

PEACE AND GOOD ORDER

Chapter 38

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GENERAL REFERENCES

- General provisions -- See Ch. 1.
- Aircraft -- See Ch. 3.
- Animals -- See Ch. 5.
- Bicycles -- See Ch. 10.
- Boats -- See Ch. 14.
- Noise -- See Ch. 36.
- Walks, beaches and public places -- See Ch. 52.
- Water taxis and charter boats -- See Ch. 54.

§ 38-1. Disorderly acts prohibited.

No person shall indulge in disorderly, noisy or riotous conduct in the village, disturb its peace and quiet or any meeting or assembly therein or in any way impede, hinder or delay lawful traffic on any walk, beach or public place within the village.

§ 38-2. Closing hours of public establishments. [Added 9-5-93 by L.L. No. 5, 1993]¹

No club, restaurant, bar, market or other such public establishment within the village shall be permitted to operate later than 12:00 midnight from Sunday through Thursday inclusive, or later than 2:00 a.m. on Saturday and Sunday mornings, unless written permission to do so has been given by the Village Administrator or the Board of Trustees.

§ 38-3. Profane language; indecent conduct.

No person shall use profane, vulgar or indecent language in any public place or indulge in vicious, immoral or indecent conduct within the village.

§ 38-4. Real and personal property. [Amended 12-1-1990 by L.L. No. 13, 1990; 11-2-2008 by L.L. 9 of 2008]

- A. No person shall destroy, disturb or deface any real or personal property not owned by such person within the village without the consent of the owner.
- B. It shall be a violation for any person in the Village of Saltaire to commit a wrongful taking or using of the personal property, including but not limited to bicycles, wagons or beach chairs, of another person or entity, by trespassory taking, or by trick, embezzlement or obtaining personal property by false pretenses and or a wrongful taking, using, obtaining or withholding of another's personal property, with the intent to deprive the rightful owner of the personal property of the possession or use of that personal property, regardless of the intention of such person to assert ownership or dominion over such personal property.

§ 38-5. Public attire.

No person shall commit any act of nuisance; dress or undress for bathing on any beach or walk or in any place subject to public view within the village; or appear in any public place or bathe in a state of nudity in any of waters adjacent thereto.

¹ Editor's Note: Former §38-2, Noise, as amended, was repealed 7-20-1991 by L.L. No.2, 1991. See now Ch. 36. Noise.

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§ 38-6. Playing in public areas. [Amended 7-14-1990 by L.L. No. 9, 1990]

No person shall engage in ball playing or any other sport or activity on any beach, walk or public place within the village in any manner so as to endanger, injure or interfere with others or their property. No person shall engage in such play or activity within any area flagged or otherwise designated as a swimming area on either the bayfront or on the oceanfront from shoreline to dune line.

§ 38-7. Protection of sand dunes. [Amended 7-14-1990 by L.L. No. 9, 1990; 11-13-1999 by L.L. No. 10, 1999]

No person shall in any manner enter upon any sand dune, whether naturally occurring or man-made, within the village. Violation of the provisions of this section shall, upon conviction thereof, be punishable by a fine of not less than fifty dollars (\$50) for a first offense, and of not less than one hundred dollars (\$100) for each subsequent offense, or a term of imprisonment not to exceed fifteen (15) days, or both.

§ 38-8. Picnics and camping. [Amended 7-14-1990 by L.L. No. 9, 1990; 12-1-1990 by L.L. No. 13, 1990]

No person shall have or hold a picnic or camp out on any walk, beach or public place within the village without a permit issued by the Board, nor sleep in any public area or unimproved private property in such manner as would violate § 55-14 of this Code.

§ 38-9. Excursion boats. [Amended 7-14-1990 by L.L. No. 9, 1990]

No excursion boats or passengers therefrom shall land within the village without a permit issued by the Board.

§ 38-10. Selling, peddling or soliciting.

The Board shall have the right to restrict the selling or peddling of any merchandise at, from or on any walk, dock, beach or other public place, and to restrict the soliciting of money goods or services, within the village.

§ 38-11. Firearms. [Amended 7-14-1990 by L.L. No. 9, 1990; 12-1-1990 by L.L. No. 13, 1990; 3/10/99 by L.L. No. 1, 1999]

No person, except police, peace officers, Coast Guard and other governmental personnel in the performance of their duties, shall carry or discharge any firearm, slingshot, air rifle or other weapon or instrument capable of projecting any dangerous missile within the limits of the village, except from November 1 through March 31 and then only for purposes of hunting and with written permission of the Board as prescribed by § 5-6 of this Code. Except as provided herein, no Village Security officer or other agent or employee shall be permitted to carry any firearm or other weapon without the express written permission of the Board. The Board shall charge a fee for each such permit, in such amount as it may from time to time, by resolution, determine.

§ 38-12. Alcoholic beverages. [Added 5-31-1980 by L.L. No. 3, 1980; amended 7-15-1983 by L.L. No. 11, 1983]

- A. No person shall carry in an open container of any kind, with intent to consume, any liquor, wine, beer or other alcoholic beverage on any public walk, beach, dock or other public property within the village, or consume such beverage on such location, except where specifically authorized by the Board of Trustees on public occasions or at public events as the Board may deem appropriate.
- B. No person under the age of twenty-one (21) shall possess, transport or carry any liquor, wine, beer or other alcoholic beverage on any public walk, beach, dock or other public property within the Village of Saltaire, except in the presence and under the supervision of an adult. [Added 9-20-1986 by L.L. No. 7, 1986]

§ 38-13. Eating and drinking on beach. [Added 9-20-1986 by L.L. No. 8, 1986; amended 8-27-1988 by L.L. No. 5, 1988]

Except as provided in § 38-8, no person shall possess, carry onto or consume on any public beach within the Village of Saltaire any food or beverage other than water.

§ 38-14. Interference with lifeguards prohibited. [Added 7-14-1990 by L.L. No. 9, 1990¹]

No person shall interfere with or disregard any lawful order or instruction by a lifeguard regarding conduct in the beach or water areas under his control or supervision.

§ 38-15. Interference with Security prohibited. [Added 7-14-1990 by L.L. No. 9, 1990²]

No person shall at any time interfere with, obstruct or in any way impede a Security officer engaged in the lawful performance of his official duties.

¹ Editor's Note: This local law also repealed former §38-14, Waterborne freight, added 9-20-1986 by L.L. No. 9, 1986

² Editor's Note: This local law also repealed former § 38-15, Posting of handbills, added 8-27-1988 by L.L. No. 5, 1988. See now §52-4

§ 38-16. Numbering of houses. [Added 9-5-93 by L.L. No. 5, 1993]

To promote the well-being, safety and security of persons and property, the Village Administrator shall designate a number for each house, building or separate unimproved parcel or land within the village for purposes of identification. Numbers so assigned shall be affixed by the owner of such property at the foot of the primary entrance to said premises, in such manner as to be readily visible from the adjacent public walk, and subject to the approval of the Administrator. The Administrator shall be authorized to affix such numbers himself, in cases where the owner refuses to comply or cannot be contacted, and the expense incurred shall be charged to the owner and collected in the manner provided by law. Owners of vacant and unimproved property shall not be required to post the number of such property as long as said land remains unimproved.

§ 38-17. Property to be maintained in safe condition. [Added 9-5-93 by L.L. No. 5, 1993]

In order to protect and promote the health and safety of the inhabitants of the village, no person shall cause or permit to remain any dangerous or unhealthful condition on his or her property, including but not limited to the accumulation of animal or material waste, sewage, junk, debris, or any other condition which, in the opinion of the Board and upon advice of competent authority, shall be deemed to be a menace to the health and well-being of the community or any portion thereof. The Board may order any such condition to be corrected within seven (7) days of the citing of said violation. Failure to comply with such order shall subject the owner of said property to such fines and penalties as may be prescribed by law, and each day said condition remains uncorrected shall be deemed a separate violation. Village may, at its discretion, undertake to relieve such condition itself, when the owner refuses to take such action, and the costs of such relief shall be charged to the owner of said property.

§ 38-18. Revocation of permits. [Added 12-7-96 by L.L. No. 2, 1996]

The Board may revoke any and all permits of any kind issued by the Board to any individual, when such individual is in default of a Notice of Violation issued to him by an authorized agent of the Village, or of a judgment against such individual by the Village Justice Court. Such revocation may be made at any time after such default occurs, and the Board may require a waiting period of at least six (6) months, or such term as it may at its discretion determine, before application for a renewal of such permit or permits by said individual shall be considered. Permits revoked under terms of the provisions herein shall only be renewable upon application therefor, in accordance with the procedures set forth above. The fee, or any portion thereof, for any such revoked permit shall be forfeit and non-refundable, nor shall said fee or any portion thereof so forfeited be applied to the payment of any fine or judgment against such individual issued by the Village Justice Court.

§ 38-19. Alarm devices in private homes. [Added 12-7-96 by L.L. No. 2, 1996]

The Board shall by resolution adopt such regulations governing the installation and use of alarm devices in private homes as it may determine are necessary to insure the peace, safety and security of the village, its residents and their property, including but not limited to the types of alarms to be installed, the noise level and signal duration thereof, the registration of all such systems with the Village Security Department and requiring access to such alarms by Fire or Security personnel so as to enable said personnel to shut off such alarm devices when necessary.

§ 38-20. Regulation of Bamboo. [Added 2-2-2008 by L.L. No. 1, 2008]

A. Definitions. For purposes of this Section:

(i) “bamboo” shall be defined as any tropical or semi-tropical grass of the genera Bambusa, Dendrocalamus or of any other related genera.

(ii) “Bamboo Property Owner” shall be defined as a property owner in the Village who has planted or grown or caused the planting or growing of bamboo on his property and/or permitted or permits the growing of bamboo on his property that had had initially encroached onto his property from an adjoining or neighboring property.

B. Applicability. For purposes of this Section, if bamboo is found growing upon a property that shall constitute presumptive evidence that the growing of bamboo on the property shall have occurred with the consent of the owner of such property, except that such property owner shall not be presumed to be a Bamboo Property Owner if the property owner did not plant or grow or cause said bamboo to be planted or grown on his property and he shall provide the Village Administrator with proof, satisfactory to the Village Administrator, that within a reasonable period of time after he first learned of the encroachment of bamboo onto his property from an adjoining or neighboring property he advised the owner of such adjoining or neighboring property of his objection to the encroachment of bamboo onto his property and/or initiated steps for the removal of the bamboo from his property.

C. Prohibition. Effective upon the date this provision shall become law, the planting or growing of bamboo shall be prohibited within the Village of Saltaire. Any person who thereafter plants or grows, or causes to be planted or grown, bamboo within the Village shall be deemed to be in violation of this Section, and shall be subject to such penalties as are set forth hereunder.

D. Regulation. Any bamboo which has been planted or otherwise permitted to grow on any property within the Village of Saltaire prior to the effective date of this Section 20. may remain on such property subject to compliance with this Section

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20. Each Bamboo Property Owner shall be responsible to ensure that the bamboo planted or growing on his property prior to the effective date of this Section 20. does not encroach or grow upon any adjoining or neighboring property or properties, including all public property and right of ways held by the Village, and shall be required to take such measures as are reasonably expected to prevent such bamboo from invading or growing onto adjoining or neighboring properties. Such measures shall include installation of sheathing comprised of metal or other material impenetrable by bamboo at a sufficient depth within the property line or lines where the bamboo is planted or is growing to prevent the growth or encroachment upon adjoining or neighboring property by said bamboo. The Board of Trustees may from time to time prescribe such rules and regulations as may be necessary to give effect to this Section 20.

E. Removal.

(1) In the event that bamboo growing on a Bamboo Property Owner's property invades or grows on an adjoining or neighboring property that is owned or held on behalf of the Village of Saltaire, the Village shall notify the Bamboo Property Owner that the bamboo said Owner had planted or caused to plant or had permitted to grow on his property has invaded Village property, and that the Bamboo Property Owner is responsible for the removal of such bamboo from the Village property. This notice shall be sent by certified mail, return receipt requested and by regular mail to the latest address of the Bamboo Property Owner on file with the Village Clerk and a copy of the notice shall also be left in a conspicuous location on the Bamboo Property Owner's property in the Village of Saltaire.

(2) In the event that the Bamboo Property Owner does not remove or contract for the removal of said bamboo from the Village property, or does not make an arrangement with the Village for removal of such bamboo within thirty (30) days from the date the Village first deposited the notice as provided in Subsection (E)(1) above with the United States Postal Service, then the Village, at its discretion, may remove or arrange for the removal of such bamboo from the Village property. The Bamboo Property Owner shall be liable and responsible to the Village for the Village's costs in removing the bamboo from the Village property. Such costs may be assessed against the property of the Bamboo Property Owner as a tax payable by such Bamboo Property Owner in the event that the costs remain unpaid more than thirty (30) days after demand for payment has been made by the Village on the Bamboo Property Owner.

(3) In the event that the Village is compelled to undertake the removal or to contract for the undertaking of removal of bamboo, as provided for in Subsection (E)(2) above, neither the Village nor its employees shall have

any liability for damages or other claims to the Bamboo Property Owner by reason of the removal of such bamboo. In the event such removal entails or causes damages to the flora or other property of a person other than the property of the Bamboo Property Owner, the Bamboo Property Owner in violation of this Section shall be responsible for such damages.

F. Replanting Prohibited. Any bamboo either planted or caused to be planted or existing on a property prior to the effective date of this Section may not be replanted or replaced in kind once such bamboo is or has become, for any reason, dead, destroyed, uprooted or otherwise removed.

G. Notification. Within thirty (30) days after the effective date of this Section the Village shall give notice by reasonable means to all property owners in the Village advising them of the enactment of this Section and requesting that each property owner who would be deemed a Bamboo Property Owner hereunder as of the effective date of this Section notify the Village in writing no later than sixty (60) days after the date of the aforementioned notice from the Village that bamboo is present on the property of such property owner and such other information as may be requested in the notice from the Village.

H. Violations and Penalties.

1. Violations. Any property owner who violates any of the provisions of this Section shall be guilty of a violation thereof. Each and every day that a violation of this Section shall exist shall constitute a separate violation of this Section..

2. Penalties.

i. A violation of any provision of this Section shall be punishable by a fine not to exceed \$250 for each violation.

ii. The Village may also pursue civil or injunctive relief, or pursue criminal penalties, irrespective of any determination to prosecute for a violation of this Section.

§ 38-21. Filming in Saltaire. [Added 3-6-2010 by L.L. No. 1, 2010]

A. Approval Required: No person, persons, organization, corporation, group, or other entity of any kind shall film or photograph a commercial, movie, documentary, television program or any other presentation upon the public right of ways, beaches or any other property owned by the Village of Saltaire or located within the corporate boundaries thereof without first obtaining the approval of the Village of Saltaire for such activity. Filming that is regulated by this Section shall include the taking of still or motion pictures, either on film, videotape, digital or similar

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- recording medium, for commercial or educational purposes intended for viewing on televisions, theaters, institutional or similar non individual, private or family use.
- B. Every application to the Board of Trustees for an approval for filming shall include proof that the person or entity making the application maintains a public liability insurance policy, covering the Village of Saltaire as an additional insured, in the amount of not less than \$500,000 single limit and a workers compensation policy, for the duration of the filming. The applicant shall also agree to assume all liability for and to indemnify and hold the Village of Saltaire harmless of and free from any and all damages that occur to persons or property by reason of said filming.
- C. The penalty shall be not less than \$250 for each violation of this Chapter and Section and each and every day that a violation is outstanding shall constitute a separate violation of this Chapter and Section. The election by the Village of Saltaire to issue a violation or seek a fine shall not constitute a waiver by the Village of Saltaire to elect or pursue other remedies that may be available to the Village and shall not preclude the Village of Saltaire from pursuing civil or other remedies including but not limited to injunction and damages.
- D. In the event that any portion or portions of this Local Law of 2010 shall be determined to be invalid or unenforceable for any reason, the remainder of the Local Law, and its provisions, shall remain in full force and effect.

§ 38-22. Unmanned Aircraft Systems. [Added 5-29-2017 by L.L. No. 4, 2017]

- A. Legislative Intent and Recreational and Commercial Use
- 1) It is the intention of the Board of Trustees of the Village of Saltaire to protect the public health, safety and welfare of the community and to prevent public nuisance and invasion of privacy by authorizing the establishment of procedures for the recreational operation of Unmanned Aircraft Systems (hereinafter "UAS"), commonly known as model aircraft (small UAS) or "drones," throughout the community.
 - 2) This chapter applies only to recreational use of small unmanned aircraft. The Village of Saltaire Board recognizes that the Federal Aviation Administration (hereinafter "FAA") currently authorizes and regulates the use of UAS by public entities and UAS used for commercial or business purposes. No person shall fly an unmanned aircraft or UAS for commercial purposes without express permission from the FAA. Public entities, which include publically funded universities, law enforcement, fire departments and other government agencies, may apply for a Certificate of Authorization from the FAA in order to use unmanned aircraft for governmental and municipal purposes.

B. Scope and Applicability

- 1) The provisions of this chapter shall apply to the operation of unmanned aircraft or UAS on or near all properties in the incorporated portions of the Village of Saltaire, residential, commercial and otherwise.
- 2) The provisions of this Section 38-22 shall be deemed to supplement applicable Federal, State and local laws, ordinances, codes and regulations. Nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Village, county or state or Federal existing requirements of any other provision of local laws or ordinances of the Village or County or State or Federal laws and regulations. In case of conflict between any provisions of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

C. Definitions

- 1) As used in this Chapter, the following terms shall have the indicated meanings:

AIRCRAFT: A vessel used or designed for navigation of or flight in the air.

COMMERCIAL USE: Use of an unmanned aircraft system for catering to or for business and/or use with a sole or chief emphasis on salability, profit, or success.

MANNED AIRCRAFT: Aircraft that is carrying or being operated by one or more persons.

PILOT: A person, entity, or agency that is responsible for flying, steering or guiding an unmanned aircraft or UAS; to operate or control the course of an unmanned aircraft or UAS

PROPERTY: Any land, improved or unimproved, situated within the borders of the Village of Saltaire whether publicly or privately owned.

SURVEILLANCE: Continuous observation of a place, person, group, property or ongoing activity typically without the subject of the observation having knowledge of same.

UNMANNED AIRCRAFT (also known as "Drone" or "Model Aircraft"); A non-human-carrying aircraft weighing no more than 55 pounds, capable of sustained flight in the atmosphere intended exclusively for sport, recreation, education and/or competition and is typically guided by remote control or onboard computers.

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UNMANNED AIRCRAFT SYSTEM (UAS); An unmanned aircraft and associated elements, including communication links and components that control the unmanned aircraft.

VISUAL LINE OF SIGHT (VLOS); The distance at which the pilot of an UAS is able to maintain visual contact with the aircraft and determine its orientation without enhancements other than corrective lenses.

D. General Provisions and Unlawful Activities

- 1) It shall be unlawful and a violation of this Section for the pilot of a UAS to take off, land or fly a UAS in the Village of Saltaire, over or on any public property, or Village of Saltaire property, park, beach, walkway, or similar public area in the Village.
- 2) It shall be unlawful and a violation of this Section for the pilot of a UAS to fly a UAS over or on any private property in a manner that is unsafe or hazardous or a nuisance to the owner, resident or public of the Village of Saltaire. Unsafe, hazardous or a nuisance use of a UAS shall include but not limited to the use of a UAS for surveillance, the use of a UAS beyond the VLOS of the pilot, or in a manner that causes or results in a threat to public safety, is an invasion of privacy or a person on public or private property, or which otherwise creates a public hazard or nuisance, or is in any way in violation of any Village, State, County or Federal, regulation.