979; 9-17-1988 by L.L. No. 8, 1988]
- D. The posting of commercial signs or advertising displays on private property by contractors or other services shall be prohibited during the period commencing on the Friday preceding Memorial Day and terminating September 15 in any year, and such signs shall otherwise be of the same dimensions, placement and number as prescribed in subsection C of this section. [Added 9-17-1988 by L.L. No. 8, 1988]

- E. A property zoned for residential use from which a home occupation is conducted in compliance with Section 55-6A(5) may have a sign on such property only as provided for in said Section 55-6A(5).

**§ 55-19. Fences. [Added 9-29-1979 by L.L. No. 3, 1979; amended 7-15-1983 by L.L. No. 10, 1983; 10-8-1988 by L.L. No. 9, 1988; 9/2/00 by L.L. No.1, 2000; 9-1-2007 by L.L. No. 3, 2007; 4-13-2008 by L.L. No. 3, 2008]**

A. Definitions

“Enclose”: To be arranged in such a manner so as to divide or separate one area from another area whether or not the area to be divided or separated from the other area is entirely divided or separated, and whether or not the fence is actually arranged in such a manner so as prevent entry from one area to another area.

“Fence”: A structure of wood, metal, plastic, stone, concrete, or other masonry materials or other material, or any combination thereof, erected to enclose, separate, divide, retain or define a building lot or portion thereof. For purposes of this Section 55-19, a fence shall not include hedges or other densely growing shrubbery.

“Mesh Fence”: A fence erected around or by the side of any open space to prevent passage in or out, constructed of non-metallic vertical and/or horizontal support posts and non-metallic mesh fabric with a maximum gauge of 12 and a minimum mesh clearance of one and one-half (1.5) inches in any direction.

“Privacy Screen”: A fence erected by the side of any open space for the purpose of increasing privacy for a portion of any side of any residential dwelling, deck or open porch constructed in such a way that at least 33% of any twenty-five (25) square feet of the face of the privacy screen is made up of clear and open space.

“Restrictive Fence”: A fence used strictly to enclose a swimming pool as required by and in compliance with §55-22 of this Code and all relevant provisions of the New York State Uniform Fire Prevention and Building Code.

“Spilt Rail Fence”: A fence constructed entirely of wood erected around or by the side of any open space, constructed of vertical posts of a maximum height of four (4) feet as measured from the surrounding ground level and spaced a minimum of six (6) feet apart with no more than two (2) horizontal members interconnecting the posts. All wooden members may not exceed six (6) inches in width or diameter.

“Wall”: A fence erected by the side of any open space, constructed in such a way that less than 33% of any twenty-five (25) square feet of the face of the wall is made up of clear and open space.

B. Building Permit Application

1. No fence, including a Mesh Fence, Split Rail Fence, Privacy Screen, Wall or Restrictive Fence, that is eighteen (18") inches or higher at any point above the average, undisturbed grade shall hereafter be erected or reconstructed without a building permit, except as otherwise permitted in this Section 55-19. Height is to be measured from the base of the fence, whichever base yields the greatest height measurement.
2. The following fences shall not be subject to obtaining a building permit, provided they otherwise comply with all other provisions of Chapter 55 of this Code.
  - a. A Mesh Fence that enclose(s) a combined area of less than seventy-five (75) square feet, or which is/are less than thirty (30) feet in length.
  - b. Fences that exist at the time of the adoption of this local law that enclose areas of property owned by the Saltaire Yacht Club, Inc, which do not include any building thereon, and any substituted or replacement fence of a height not great than feet at any point above the average, undisturbed grade, provided that the material may be plastic coated metal or other material approved by the Building Inspector and cannot be covered by mesh or fabric on the west side of the property. This exception shall cease upon a transfer by the Saltaire Yacht Club, Inc. of all or a portion of the property on which such fence is located, or upon the placement of a building or other structure on such property.

C. Placement and location

The granting of a building permit to erect a Fence, including a Mesh Fence, Split Rail Fence, Wall, Privacy Screen or Restrictive Fence, shall be contingent upon a determination by the Building Inspector that the design, height, placement and construction thereof will assure:

- (1) Adequate access to existing or contemplated village water lines;
- (2) Adequate right-of-way for maintenance of village walks, unhampered provision of service by public utilities and control of vegetation immediately bordering such walks; and
- (3) Adequate access to fire hydrants, and not otherwise impede fire-fighting procedures; and
- (4) Compliance with the applicable Subsection(s) of §55-10 of this Chapter.

D. Prohibited Materials.

- (1) No electric fencing of any kind shall be installed or maintained within the village.
- (2) All new or reconstructed Mesh Fences, Split Rail Fences, Walls, Privacy Screens or Restrictive Fences shall be constructed of materials which the Building Inspector has determined do not conduct electricity.
- (3) All new or reconstructed fences, including Mesh Fences, Split Rail Fences, Walls, Privacy Screens or Restrictive Fences, shall be constructed so as the smooth or finished side of the fence shall face the outside of the property, and all posts and braces located on the inside of the fence.
- (4) Any material, including but not limited to monofilament string or wire, which may, as determined by the Building Inspector, impede upon public safety or be injurious to animals or human beings, is prohibited, including emergency access gates devoid of padlock or locking devices requiring keys or codes.
- (5) Concrete or other masonry walls other than in a Wall used to retain and enclose a septic tank, are prohibited.
- (6) The thickness of Walls and Privacy Screens cannot be in excess of 1 foot at any point.

E. Mesh Fences.

- (1) The fabric of a Mesh Fence may be only black or green in color.
- (2) No portion of any Mesh Fence shall exceed a height of seven (7) feet at any point, as measured from the surrounding ground level.

F. Split Rail Fences.

No portion of a Split-Rail Fence shall exceed a height of four (4) feet at any point, as measured from the surrounding ground level.

G. Privacy screens.

- (1) A Privacy Screen shall not be erected along more than two (2) sides, or portions thereof, of any building plot, and the combined length of all

Privacy Screens on any one property shall not exceed 35% of the total length of the perimeter of the property.

- (2) No portion of a Privacy Screen erected at ground level shall at any point exceed a height of eight (8) feet, as measured from the surrounding ground level. No portion of a Privacy Screen erected on a deck shall at any point exceed a height of six (6) feet, as measured from the floor or base on which it is erected.
- (3) The square footage of any deck on which a Privacy Screen is erected shall be deemed enclosed space for the purposes of maximum lot occupancy calculations pursuant to §55-11 of this Chapter. The square footage of the deck that shall be considered enclosed space pursuant to this Section shall be calculated by using the square of the length of the Privacy Screen erected on the deck, but in no circumstances shall such enclosed space allotment exceed the total square footage of the deck.

#### H. Walls.

- (1) Any Wall greater than eighteen (18") inches in height from average, undisturbed grade shall meet the setback requirements of §55-10 of this Chapter.
- (2) All Wall eighteen (18") inches in height or less from average, undisturbed grade shall not require a setback or building permit.
- (3) Any Wall greater than eighteen (18") inches in height from average, undisturbed grade shall not be erected along more than one (1) side or portions thereof of any building plot, except that Walls used to retain and enclose a septic tank as required by the Suffolk County Department of Health are permitted, provided that all of the Walls of the septic tank enclosure meet the setback requirement of §55-10 of this Chapter.
- (4) No portion of a Wall erected at ground level shall at any point exceed a height of eight (8) feet, as measured from the surrounding ground level. No portion of a Wall erected on a deck shall at any point exceed a height of six (6) feet, as measured from the floor or base on which it is erected.
- (5) The square footage of any deck on which a Wall is erected shall be deemed enclosed space for the purposes of maximum lot occupancy calculations pursuant to §55-11 of this Chapter. The square footage of the deck that shall be considered enclosed space pursuant to this Section shall be calculated by using the square of the length of the wall erected on the deck, but in no circumstances shall such enclosed space allotment exceed the total square footage of the deck.

- I. Restrictive Fences.  
All Restrictive Fences shall comply with the provisions of §55-22 of this Code and with all relevant provisions of the New York State Uniform Fire Prevention and Building Code.
  
- J. Compliance.  
All Fences constructed after the effective date of this ordinance shall comply with all requirements of §55-10 and §55-19 of the Saltaire Village Code. All properties within the Village of Saltaire with Mesh Fences, Split Rail Fences or Restrictive Fences that were existing as of November 15, 2007 shall comply with all provisions of §55-19 of the Saltaire Village Code by no later than May 24, 2009.
  
- 3.0 Enforcement and Penalties.
  - A. This Local Law shall be enforced by the Building Inspector and Public Safety Department of the Village of Saltaire, and by such other entities to which such responsibility and authority may be delegated or assigned by the Board of Trustees.
  - B. Penalties for offenses. Each violation of this Local Law shall be subject to a fine of not more than \$250, per offense or violation, and each and every day that a violation of thereof shall exist shall constitute a separate violation of this Local Law, in addition to which the Village may seek to enforce these provisions through such civil remedies as may be available to it.
  - C. In addition or as an alternative to the above-provided penalties, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Section 55-19.

**§ 55-20. Private docks. [Added 5-31-1980 by L.L. No. 7, 1980, Amended 10-7-2006 by L.L. No. 7, 2006]**

- A. No dock or other waterfront structure of any kind (whether permanent or temporary in nature) shall hereafter be constructed on any waterfront property or in or upon any body of water adjacent thereto without a building permit, application for which shall be made to the Building Inspector.
  
- B. A permit for installation of a dock or other waterfront structure may only be granted to the owner of improved residential property with riparian rights on the Great South Bay and such installation shall be in compliance with this Section 55-20.
  
- C. The application for a building permit for the installation of a dock or other waterfront structure shall comply with all provisions of Chapter 18 of this Code,

and shall include a statement from the owner of the premises for which the application is being made, which shall be signed on such form required by the Building Inspector, stating that the applicant is responsible for submitting all applications or other documents required by any governmental agency or body having regulatory jurisdiction of the proposed dock or other waterfront structure, and stipulating that the granting of a permit under the application does not relieve the applicant of the responsibility of obtaining any other permission or approval from any governmental body having regulatory jurisdiction, and also indemnifying the Village of Saltaire on behalf of the applicant, his heirs and assignees, by such form and filing as may be required by the Building Inspector, for any and all costs or damages that may incur for failure to obtain permission from any governmental agency or body having jurisdiction over the structure and for any and all costs or damages which may be caused by or result from future operations undertaken by any governmental agency or body now or in the future having jurisdiction for the conservation or improvement of navigation, or for any other purposes.

- D. Any permit which was issued under this Section for a dock or other waterfront structure may be modified, revoked or suspended by the Building Inspector at any time if upon the determination of the Board of Trustees that the environmental conditions, navigation conditions, relevant technology or applicable law or regulation have materially changed since the issuance of the permit or of other new material information is discovered that would justify such modification, revocation or suspension, or if at any time the conditions of subsection (E) of this Chapter are not met by the owner of the dock or other temporary structure.
- E. Any dock or other waterfront structure constructed under the foregoing provisions shall be constructed and thereafter maintained to:
- (1) Consist of a floating platform which does not exceed one hundred (100) square feet in area nor twelve (12) feet on any one side, and a walkway section that does not exceed twenty (20) feet in length nor four (4) feet in width.
  - (2) Be a floating structure, readily removable from the water except for its pilings.
  - (3) Be located in a manner to provide at all times an unimpeded pathway of at least two (2) feet wide for pedestrian passage along the water's edge.
  - (4) Be located in a manner such that all portions of the dock or other waterfront structure that connect to the subject property adhere to the side yard setbacks required in §55-10 of this Code, and that all portions of the dock or other waterfront structure on the water-ward side of that connection maintain that required setback as if the side yard property lines extended as parallel lines into the Great South Bay.

- (5) Be used solely for recreational, noncommercial purposes.
- (6) Be removed from and remain out of the water between November 1 and April 30 of following year and stored either on the property on which the dock other temporary structure is located or other location for which the owner has permission from the property owner of each other location in a manner so as not to be unsightly or a nuisance, in accordance with §38-4, §52-6 and any other relevant provision of the Code of the Village of Saltaire.

F. Enforcement and Penalties:

- (1) This local law shall be enforced by the Board of Trustees of the Village of Saltaire, the Village of Saltaire Building Inspector and the Village Public Safety Department, and such other entities to which such responsibility and authority may be delegated or assigned by the Village of Saltaire.
- (2) The Enforcement of this local law shall be both by the violation provisions hereunder, and any other civil remedies that may be available to the Village of Saltaire.
- (3) Every violation of this Section 55-20 of the Village Code of the Village of Saltaire shall be subject to a fine of not more than \$250 or such higher amount as may be permissible by law, per offense or violation, and each and every day that a violation of this Chapter should exist shall be a separate violation of this Chapter which shall be punishable by a separate and continuing fine or other penalty.
- (4) The issuance of a violation or assessment of a penalty or the issuance or commencement of any other prosecution or criminal proceeding by the Village shall not be deemed to be and shall not constitute a waiver of civil or equitable remedies or an exclusive election of remedy by the Village and the Village may additionally or alternatively pursue civil and or equitable remedies with regard to any violation or offense of this Chapter at any time.

G. Severability and Validity:

In the event that any portion of this Local Law of 2006 shall be determined to be invalid or unenforceable for any reason, the remainder of the Local Law shall remain in full force and effect.

**§ 55-21. Construction and interpretation. [Amended 9-22-1973; 9-6-1976 by L.L. No. 1, 1976]**

In any action or proceeding, the provisions of this chapter shall be liberally construed to effectuate the basic intendments thereof; namely, to protect and preserve the village as a one-family private residential community, to prohibit the erection, maintenance and operation of hotels, apartment houses, boardinghouses, rooming houses, lodging houses, tourist houses, apartments, kitchenette apartments, duplex apartments, furnished-room houses, dormitories, nursing homes and residences and any structure which in whole or in part might be either rented, leased, let or hired out for occupancy by more than one (1) family, as defined in § 55-6 of this chapter, and to restrict and limit permitted business uses to the districts and uses specified herein.

**§ 55-22. Swimming pools. [Added 8-23-1986 by L.L. No. 4, 1986; amended 11-13-1999 by L.L. No. 8, 1999, amended 7-4-2009 by L.L. No. 4 of 2009]<sup>1</sup>**

- A. It is the intent of these regulatory provisions to recognize, conserve and protect from pollution and damage the sensitive and fragile barrier beach environment existing within the Village of Saltaire, including consideration of the adjacent marine habitats and tidal wetlands, the high groundwater table elevations, poor surface water drainage, limited water availability, the lack of sanitary and stormwater sewerage systems and periodic flooding and damage from storms, among other environmental considerations. It is a further intent of these provisions to preserve the historically established qualities in the community of peace and quiet, maximum preservation of open spaces and respect for property owners' rights to the enjoyment of their property while respecting their neighbors' similar rights to the enjoyment of theirs. Of paramount importance is the intent of these provisions to ensure the safety of young children in a family community in which, because there are no roads and vehicular traffic is virtually nonexistent during the summer season, children are free to wander with relatively little supervision.
- B. No swimming pool shall be constructed, installed, operated or maintained, except as an accessory structure to a residential dwelling located on the same building plot.
- C. On building plots of not less than seventeen thousand (17,000) square feet in the interior lotted area, the oceanfront, area and the bayfront area, and not less than twenty thousand (20,000) square feet in the unlotted areas of the village, and subject to the provisions hereinafter described, swimming pools may be installed, used and maintained as an accessory to a residential dwelling for the private use of the owners or occupants of such dwelling and their families and guests, as provided for in this Section. Such residential dwellings shall meet the minimum floor area requirements provided in § 55-12.

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<sup>1</sup> Editor's Note: This local law also provided that former § 55-22, Powers of Board, be renumbered to become § 55-23.

## D. Location.

- (1) No swimming pool or its appurtenant decking, fencing and facilities shall be located beyond any required setback from the front line or any other building plot boundary line pursuant to §55-10 of the Code of the Village of Saltaire.
- (2) Any such swimming pool shall be located a minimum of seventy-five (75) feet from any wetland as defined in, and shall conform to, all applicable provisions of the New York State Tidal Wetlands Act and the rules and regulations thereunder (6 NYCRR 661).
- (3) No such pool shall be located within any ground surface depression subject to surface water ponding after periodic overflowing tides or heavy rainfall, nor shall it be located so as to interrupt the overland flow of surface water runoff.

## E. Fill water supply.

- (1) Fill water supply shall not be obtained from a private well source.
- (2) Fill water obtained from tidal waters shall be drawn in a manner designed to protect the marine habitat and its inhabitants and approved by the New York State Department of Environmental Conservation.
- (3) Fill water supply obtained by connection to the village water supply system shall be subject to the installation of a backflow preventer approved by the Suffolk County Department of Health.
- (4) No water shall be drawn for the purpose of filling a swimming pool without the issuance of a pool water filling permit from the Building Inspector. Such permit will specify the number of gallons to be drawn and the date and time at which the swimming pool may be filled. In case of a water emergency, such permit may be temporarily rescinded or denied.

## F. Discharge water disposal.

- (1) Water from a swimming pool shall be discharged only into a dry well dedicated solely to such use. Such dry well shall be designed and constructed to contain any adverse impact from the discharge to the property on which the swimming pool is located. The discharge rate capacity of such dry well shall be certified by a New York State-licensed engineer, and such certification shall be filed with the Building Inspector. The dry well shall be set back a minimum of seventy-five (75) feet from any body of water and from any wetland as defined in and shall conform to all applicable provisions of the New York State Tidal Wetlands Act and the rules and regulations thereunder. Such well shall also conform to the

applicable provisions of the New York State Sanitary Code and the rules and regulations of the Suffolk County Department of Health.

- (2) The discharge of pool water onto the surface of the ground or into any body of water or wetland is specifically prohibited.
- (3) No discharge of pool water shall be undertaken without the issuance of a pool water discharge permit by the Building Inspector.

G. Pool equipment.

- (1) Any mechanical pool equipment that emits noise shall be of a type designed to minimize such emissions, located in a sound-absorbent housing so as to be inaudible beyond the property lines on which the pool is located and shall be in conformance with the applicable provisions of Chapter 36, of the Village Code, relating to noise. No such equipment shall be located in any setback area.
- (2) Every swimming pool shall have a closed filtration system equipped with a replaceable cartridge-type filter. Backwashing filters are specifically prohibited.
- (3) Every swimming pool shall be equipped with a suitable protective pool cover designed to inhibit algae buildup, keep the pool clean and restrain people, pets and wildlife from entering the pool when it is not in use. Such cover shall be of sufficient strength so that, when fastened in place, it will support a minimum dead weight of two hundred (200) pounds. The pool cover shall be fastened securely and locked in place over the pool at all times that the premises are left unoccupied for a period of twenty-four (24) hours or longer.
- (4) Any electrical device used in the operation or lighting or maintenance of a pool shall be equipped with a UL-approved ground fault interrupter. Such ground fault interrupter and all such electrical devices shall carry the seal of approval of the Underwriters' Laboratories, Inc.
- (5) No pool area lighting shall be installed, maintained or used that casts any light beyond the property lines within which the swimming pool is located or whose light source is visible beyond such property lines. Pool lighting shall be extinguished between 10:00 p.m. and dawn.
- (6) No radio, phonograph, public-address system or other sound-emitting device shall be installed or operated in or around the pool area except through a private, personal listening device or when operated at a volume not audible beyond the property lines within which the swimming pool is located.

- (7) No banners, pennants or other decorative devices likely to attract children shall be displayed at any part of a pool area that is visible from beyond the property lines within which the swimming pool is located.
- (8) Every swimming pool shall have at-hand such safety equipment as the Board of Trustees may from time to time prescribe.

H. Fencing.

- (1) A durable restrictive fence not less than four (4) feet higher than the top of the swimming pool (unless a higher fence is required by state or county law or regulation) shall be erected and maintained, continuously enclosing every swimming pool and its related deck area. Such restrictive fence shall be designed in such a manner that the pool area is not accessible from any adjacent external high ground, tree or structure.
- (2) Restrictive fences shall be constructed of wood and otherwise comply with §55-19 of the Village Code and shall be formed so that the swimming pool is completely enclosed and screened from outside view. There shall be no open spaces in the fence construction greater than two (2) inches in one (1) dimension.
- (3) One (1) or more walls of the dwelling may constitute a part of the restrictive enclosure.
- (4) During the course of construction of any swimming pool, a temporary fence shall be erected as required by the Building Inspector.
- (5) Any gate or opening in the enclosure other than an opening through the residential dwelling shall be fitted with self-closing and self-latching devices equipped with a deadlock located at a height of at least three (3) feet six (6) inches above the adjacent ground or walk. In the case of a swimming pool to which access is by way of a ladder, such ladder shall be spring-loaded so that when not in use it will rise to a level at least equal to the top of the fencing.

I. Fire emergency water access required. Owners of swimming pools, as a condition of any permit issued to maintain such pool, shall provide access to the water therein for use by the Fire Company in times of fire emergency.

J. Permit procedure; certificate of compliance; water filling and discharge permits.

- (1) No swimming pool shall be constructed, installed, altered or maintained without a permit issued by the Village.
- (2) Applications for a permit for the construction, erection, installation or alteration of any swimming pool shall be submitted to the Building

Inspector. Such applications shall include all drawings, plans and specifications necessary to ascertain that the pool will be in compliance with the provisions of this section. Prior approval of the applicable portions of such plans and specifications must be obtained from the Department of Environmental Conservation, the Fire Island National Seashore, the Suffolk County Department of Health and any other authority having jurisdiction, including the New York Board of Fire Underwriters, and evidence of such approval shall accompany every permit application submitted to the Building Inspector.

- (3) Plans and drawings shall include survey data as to property lines, site elevation and drainage and shall show existing and proposed buildings and decks, dry wells, and the proposed location and configuration of the swimming pool. Specifications shall include detailed information as to construction of the swimming pool and related structures, the water supply and circulatory systems, the pool's water discharge system and any other proposed appurtenances. In no event shall any permit or certificate issued pursuant to the provisions of this chapter have the effect of restricting, limiting or inhibiting or threatening to restrict, limit or inhibit the issuance of any building permit or the availability of water supply to the village, or any structure thereof, pursuant to any provision of this Code or any other law or regulation.
- (4) Upon completion of the construction and installation of a swimming pool and subject to the owner obtaining the written certification of a New York State-licensed engineer that the installation meets the state standards for construction and for dry well discharge rate, the owner may apply to the Building Inspector for a certificate of compliance, authorizing the use of such pool.
- (5) All certificates of compliance shall be subject to an annual inspection of the pool facility by the Building Inspector to establish that it continues to be in compliance with all the provisions of this section, that all mechanical, health and safety devices are in good repair and working order and that the pool facility conforms to the operational standards of the New York State Sanitary Code and the rules and regulations of the Suffolk County Department of Health. Such annual inspection must be applied for by the owner each year during such period of time as the Board of Trustees shall from time to time determine. The inspection will be conducted in time to ensure the owner's timely seasonal use of the pool.
- (6) Upon completing his inspection and finding a satisfactory condition, the Building Inspector shall issue a certificate of compliance valid for a period of one (1) year. If the Building Inspector finds an unsatisfactory condition, he shall notify the owner promptly in writing and withhold the certificate until such time as the condition has been corrected.

- (7) The Building Inspector shall issue a swimming pool filling permit and a pool discharge permit designating approved times for such filling or draining to owners of pools which have current certificates of compliance. No pool shall be filled or drained unless and until an appropriate certificate has been issued.
- (8) The Board of Trustees may establish from time to time by resolution a fee structure for filing applications and for the issuance of building permits, certificates of compliance, pool filling permits and pool discharge permits.

K. Discontinuance.

- (1) Any owner of a swimming pool who fails to correct an unsatisfactory condition of which he has been notified in writing within one (1) year after such notification shall be deemed to have abandoned said pool and shall be required to remove said pool and restore the site to a safe condition.
- (2) Any owner of a swimming pool who fails to apply for a certificate of compliance during a period of one (1) year from the termination date of a previously issued certificate of compliance shall be deemed to have abandoned said pool and shall be required to remove said pool and restore the site to a safe condition.

**§ 55-23. Powers of Board.**

The Board shall have the power to institute any action or proceeding in courts of competent jurisdiction to restrain, correct, remove or abate any violation of the provisions of this chapter.