

SECTION V

APPLICATION OF REGULATIONS

5.01 GENERAL APPLICATION

The provisions of this Local Law shall be deemed to be specific. Those uses and procedures for which there are no specific provisions in this Local Law shall be deemed to be prohibited.

5.02 USE REGULATIONS

(A) Except as hereinafter provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used except for a purpose specifically permitted by the provisions of the District Use Regulation Table for the District in which such building or structure, lot or land is located on the Zoning Map.

(B) Any lawful use that **does not conform** to the Use Regulations of this Local Law shall be deemed a **nonconforming use**. (See Section 8).

(C) A **Special Exception** Use authorized by the Zoning Board of Appeals shall be deemed a **conforming use**.

(D) A use authorized by a **variance** from the Use Regulations of this Local Law, granted by the Board of Appeals, shall be deemed a **nonconforming use**.

5.03 DIMENSIONAL REGULATIONS

(A) Except as hereinafter provided, no building or structure or part thereof shall hereafter be erected, structurally altered, enlarged, rebuilt, or moved except in conformity with the provisions for the District in which such building or structure is located on the Zoning Map.

(B) Any lawful existing building or structure that does not conform to such Dimensional Regulations of this Local Law, shall be deemed a **nonconforming** building or structure, irrespective of the use to which it is put. (See Section 8.)

(C) A building or structure or part thereof authorized as a variance from the Dimensional Regulations of this Local Law, granted by the Board of Appeals, shall be deemed a **nonconforming** building or structure or part thereof.

(D) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this Local Law shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot can be considered as providing a yard or open space for a building on any other lot.

(E) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this Local Law. If already less than the minimum required under this Local Law, said area, dimension or capacity shall not be further reduced.

SECTION VI

SUPPLEMENTAL USE AND DIMENSIONAL REGULATIONS

6.01 PLACEMENT OF ACCESSORY BUILDINGS AND USES, INCLUDING GARAGE AND OFFSTREET PARKING AND TRUCK LOADING SPACES

6.01.01 IN ALL DISTRICTS:

(A) Accessory buildings, including garages, if detached from a main building or if connected only by an open breeze-way-type structure, shall be not less than ten (10) feet from the main building.

(B) A private garage may be constructed as a structural part of a main building, provided that when so constructed, the garage walls shall be regarded as the walls of the main building in applying the front, rear, and side yard regulations of this Local Law.

(C) Accessory buildings, including private garages, shall not be placed within a required front yard, nor within a required side yard.

(D) An access driveway may be located within a required yard.

(E) Required accessory offstreet parking area or truck loading space shall not be encroached upon by buildings, open storage, or any other use.

(F) The disposal of animal wastes shall be provided for in such a manner as to prevent any nuisance or sanitary problems.

(G) The storage, sale or abandonment of waste paper, rags, scrap metal, discarded materials or the collecting, dismantling, storage, salvaging, or abandonment of machinery or vehicles, including mobile homes, not in

operating condition shall constitute a junk yard which is a prohibited use and a violation of this Local Law.

(H) A building cellar, or a garage or other non-residential accessory space shall not be used for dwelling purposes unless approved by the New York State Department of Health; provided, however, that no such approved use shall exceed one (1) year in duration and then only when it is related to the construction of a main dwelling on the site.

6.01.02 IN RESIDENCE DISTRICTS:

(A) Accessory buildings, structures or uses located within a front or side yard shall meet the minimum front and side yard requirements set forth in the Dimensional Regulations.

(B) Accessory buildings or structures may be located in the minimum required rear yard provided that such building or structure shall not exceed twenty (20) feet in height and further that it be set back from any side or rear lot line, a minimum distance of eight (8) feet.

(C) Accessory offstreet parking areas shall be paved in accordance with municipal specifications.

6.01.03 IN NON-RESIDENCE DISTRICTS:

Accessory offstreet parking area may be located within required front, side or rear yards except where a transitional yard is required in conformance with Section 6.04.

6.02 HEIGHT

6.02.01 Nothing herein contained shall restrict the height of the following: Church, spire, cupola, dome belfry, clock tower, flagpole, chimney flue, elevator or stair bulkhead, water tank, stage tower or scenery loft, radio or television tower, transmission line or tower, barns or silos or similar structures.

6.02.02 No building or structure erected pursuant to Section 6.02.01 to a height in excess of the height limit for the District in which it is situated shall:

- (A) Have a lot coverage in excess of ten (10) percent of the lot area.
- (B) Be used for residence or tenancy purposes.

(C) Have any sign, name-plate display, or advertising device of any kind whatsoever inscribed upon or attached to such building or structure.

6.03 YARDS

6.03.01 The following accessory structures may be located in any required front or rear yard.

(A) Awning or movable canopy not exceeding ten (10) feet in height or an area equivalent to five (5) percent of the required area of the yard in which it is located.

(B) Open arbor or trellis.

(C) Retaining wall, fence or masonry wall, pursuant to Sections 6.06 and 6.07.

(D) Unroofed steps, patio or terrace not higher than one (1) foot above ground level, provided that they shall not extend more than ten (10) feet into a required front yard or more than four (4) feet into a required side yard.

6.03.02 The space in a required front yard shall be open and unobstructed except for structures provided for in Section 6.03.01 and the following:

(A) An unroofed balcony, projecting not more than eight (8) feet into the yard.

(B) Other projections specifically authorized in Section 6.03.03 and 6.03.04

6.03.03 Every part of a required yard shall be open to the sky unobstructed except for retaining walls and for accessory buildings in a rear yard, and except for the ordinary projections of sills, belt courses and ornamental fixtures projecting not to exceed six (6) inches. Cornices and eaves shall not project more than thirty (30) inches.

6.03.04 Open or lattice-enclosed fireproof fire escapes or stairways, required by law, projecting into a yard not more than four (4) feet.

6.03.05 Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

6.04 REQUIRED TRANSITIONAL YARDS AND SCREENING

6.04.01 In order to assure orderly and compatible relationship between Residence Districts and Non-Residence Districts along their common boundary lines, the following requirements shall be met along such boundaries:

(A) Minimum required transitional side and rear yards within Non-Residence District adjoining Residence Districts shall be thirty (30) feet.

(B) In a B-1 or G-I District, the minimum required screening within required transitional side and rear yards shall be six (6) feet high stockade-type fence or equal, to be erected and maintained by the non-residential property owner along the side and rear property lines.

(C) Where commercial or industrial establishments or other high traffic generating uses abut a residential district, a landscape fence or evergreen planting providing visual obstruction shall be provided. Such fence or planting shall be at least six (6) feet high at the time of construction or planting and it shall be the responsibility of the property owner to carry out this program and to provide for its maintenance.

6.05 SPACING BETWEEN BUILDINGS

6.05.01 In the layout for development of a group of garden apartments or other buildings on a lot or tract of land, a horizontal distance of not less than thirty-five (35) feet or two-thirds (2/3) the height of the higher building, whichever is the greater, shall be maintained between all main buildings; and between main buildings and major detached accessory buildings or groups of accessory buildings, such as a garage compound, having a ground coverage equal to that of a main building.

6.05.02 The above requirement of Section 6.05.01 need not exceed thirty-five (35) feet when the top of one building is less than eight (8) feet above the first floor of the other building.

6.05.03 Minor accessory buildings shall meet the requirements of Section 6.01.01.

6.06 PERMITTED FENCES AND WALLS

6.06.01 IN RESIDENCE DISTRICTS:

(A) No fence or wall within thirty (30) feet of a front lot line in a required front yard shall have a height greater than three (3) feet.

(B) No fence or wall within thirty (30) feet of a front lot line in a required side yard shall have a height greater than three (3) feet.

(C) No fence or wall within ten (10) feet of a rear lot line shall have a height greater than six (6) feet.

6.06.02 The height of a fence or wall shall be measured from the ground level at the base of the fence; excepting that where there is a retaining wall, the height shall be measured from the average of the ground levels at each side of the retaining wall, and further excepting that any fence or wall on the uphill side of such retaining wall may be at least four (4) feet high, not withstanding the provisions of Section 6.07.01.

6.07 CORNER CLEARANCE

6.07.01 At an intersection, no fence, hedge, wall, shrubbery, or other similar matter shall be permitted to obstruct the view of the motorists across the corner; provided, however, that this shall not prohibit the erection or growing of a fence, hedge, wall, or shrubbery, not exceeding two (2) feet in height; and provided further, that this prohibition shall be applicable for a distance of one hundred (100) feet from a point where the center lines of the intersecting streets meet.

6.08 OFFSTREET PARKING AND TRUCK LOADING SPACE REQUIREMENTS

6.08.01 GENERAL STANDARD:

Offstreet parking and truck loading spaces shall be provided and kept available as an accessory use to all permitted and special exception uses of buildings, structures, and lots in amounts not less than those specified in this section.

6.08.02 METHODS OF DETERMINING OFFSTREET PARKING SPACE REQUIREMENTS:

(A) The offstreet parking space requirements are determined by Schedule 6.08.03 and 6.08.04 except as noted below.

(B) The requirement for a combination use made up of several component uses (e.g. a bowling alley combined with an auditorium, and a restaurant and bar, or a retail store combined with an office building) shall be determined by establishing the requirement for each component use from the schedule of such requirements which is a part of this section, adding them together.

(C) A garage or carport may be used to meet the requirements of this section. A driveway may only be used to meet the requirements of this section where it serves a single or two family dwelling.

(D) Uses which require approval pursuant to the special exception use procedures set forth in Section 7 may be required to provide offstreet parking spaces in excess of the requirements of this section, as is indicated in Section 7.

6.08.03 SCHEDULE OF OFFSTREET PARKING SPACE REQUIREMENTS FOR RESIDENTIAL USES:

<u>USES</u>	<u>REQUIRED NUMBER OF SPACES</u>
Single Family and Two Family	2 per dwelling unit
Multiple Dwelling	2 per dwelling unit

6.08.04 SCHEDULE OF OFFSTREET PARKING SPACE REQUIREMENTS FOR NON-RESIDENTIAL USE:

<u>USES</u>	<u>REQUIRED NUMBER OF SPACES</u>
Auditorium, church, convention hall gymnasium, stadium, theater, studio or other place of public assembly not otherwise classified	1 per 3 permanent seats, or 1 per each 40 sq. ft. of seating area where fixed seating is not provided.
Bank, savings and loan assoc.	1 per 200 sq. ft. of gross floor area
Bowling alley	4 per alley
Drive-in facility, or outdoor sales lots	1 per each 600 sq. ft. of lot area
Funeral Home	1 per 40 sq. ft. of public room floor area
Gasoline station, parking garage, repair garage	Sufficient parking space for all vehicles stored or being serviced at any one period of time plus a minimum of 5 additional spaces
Home occupation, home professional office	2 for the first 150 sq. ft. of area given over to this component of the land use, plus 1 for each additional 150 sq. ft. or fraction thereof, but in no case less than 2 spaces

Hotel or Motel	1 per guest bedroom plus 1 per each two employees on the premises at one time.
Manufacturing, or industrial establishment, research institute or laboratory, wholesale establishment, warehouse	A minimum of 2 improved spaces per 3 employees on the premises at one time, but in no case, less than 2 spaces
Nursing home	1 per each 2 beds plus 1 per each 2 employees on the premises at one time
Office, office building	1 per 200 sq. ft. of gross floor area
Retail store, personal service store	1 per 200 sq. ft. of gross floor area
School	1 per employee plus 1 per each 8 students in the 12th grade or above, or the parking requirement for the auditorium or gymnasium component of the use, whichever is the greater
Shop for custom work	1 per 150 sq. ft. of gross floor area

Off street parking space requirements do not have to be part of, or adjacent to the building lot for the above uses.

6.08.05 OFFSTREET TRUCK LOADING SPACE REQUIREMENTS:

Every building or structure or lot used for nonresidential purposes shall be provided with offstreet truck loading spaces in accordance with the following schedule:

<u>SQUARE FEET OF FLOOR AREA</u>	<u>REQUIRED NUMBER OF SPACES</u>
Under 14,999 sq. ft.	1 space
15,000 to 40,000 sq. ft.	2 spaces
Over 40,000 sq. ft.	1 space for each additional 40,000 sq. ft. over the requirement for the first 40,000 sq. ft.

6.08.06 PRIVATE GARAGE OR OFFSTREET PARKING AREA IN RESIDENCE DISTRICTS-SUPPLEMENTAL REGULATIONS:

Not more than two commercial vehicles shall be housed or parked in a private garage or offstreet parking area. Such commercial vehicles shall not exceed a gross motor vehicle weight of 10,000 pounds, or twenty-five (25) feet in length.(excluding recreational vehicles.)

6.08.07 ACCESS DRIVEWAY REQUIREMENTS:

- (A) Parking garage, public parking area, filling station, and repair garages may have separate or combined entrances and exits.
- (B) Every separate entrance or exit driveway shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit driveway shall have a minimum unobstructed width of twenty (20) feet. Parking area with 20 spaces or more shall have at least two separate ten (10) feet driveways.
- (C) The intersection of an exit or combined exit and entrance driveway of a public parking area with the public street shall have the same corner clearance as prescribed for intersecting streets in Section 6.07.01

6.08.08 DESIGN REQUIREMENTS FOR OFFSTREET PARKING AND TRUCK LOADING AREAS:

- (A) All accessory offstreet parking and truck loading areas shall be located in accordance with the provisions of Section 6.01.
- (B) The physical improvements of offstreet parking and truck loading areas shall include:
 - (1) Curbs, paving, sidewalks, and drainage facilities complying with the standards established in municipal Local Laws, regulations, or specifications.
 - (2) Adequate lighting in public parking areas to assure the general safety and convenience of the public.
 - (3) Appropriate screening for the protection of adjacent properties, particularly along District boundary lines as provided in Section 6.04.
- (C) All aisles within parking areas shall have a minimum width of twenty-four (24) feet when the parking spaces are at a ninety (90) degree angle with the aisle; eighteen (18) feet when the parking spaces are at sixty (60) degrees; and twelve (12) feet the spaces are at forty-five (45) degrees.

(D) Aisles and turning areas shall have adequate radii to assure ease of mobility, ample clearance, and convenient access and egress.

(E) Centerline gradients of aisles shall not exceed eight (8) percent.

(F) Accessory offstreet parking areas shall be marked off into parking spaces with a minimum width of nine (9) feet, and a minimum length of eighteen (18) feet; or in the case of parking spaces of a minimum size to be determined by the municipality based on the nature of the parked vehicle.

(G) An accessory offstreet truck loading space shall have a minimum width of twelve (12) feet, a minimum length of twenty-five (25) feet, and a minimum clear height of fourteen (14) feet. The related aisle shall have the same minimum clear height.

6.08.09 EXCEPTION AND WAIVERS:

(A) Except as provided herein, the provisions of this Section 6.08 shall not apply to any building or structure or lot lawfully in use at the effective date of this Local Law whether continued as a permitted use or as a nonconforming use, or thereafter different lawful use having the same parking and truck loading requirements.

(B) Within a Municipal Parking District, as such may be established by resolution of the Board of Trustees, the provisions for offstreet parking space requirements contained in Section 6 shall automatically be waived.

(C) The Board of Appeals, subject to the applicable provisions of Section 10.04.03(e), may waive the requirements, in whole or in part, for the offstreet parking or truck loading spaces stipulated in this Section.

6.09 SIGNS

The purpose and intent of this section of the Zoning Law addressing signs is:

6.09.01 To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the land and intensity of development permitted in the Village; to reduce hazards caused by signs that impede or distract traffic or otherwise interfere with public safety.

6.09.02 To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry.

6.09.03 To enhance and protect natural beauty, historic and aesthetic qualities and neighborhood values throughout the Village; to ensure the tasteful display of signs in the high density commercial and residential areas of Route 417 and to secure economic stability in property values.

6.09.04 THE FOLLOWING GENERAL STANDARDS SHALL BE ADHERED TO FOR ALL SIGNS:

(A) Signs shall be maintained in a safe, legal, and undeteriorated condition at all times.

(B) Frames, poles, braces supports, etc. must be kept painted and maintained, free of weeds, brush and debris.

(C) Removal and maintenance of signs

(1) The Code Enforcement Officer may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

(2) Unsafe and unlawful signs must be removed or altered within five (5) days after notification by the Code Enforcement Officer. In addition to any costs incurred pursuant to this paragraph, the violator may be subject to further penalties as herein described in this Local Law.

(3) Other damaged or deteriorated signs must be repaired or replaced within thirty (30) days. In addition to any costs incurred pursuant to the provisions of this paragraph, the violator may be subject to additional penalties under this Local Law.

(4) When a sign display is no longer appropriate as a result of, but not limited to the sale, transfer, conversion or demise of a business, product, or person, the sign shall be removed within seven (7) days.

(5) Any nonconforming, abandoned, unsafe or illegal sign existing on the effective date of this law shall be removed or repaired within a five (5) day period, as applicable, by the owner of the premises upon which sign is located after written notice as provided herein. Upon removal of any wall sign, the surface area of the facade shall within sixty (60) days of removal shall be restored to a condition substantially equivalent to the remaining portion of the face in appearance. The Code Enforcement Officer

upon determining that such sign exists, shall notify the owner and beneficial user of such sign in writing, to remove, or repair the said sign within the time limits indicated in sections 6.09.04(C)(1)-(4) above from the date of such notice. Upon failure to comply with such notice within the prescribed time, the Code Enforcement Officer shall remove or cause to be removed, such sign and shall assess all costs and expenses incurred in the said removal against the property owner on which such sign is located.

(D) Village approval shall in no way eliminate the need for a permit from the New York State Department of Transportation (D.O.T.) when the sign is visible to traffic on a State Primary route.

(E) Although there is no requirement that all signs must be professionally made and lettered, it is expected that all signs will be attractive and not emanate a non-professional or amateurish appearance.

(F) No permit fee shall be charged for signs regulated under this Local Law.

(G) At this time, the sign committee is the Village Planning Board.

(H) Temporary or permanent signs resting on, or attached to vehicles shall not be used as a means to circumvent the prevent the provisions of this Local Law.

6.09.05

THE FOLLOWING SIGNS WILL NOT BE PERMITTED IN THE VILLAGE OF WELLSVILLE:

(A) Signs that constitute a traffic hazard. No sign or other advertising structure as regulated by any of the provisions of this section shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words, "STOP", "LOOK", "YIELD", "DRIVE-IN", "DANGER" or other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

(B) If the Code Enforcement Officer's inspection finds that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of any provisions of this chapter, notice shall be given in writing by the Code Enforcement Officer to the beneficial user and owner of the premises on which the sign is located. The Code

and owner of the premises on which the sign is located. The Code Enforcement Officer may cause any sign or other advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.

(C) Indecent, pornographic, or defamatory signs that malign or belittle, any of the following, but not limited to a person, product, institution, practice or belief.

(D) Signs in excess of ninety-six (96) square feet (equivalent of 3-4'x8').

(E) Signs on the top roof of any building. Roof signs are to be discouraged. However, on the buildings, with multi-level roofs, signs may be permitted on the lower roof provided the twenty (20) foot maximum height is not violated.

(F) Signs painted on sidewalks, streets, or curbs.

(G) Signs higher than the building which the sign identifies or twenty (20) feet from ground to top of the sign; whichever is less.

6.09.06

SIGNS NOT REQUIRING A PERMIT

(A) Temporary signs, consisting of; Signs of a temporary nature, such as special events posters, political posters, banners and similar signs, provided that such signs do not overhang a public right-of-way and are not attached to trees or utility poles and that consent of the property owner or occupant is obtained. Each such sign must specify the name and address of the person or organization responsible for its removal and shall be removed with twenty-four (24) hours after the advertised event.

(B) Non-illuminated real estate signs not exceeding thirty-six (36) inches x thirty-six (36) inches in area, which advertise the sale, rental or lease of the premises upon which such signs are located.

(C) Nameplates not exceeding one (1) square foot in area, containing only the name of the building and name of the agent.

(D) Bulletin boards not exceeding sixteen (16) square feet in area, erected upon the premises of a church, funeral home or public institution and its activities or services.

(E) Signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding sixteen (16) square feet

in area, for the designation of one individual or firm. For multiple designations, the sign may be up to thirty-two (32) square feet in area. In no event will more than one sign per location be allowed, and it must be removed within forty-eight (48) hours after receipt of the Certificate of Occupancy.

(F) Memorial signs or tablets, names of buildings, and dates of erection, provided that such signs do not exceed two (2) square feet in area.

(G) Any sign painted or lettered directly on a window or other necessary part of a building when the sign is inside of the building.

(H) Neon signs in the window of a retail establishment not larger than four (4) square feet or twenty-five (25)% of the window area, whichever is less, provided that the sign is lit only during business hours.

(I) Sandwich board signs meeting the following criteria:

(1) No sandwich board sign shall be larger than forty-eight (48) inches in height (including legs) x thirty-six (36) inches in width. Such signs shall not be higher than four (4) feet above the adjacent sidewalk or curb.

(2) Sandwich board signs shall be designed and located so as not to be an obstruction on any public space or walkway.

(3) Sandwich board signs shall not be illuminated and may be displayed only between sunrise and sunset. Such signs shall be constructed and placed in such a manner so as to prevent accidental tipping or blowing over.

(J) Signs not readily visible from a roadway that are necessary and proper to a commercial operation such as, but not limited to, a golf course, bed and breakfast or lodging accommodation.

NOTE: any sign that does not meet the specified dimensions will require a permit.

6.09.07

UPON PROPER APPLICATION, THE CODE ENFORCEMENT OFFICER MAY ISSUE SIGN PERMITS FOR:

(A) Ground signs (other than real estate developer's offering) which meet the following criteria:

(1) The sign must be eight (8) feet from grade level to the bottom of the sign. However, the eight (8) foot minimum may be waived if the sign is located in a lawn or other private open area.

(2) Only one sign per location is allowed. A location is identified as follows:

(a) As an entrance way to, or roadway bordering on, but not limited to, a plaza, office complex, commercial multi-story building. The one sign must advertise all the products or services available at this location. This requirement does not preclude the use of small traffic signs or appropriate wall signs for identifying the occupants or services available in a particular portion of the complex.

(b) On large commercial properties requiring significant acreage, such as but not limited to golf courses, a sign will be permitted every 300 yards on each roadway, but the advertising content therein must be appropriate to the use being made of the property.

(c) On agricultural non-commercial properties, signs are permitted on all roadways at intervals no closer than 300 yards. Only one advertiser is permitted per sign.

(3) No ground sign shall be permitted on public property.

(4) For safety and appearance, no guy wires will be allowed.

(5) All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.

(6) Lighting shall be permitted on ground signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(B) Wall signs (i.e., those signs mounted flush against a wall and those other than real estate developer's offering) which meets the following criteria:

(1) The sum aggregate of all signs, on the front of the building, shall have a maximum coverage of seventy-five (75) percent of the coverable portion of the building's facade;

- (2) If illuminated, does not cause a hazard or glare;
- (3) Wall signs located on sides and rear of a building shall have a maximum coverage of 32 square feet per side and a maximum of 32 square feet per rear of each building (small directional/delivery signs over doors are not included in the 32 square foot computation);
- (4) No wall sign shall cover, wholly or partially, any wall opening;
- (5) No wall sign shall project beyond the ends or top of the building wall to which it is attached. No wall sign attached to a separate framework shall be set out more than one (1) foot from the face of the building;
- (6) All letters, figures, characters, or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign shall be safely and securely built or attached to the sign structure;
- (7) No wall sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from any door, window or fire escape.

(C) Movable or lighted mobile sign (other than a sandwich board). Recognized civic organizations, which have been in existence one year or more, may be issued a permit to advertise a special community event for a period not to exceed seventy-two (72) hours prior to the event, and must be removed within twenty-four (24) hours after the event.

6.09.08

UPON PROPER APPLICATION, THE SIGN COMMITTEE MAY AUTHORIZE THE CODE ENFORCEMENT OFFICER TO ISSUE SIGN PERMITS FOR:

- (A) Cloth signs, streamers, etc. which may be suspended over, or placed on public property after review and approval by the Planning Board. The Planning Board may require reasonable liability insurance coverage for such installation. Such signs shall be removed within twenty-four (24) hours after the advertised event or at the end of the season if a seasonal event is advertised.
- (B) Ground signs (other than real estate developer's offering) in excess of thirty-two (32) square feet (but not to exceed ninety-six (96) square

feet) and containing one or more variances from the standards listed in this Local Law. However, maximum height must not exceed forty (40) feet.

(C) Wall signs (other than real estate developer's offering) same as ground signs.

(D) Developer's Offering-a permit for a subdivision or Planned Unit Development (P.U.D.) offering sign, whether put in place by a real estate developer, contractor or owner, may be issued for a period of six (6) months. These signs which are expected to be erected for a limited time only, must meet all applicable sign requirements.

(E) All projecting signs:

(1) Every projecting sign shall be placed so that its lowest point shall be at least eight (8) feet above ground level and the distance of the vertical edge nearest the building shall not exceed three (3) feet from the face of the wall to which it is attached, or shall any sign or part thereof exceed beyond a point twelve (12) inches inside the curb line.

(2) All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with, attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.

(3) No projecting sign shall be erected, relocated or maintained so as to prevent free ingress to, or egress from, any door, window or fire escape.

(4) Lighting shall be permitted on projected signs, provided that illumination concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(5) Projecting signs exceeding fifty (50) pounds in weight shall not be attached to or supported by frame buildings or the wooden framework of a building. No projecting sign shall be secured with wire, strips of wood or nails, nor shall any projecting sign be hung or secured to any other sign.

(F) Hanging and/or Arcade signs

(1) Every hanging or arcade sign shall be placed so that its lowest point shall be at least eight (8) feet above grade level.

(2) All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with, attached to, or superimposed upon, any sign shall be safely and securely built or attached to the sign structure.

(3) Lighting shall be permitted on hanging signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.

(4) Hanging signs exceeding fifty (50) pounds in weight shall not be attached to or supported by frame buildings nor the wooden framework of a building. No hanging sign shall be secured with wire, strips of wood or nails, nor shall any hanging sign be hung or secured to any other sign.

(G) Awnings and canopies

(1) Shall not exceed beyond a point twelve (12) inches inside the curb line.

(2) The lowest portion of non-retractable awnings shall not be less than eight (8) feet above grade level.

(3) Construction of awnings: awnings shall be constructed of cloth or metal, or any other approved materials. However, all frames and supports shall be a metal. Every awning shall be securely attached to and supported by the building.

(4) Construction of canopies: canopies shall be constructed of cloth, metal hood, or other approved materials. The framework of all canopies shall be approved by the Code Enforcement Officer.

(H) Any person upon whom a notice has been served, as provided in this Local Law, and who fails, neglects or refuses to comply with the provisions of this section shall be subject to a fine of \$25.00 per day with each day on which such violation continues to constitute a separate offense. The maximum fine shall be \$250.00 For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Local Law, or any provisions or parts thereof, shall be deemed misdemeanors, and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violation. No provision of this Local Law shall be construed to limit the right of the Village of Wellsville to enforce this Local Law by means of an injunction or restraining order.

SECTION VII

SPECIAL EXCEPTION USES

7.01 DELEGATION OF AUTHORITY

The Zoning Board of Appeals is hereby authorized to act on proposed special exception uses which are specifically provided for in this Local Law. Such action may include approval, conditional approval, or disapproval based on the standards set forth in this Section.

7.02 GENERAL PROCEDURE AND CONDITIONS

(A) The Zoning Board of Appeals shall adopt and file in the Municipal Clerk's office such Rules of Procedure as it may deem necessary to properly exercise its responsibilities with respect to special exception uses.

(B) Prior to taking action on any special exception use, the Zoning Board of Appeals shall hold a public hearing after public notice as provided in the case of an application to the Board of Appeals, in Section 10.02. No action shall be taken respecting such matter until all interested parties shall have been given an opportunity to be heard.

(C) All matters which are the subject of a mandatory referral or notice to other agencies, as set forth in the Enabling Statutes and in Article 12-B, §239(l) and (m), of the General Municipal Law, shall be transmitted to the appropriate agencies by the Secretary of the Zoning Board of Appeals in accordance with the provisions of those Sections.

(D) The Secretary of the Zoning Board of Appeals shall keep minutes of the Board proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The secretary shall also keep records of examinations and official actions, all of which shall be immediately filed in the office of the Zoning Board of Appeals with respect to the approval of the special exception use shall be so stated and documented as to provide a definitive authorization to the Zoning Officer for issuing a building permit or certificate of occupancy.

(E) A site plan for any proposed special exception use in any District where authorized, shall be submitted to the Planning Board for approval prior to authorization by the Zoning Board of Appeals for the issuance of a building permit.

(F) A special exception authorization by the Zoning Board of Appeals for the issuance of a building permit shall expire within ninety (90) days of such authorization in the event that such permit shall not be applied for within such ninety (90) day period. Extension of such authorization may be granted by the Zoning Board of Appeals for an additional ninety (90) day period.

(G) A special exception use, for which a building permit is authorized by the Zoning Board of Appeals, pursuant to the provisions of this Section, shall be construed to be a conforming use.

(H) Any violation of the limitations or special conditions and safeguards established by the Zoning Board of Appeals with respect to a specific authorization for a special exception use shall be deemed a violation of this Local Law, punishable under the provisions of Section 11.

(I) The fee for special exception use applications to the Zoning Board of Appeals shall be set by the Zoning Board of Appeals.

7.03 GENERAL STANDARDS

For every such special exception use the Zoning Board of Appeals shall determine that:

(A) Such use will be in harmony with and promote the general purposes and intent of this Local Law.

(B) The plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.

(C) The proposed use will not prevent the orderly and reasonable use of adjacent properties.

(D) The site is particularly suitable for the location of such use in the community.

(E) The characteristics of the proposed use are such that its location would be suitable to the neighborhood.

(F) The proposed use, particularly the case of a non-nuisance industry, conforms with the Local Law definition of the special exception use where

such definition exists, or with the generally accepted definition of such use where it does not exist in the Local Law.

(G) Access facilities are adequate for the estimated traffic from public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion; and further that vehicular entrances and exits shall be clearly visible from the street and not within seventy-five (75) feet of the intersection of street lines at a street intersection.

(H) All proposed curb cuts have been approved by the street or highway agency which has jurisdiction.

(I) There are offstreet parking and truck loading spaces at least in the number required by the provisions of Section 6, but in any case an adequate number for the anticipated number of occupants, both employees and patrons or visitors; and further that the layout of the spaces and driveways is convenient and conducive to safe operation.

(J) Adequate buffer yards and screening are provided where necessary to protect adjacent properties and land uses.

(K) Adequate provisions will be made for the collection and disposal of stormwater runoff from the site, and of sanitary sewage, refuse or other waste, whether liquid, solid, gaseous or of other character.

(L) The proposed use recognizes and provides for the further specific conditions and safeguards required for particular uses in Section 7.04, if any.

7.04 SPECIAL CONDITIONS AND SAFEGUARDS FOR CERTAIN SPECIAL EXCEPTION USES

No authorization for a building permit shall be granted by the Zoning Board of Appeals for any use listed in this section, unless the Board shall specifically find that, in addition to meeting all the general standards set forth in Section 7.03, the proposed special exception use also meets the special conditions and safeguards required in this Section.

7.04.01 ADULT USES:

The Board of Trustees of the of the Village of Wellsville has determined that premises used or operated as Adult Uses may have negative secondary effects upon the neighborhood in which the adult use is located, including declining property values, increased crime rates, declining profitability of adjacent non-adult use businesses, negative neighborhood perception and deterioration of quality of

life. To prevent, or lessen, crime rates, reduced property values, decaying retail trade, quality of life issues and to preserve the overall community character, The Board of Trustees enacts the following rules to regulate Adult Uses in the Village of Wellsville. The Board has determined the following to be the least officious method for overseeing Adult Use Establishments.

(A) General Regulations:

Adult Uses, including but not limited to, Adult Bookstores, Adult Entertainment Establishments, Adult Cabarets, Adult Motion Picture Theaters and Adult Theaters shall be permitted as special exception uses subject to the following regulations, as well as any specific requirements made by the Zoning Board of Appeals as a condition of the granting of the special use permit:

- (1) No Adult Use shall be located in any Zoning District except the "Business District", the "General Industrial District" or the "Commercial-Industrial District".
- (2) No Adult Use shall be located within five hundred(500) feet of an existing school, library, hospital/clinic, day care or nursery school, public park or playground, place of worship or civic/fraternal establishments.
- (3) No Adult Use shall be located within five hundred(500) feet of another Adult Use property line.
- (4) No Adult Use shall be located within fifty(50) feet of any residential zoning district.
- (5) No Adult Use shall be expanded or building enlarged unless a new "special exception use" permit is obtained first.

(B) Site Regulations:

After a special use permit is granted, no Adult Use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an Adult Use. This section shall apply to any advertisement, display, decoration, sign, show window or other opening.

(C) Registration Procedures:

As uses such as Liquor Establishments, Establishments conducting games of chance and Firearms Establishments are required by State and/or Federal law to be registered, Adult Use Establishments must also be registered with the Village Clerk. The owner or occupant of a building or premises containing an Adult Use, his/her agent(s) or employee(s) for the purpose of managing or controlling or collecting rents thereon, or any other person managing or controlling a building or premises, or any part thereof, shall register the following information with the Village Clerk:

- (1) The address of the premises, and;
- (2) The name and address of the owner of the premises and/or the names and addresses of the beneficial owners of the premises, and;
- (3) The names and addresses of the owner(s), partners, majority stockholders of an incorporated business or the beneficial owners of the establishment subject to the provisions of this section, and;
- (4) The name of the business or the establishment subject to the provisions of this section, and;
- (5) The nature of the Adult Use, and;
- (6) A copy of the Deed to the premises or the lease agreement for the same, whichever is applicable, and;
- (7) Further, if any facts should change, (such as ownership or manager), an amendment shall be filed with the Village Clerk indicating such change.

(D) Transferability:

A special use permit issued under the provisions of this section shall not be transferable. If there is a change of ownership of the premises or establishment, a new special use application shall be filed within thirty(30) days of the change.

7.04.02

AUDITORIUM, MEETING HALL:

- (A) No building or structure shall be built within fifty (50) feet of any property line.
- (B) Lot coverage shall not exceed twenty (20) percent.

(C) The site boundaries shall be at least two hundred (200) feet distant along any bounding street from any Residence District Boundary line.

7.04.03 CAR WASH:

(A) The lot area shall be not less than twenty thousand (20,000) square feet, and shall have a minimum frontage of one hundred and fifty (150) feet along a through street or highway.

(B) No church, school, library, playground or similar place of public assembly shall be within five hundred (500) feet of the site.

(C) Storage area for vehicles waiting for service shall be provided on-site and shall not occur on a public street or highway.

7.04.04 COUNTRY CLUB:

(A) All buildings and structures shall be not less than one hundred (100) feet from any property line.

(B) No commercial activity shall be conducted except for an accessory swimming pool, "pro shop", or an accessory dining room with or without bar facilities.

7.04.05 EATING ESTABLISHMENTS: DRIVE IN OR OPEN FRONT:

(A) Vehicular entrances and exits shall be controlled by curbing.

(B) There shall be adequate offstreet parking and loading space to serve the proposed use.

(C) There shall be adequate provision for disposal of trash and refuse left on the premises.

(D) There shall be either a suitable fence or landscape planting screen along side and rear lot lines.

7.04.06 FILLING STATION:

(A) The lot area shall be not less than twenty thousand (20,000) square feet, and shall have a minimum frontage along the through street or highway of at least one hundred and fifty (150) feet.

(B) No church, school, library, playground or similar place of public assembly shall be within five hundred (500) of the site.

(C) All pumps shall be located at least twenty-five (25) from any boundary or street line.

(D) Entrance or exit driveways shall be located at least five (5) feet from any side or rear property line. Such driveways shall be so laid out as to avoid the necessity of any vehicle backing onto any right-of-way.

(E) The area devoted to the outdoor storage of motor vehicles or parts thereof or to purposes of dismantling, shall be screened from view of persons on adjacent streets by enclosing such area within a solid fence eight (8) feet high, or such area shall be located inside a building.

7.04.07 HOTEL:

There shall be at least one thousand (1,000) square feet of lot area per guest room.

7.04.08 MEMBERSHIP CLUB, NON-PROFIT:

(A) All buildings and structures shall be at least fifty (50) feet from any property line.

(B) Lot coverage shall not exceed twenty (20) percent.

7.04.09 MOBILE HOME PARK:

There shall be no mobile homes permitted in R1 and R2 districts.

7.04.10 MOTEL:

There shall be at least twenty-five hundred (2,500) square feet of lot area for each first floor guest room and additional one thousand (1,000) square feet of lot area for each guest room on other floors.

7.04.11 NURSING HOME:

(A) The lot area shall no be less than one (1) acre, and shall have the minimum frontage of one hundred and fifty (150) feet along the principal bounding street.

(B) All buildings and structures shall be not less than fifty (50) feet from any property line.

(C) Lot coverage shall not exceed fifty (50) percent.

7.04.12 PARKING GARAGE, STORAGE GARAGE:

(A) There shall be adequate provisions for access to the site.

(B) Vehicular entrances and exits shall be controlled by curbing.

(C) Facilities for servicing, repairs and outdoor storage of motor vehicles shall be prohibited.

7.04.13 PHILANTHROPIC, FRATERNAL OR SOCIAL ORGANIZATION OFFICE OR MEETING ROOM:

(A) All buildings and structures shall be not less than fifty (50) feet from any property line.

(B) Lot coverage shall not exceed twenty (20) percent.

7.04.14 PLANNED UNIT DEVELOPMENT:

No authorization for a building permit or permits shall be granted unless the Planning Board shall specifically find that the proposed special exception for the PLANNED UNIT DEVELOPMENT is in keeping with the intent of this provision to provide for flexible planning or residential development while conserving the natural scenic environment and to implement the master plan, as well as meeting the following special conditions and safeguards:

(A) Application shall be made to the Village Board in the form of a letter stating the goals, objectives and planning of the proposed project, and accompanied by an accurate preliminary plan, drawn to scale.

(B) The Village Board shall refer the application to the Planning Board which shall make its recommendations to the Village Board within sixty (60) days of receipt of the preliminary plan.

(C) The Planning Board shall ascertain that the proposal meets the requirements of zoning district, subdivision regulations, master plan goals and any other applicable health or governmental regulations.

(D) The Planning Board may require the applicant to furnish such preliminary plans, drawings, sketches, elevations and other information as are necessary to make recommendations on the proposed project.

(E) The Planning Board may also require the applicant to make such changes as may be necessary to meet the requirements of this zoning Local Law and/or to protect the established uses in the vicinity.

(F) The Village Board shall hold a public hearing on the proposed project with public notice given ten (10) days prior thereto.

(G) The applicant may amend the proposed plan in accordance with Planning Board recommendations and refile an application with the Village Board.

(H) If substantial progress in the construction of the proposed project is not made within two (2) years of the Village Board's approval, such approval may be revoked and the land in question shall then revert to its original classification. The Village Board may extend approval for additional periods of one (1) year.

7.04.15 PLANNED COMMERCIAL INDUSTRIAL PARK:

(A) The site area shall be not less than ten (10) acres.

(B) Individual sites resulting from subdivision or from leasing arrangements may average eighty thousand (80,000) square feet each, provided that no site of less than eighty thousand (80,000) square feet may be located within four hundred (400) feet of the park's boundary, and further that no site shall be less than twenty thousand (20,000) square feet.

(C) If the proposed park is not subject to the subdivision regulation as a result of common ownership, it shall be approved in a similar manner by the Planning Board and meet the same requirements for design and public improvements.

7.04.16 PRIVATE SWIMMING POOL

See Appendix A, Page 78.

7.04.17 PROFESSIONAL OFFICE, MEDICAL ARTS BUILDING

(A) The lot shall have frontage on a through street or highway.

(B) Access to offstreet parking areas shall be so designed that traffic to the site will not be encouraged to travel through the minor street system.

(C) Offstreet parking areas shall be set back five (5) feet from street line and all property lines in any Residential District; further, a five (5) foot stockade type fence, or equivalent approved screening, shall be located along such property lines.

7.04.18 PROPRIETARY HOME:

(A) Owners must meet all NYS Health Department regulations.

(B) Must provide offstreet parking area. Two spaces plus one additional space for every two commercial residents.

SECTION VIII

NONCONFORMING USES AND NONCONFORMING
BUILDINGS OR STRUCTURES

8.01 APPLICATION OR REGULATIONS

These provisions shall apply to all buildings or structures, and all uses of buildings or structures or lots lawfully existing prior to the effective date of this Local Law, or of subsequent amendments, revisions or reenactments of such Local Law, which do not conform to the provisions of said original zoning Local Laws or to such revisions or reenactments on their effective dates.

8.02 UNLAWFUL BUILDINGS, STRUCTURES, OR USES NOT TO BE
CONSTRUED AS NONCONFORMING

No unlawful building or structure or unlawful use of a building or structure or lot existing at the effective date of this Local Law shall be deemed to be a nonconforming building, structure, or use.

8.03 CONTINUANCE

(A) Any lawful use occupying any building, structure, lot or land at the time of the effective date of this Local Law or any amendment thereto, which does not comply, after the effective date of this Local Law or any amendment thereto, with the use regulations of the District in which it is situated, may be continued in the building or structure or on the lot or land so occupied, to the extent existing at the time it became nonconforming, except as provided in Section 8.04.

(B) A building or structure used by a NONCONFORMING USE shall not be reconstructed, structurally altered, restored or repaired to an extent exceeding ten (10) percent of the equalized assessed value of such building or structure, exclusive of foundations, unless the use of such building or structure is changed to a conforming use; provided that the reconstruction, restoration or repair of a structure partially destroyed by fire or similar accidental cause shall commence within six (6) months of the date of the partial destruction and be completed within twelve (12) months of the date of destruction. A one year extension may be granted by the Zoning Officer.

(C) A NONCONFORMING BUILDING or STRUCTURE that is not devoted to a nonconforming use may be reconstructed, structurally altered, restored or repaired in whole or in part, and the provisions of Section 8.03(B) shall not apply, except that the degree of nonconformity shall not be increased.

(D) A NONCONFORMING LOT separately owned and not adjoining any lot or land in the same ownership at the effective date of this Local Law may be used, or a building or structure may be erected on such lot for use, in accordance with all the other applicable provisions of this Local Law provided that proof of such separate ownership is offered in the form of a title search.

(E) An existing building designed and used for a conforming use, but located on a nonconforming lot, whether the building is conforming or nonconforming with respect to lot coverage and minimum yard requirements, may be reconstructed, structurally altered, restored or repaired in whole or in part, except that the degree of nonconformity shall not be increased.

8.04 EXTENSION

A nonconforming use shall not be enlarged or extended, except as provided in Section 10.04.03

8.05 CHANGE

(A) A nonconforming use shall be changed only to a conforming use, except as provided in Section 10.04.03(B)

(B) Nothing in this Local Law shall prevent the compliance of an existing multiple dwelling with the provisions of the Multiple Residence Law.

8.06 ABANDONMENT

(A) A nonconforming use shall be deemed to have been abandoned:

1. When it is changed to a conforming use.
2. In cases where such nonconforming use is of a building or structure designed for such use, when it has been voluntarily discontinued for a period of twelve (12) consecutive months.
3. In cases where such nonconforming use of a building or structure not designed for such use, or is of a lot or land whereon there is no consequential building or structure devoted to such use, when it has been voluntarily discontinued for a period of six (6) consecutive months.

(B) A nonconforming use that has been abandoned shall not thereafter be reinstated.

8.07 COMPULSORY TERMINATION

(A) A NONCONFORMING STRUCTURE or NONCONFORMING USE may be subject to compulsory termination by the municipal legislative body when it is found detrimental to the conservation of the value of surrounding land and improvements, or to future development of surrounding lands, and therefore is tending to deteriorate or blight the neighborhood.

(B) Any nonconforming sign in existence in any Residence District on the effective date of this Local Law or any amendment thereto which does not comply after the effective date of this Local Law, or any amendment thereto, shall be discontinued at the expiration of three(3) years from such date.

SECTION IX

ENFORCEMENT AND ADMINISTRATION

9.01 ENFORCEMENT

9.01.01 The duty of administrating and enforcing the provisions of this Local Law is hereby conferred upon the Zoning Officer, who shall have such powers as are conferred upon him by this Local Law, and as may reasonably be implied. He shall be appointed by the Village Board and shall receive such compensation as the Village Board shall determine.

- 9.01.02 Should said Zoning Officer be in doubt as to the meaning or intent of any provision of this Local Law, or as to the location of any District boundary line on the Zoning Map, or as to the propriety of issuing a Building Permit or a Certificate of Occupancy in a particular case related to the provisions of this Local Law, he shall appeal the matter to the Zoning Board of Appeals for interpretation and decision.
- 9.01.03 The Zoning Officer shall adopt rules of procedure, consistent with this Local Law, for the purpose of assuring efficient and uniform administration of its provisions.
- 9.01.04 If the Zoning Officer should mistakenly issue a building permit which violates the provisions of this Local Law, that building permit shall be invalid.

9.02 BUILDING PERMITS-GENERAL PROCEDURE

- 9.02.01 All procedures with respect to applications for and issuance of building permits shall be in conformity with the provisions of the New York State Building Code. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of this Local Law.
- 9.02.02 No building permit shall be issued for the erection, construction, reconstruction, structural alteration, restoration, repair, or moving of any building or structure or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Local Law. In addition, no such permit shall be issued unless the proposed building or structure conforms with all pertinent health laws.
- 9.02.03 Where a lot is formed from part of an existing lot, whether already improved or not, the separation must be effected in such a manner that neither of the lots, nor any existing or proposed improvements thereon, contravene the provisions or intent of this Local Law.
- 9.02.04 After completion of footing and establishing of the forms on the first course of the foundation walls, or equivalent structure, the owner shall notify the Zoning Officer. If required by the Zoning Officer, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Zoning Officer before construction is continued.

9.03 BUILDING PERMITS-SITE PLAN PROCEDURE AND STANDARDS

- 9.03.01 The following site plan provisions are intended to secure compliance with the requirements and standards set forth in this Local Law, and with accepted professional design practice for such site improvements as grading, drainage, sidewalks, curbs, parking, landscaping, fences and driveways.
- 9.03.02 Building permit applications for any building or structure or use, other than a single or two family dwelling or their accessory buildings, or structures, shall include three (3) copies of a site plan drawn to scale and showing the following items, as required:
- (A) Property lines and related street, right-of-way and easement lines as determined by a licensed land surveyor.
 - (B) Location of existing and/or proposed buildings and structures.
 - (C) Layout of existing and proposed offstreet parking areas showing the details of aisles, driveways and each parking space.
 - (D) Existing topography of the site and immediately adjacent property, as revealed by contours or key elevations as may be required by the municipality, and any proposed regrading of the site.
 - (E) Existing and proposed stormwater drainage facilities, sidewalks, curbs and curb cuts and similar structures.
 - (F) Existing and proposed street trees, landscaping and fences.
 - (G) Existing and proposed outdoor lighting and sign locations.
- 9.03.03 Requirements for improvements shown on the site plan shall be those set forth in this Local Law and in other Local Laws, rules and regulations, or in construction specifications of the municipality.
- 9.03.04 The zoning officer shall forward one copy each of the site plan to the Chairman of the Planning Board and to the Director of Public Works for their recommendations before issuance of a building permit, if necessary.
- 9.03.05 In the case of special exception use or variance applications, the site plan shall be the subject of a preliminary review in accordance with the above procedure, before action is taken by the Planning Board or Zoning Board of Appeals, respectively.

9.03.06 Building permits for special exception uses or variances shall be in accordance with the conditions established by the Planning Board or Zoning Board of Appeals, respectively.

9.03.07 When an applicant for such a building permit for a special exception use questions the interpretation of the site plan requirements, he may appeal the decisions to the Zoning Board of Appeals.

9.04 CERTIFICATE OF OCCUPANCY

9.04.01 It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land, or part thereof, hereafter erected or altered, enlarged or moved, or put into use, in whole or in part, after the effective date of this Local Law, or any building or structure, premises, lot or land, or part thereof of which the use is changed, until a certificate of occupancy has been obtained by the owner.

9.04.02 No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless the erection, construction, reconstruction, structural alteration, restoration, repair, or moving of such building or structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this Local Law. Where the approval of New York State Department of Health is required, no certificate of occupancy shall be issued until such approval has been granted in writing.

9.04.03 The Building Inspector shall obtain a written order from the Zoning Board of Appeals before issuing a certificate of occupancy in a case involving a special exception use pursuant to Section 7, or before issuing a certificate of occupancy involving a variance from the provisions of this Local Law pursuant to Section 10.

9.05 FEES

Each application for a permit provided for by this Local Law shall be accompanied by a fee, as determined by a fee schedule which the Village Board shall establish, and change as the Board may determine.

SECTION X

BOARD OF APPEALS

10.01 ORGANIZATION AND GENERAL PROCEDURE

- 10.01.01 There shall be a Board of Appeals. Said Board shall consist of five (5) members. The method of appointment, terms of office, and tenure of its members shall be as prescribed by law.
- 10.01.02 The Board shall have all the powers and duties prescribed by law and by this Local Law.
- 10.01.03 The Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.
- 10.01.04 All meetings of the Board of Appeals shall be open to the public. A quorum shall consist of three (3) members.
- 10.01.05 Every decision by the Board shall be by resolution, and shall contain a full record of the findings of the Board in the particular case.

10.02 APPLICATION AND PUBLIC HEARING PROCEDURE

- 10.02.01 Applications for any action by the Board of Appeals shall be submitted in the form required by the Board and filed in the municipal office.
- 10.02.02 The Board shall fix a time and place for a public hearing thereon, and shall provide for the giving of notice at least ten (10) days prior to the date thereof, as follows:
- (A) By publishing a legal notice in the official newspaper;
 - (B) In an R-1 and R-2 District, notices shall be mailed to the owners of all premises situated within five hundred (500) feet of the premises concerned in said application, may be waived per Local Law #1 of 1981;
 - (C) In all other districts, notices shall be mailed to the owners of all premises situated within two hundred and fifty (250) feet of the premises concerned in said application;
 - (D) Such distances of two hundred and fifty (250) feet and five hundred (500) feet to be measured by lines drawn perpendicular to the boundaries of the premises affected in said application and the width of any intervening street to be excluded from the computation thereof;
 - (E) If the land involved in an application is within five hundred (500) feet of the boundary of any other municipality, notice of the public hearing shall also be mailed to the municipal clerk of such other municipality.

10.02.03 A record shall be established of all variances granted pursuant to action of the Board of Appeals under this Local Law. Each case shall be identified by a sequential numbering system and alphabetically by applicant's name. Said files shall be available for public inspection.

10.02.04 The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicate such fact. The Board shall keep records of its examinations and official actions, all of which shall be filed in the Municipal Clerk's Office and shall be a public record.

10.03 APPEALS ON INTERPRETATION OF THE LOCAL ZONING LAW AND MAP

10.03.01 The Board of Appeals shall, upon appeal, hear and decide:

(A) Any matter where the applicant alleges that the Zoning Officer was in error in refusing to issue a building permit or certificate of occupancy, as a result of misinterpreting the meaning, intent or application of any section or part of this Local Law.

(B) Any matter where the appellant alleges that the Zoning Officer was in error in his determination as to the exact location of a district boundary line on the Zoning Map that forms a part of this Local Law.

(C) Any matter which the Zoning Officer appeals on grounds of doubt as to the meaning or intent of any provision of this Local Law or as to the location of a district boundary line on the Zoning Map.

10.04 VARIANCES

The Board of Appeals shall have the power in passing on appeals where, as a result of exceptional physical conditions connected with a particular site, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Local Law that would deprive the owner of the reasonable use of the land or building involved, to vary or modify the application of the regulations or provisions of this Local Law.

10.04.01 GUIDING PRINCIPLES:

(A) Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.

(B) Every variance granted by the Board of Appeals may be made subject to such additional conditions and safe guards as the Board shall

deem to be applicable to the particular case. Violations of such conditions or safeguards that are a part of the Board's decision shall be deemed a violation of this Local Law punishable under the provisions of Section 11.

(C) Any variance granted by the Board of Appeals pursuant to the provisions of this Section shall be construed to be a nonconforming use.

10.04.02 GENERAL STANDARDS:

For every such variance in the strict application of any provision of this Local Law the Board of Appeals shall determine that:

(A) Strict application of the Local Law would cause practical difficulties or unnecessary hardships, which under the circumstances, would deprive the applicant of the reasonable use of such land or buildings.

(B) Such practical difficulties or unnecessary hardships are unique and are not shared by all properties in the vicinity.

(C) Such practical difficulties or unnecessary hardships are not self-imposed.

(D) Such variance is the minimum variance that will relieve such practical difficulties or unnecessary hardships.

(E) Such variance is in the spirit of the general purposes and intent of this Local Law as stated in the Enacting Clause.

(F) Such variance is so designed as to provide reasonable consideration to, among other things, the character of the neighborhood or district, the conservation of property values in the vicinity, and the guidance of building development in accordance with the comprehensive plan.

(G) Such variance does not involve substantial detriment to the public welfare, nor substantially impair the intent and purpose of the zone plan and of this Local Law.

10.04.03 SPECIFIC TYPES OF VARIANCES:

In the instances of the following types of variances, the Board of Appeals is hereby specifically empowered to grant the variance pursuant to the Guiding Principles and General Standards stated in Section 10.04.01 and 10.04.02 and to the following provisions:

(A) With respect to lots lying across District boundary lines, to grant a permit, in appropriate cases, where the lot of the applicant, as such lot existed on the effective date of this Local Law, lies across the boundary of two Districts, for the extension into the more restrictive District of a lawful conforming use permitted in the less restrictive District, but for a distance not exceeding fifty (50) feet.

(B) With respect to nonconforming uses, buildings and lots:

(1) To grant a variance modifying the yard requirements of a nonconforming use or building on the lot occupied by such use or building on the effective date of this Local Law, provided that:

(a) Such enlargement or extension was arranged, intended or designed for such nonconforming use or building on the effective date of this Local Law.

(b) Such enlargement or extension shall not exceed in all fifty (50) percent of the replacement cost of the existing building on the effective date of this Local Law, exclusive of foundations.

(c) All parking and truck loading requirements of Section 6 are complied with.

(2) To grant a permit for the reconstruction, structural alterations, restoration or repair of a building or structure used for nonconforming use, to an extent exceeding in aggregate fifty (50) percent of the replacement cost of such building or structure, exclusive of foundations.

(C) With respect to yard requirements; To grant a variance modifying the yard requirements of a nonconforming lot which qualifies under the terms of Section 8.03(d) as to ownership, but where compliance with the dimensional provisions of the Local Law is unfeasible.

(D) With respect to fences; To grant a permit, in appropriate cases, for a higher fence or wall than the maximum heights stipulated in Section 6.06.

(E) With respect to accessory parking and truck loading spaces:

(1) To waive the requirements of Section 6.08.03, 6.08.04 and 6.08.05 for offstreet parking and truck loading spaces, in whole or

in part, in a case where the municipality owns or operates a public parking and/or truck loading area within 500 feet of the lot, and where the Board of Appeals determines that there is no need for additional facilities.

(2) To waive the requirements of Sections 6.08.03, 6.08.04 and 6.08.05 for offstreet parking and/or truck loading spaces, in whole or in part, after making a finding that the normal application of such requirements is not feasible, because:

(a) The lot is too restricted an area, unusual dimensions, shape or topographic character.

(b) No other suitable and adequate lot can reasonably be put to such use within 500 feet of the property to which said parking and/or truck loading spaces are accessory.

(3) To permit a reduction in the number of offstreet parking spaces and/or truck loading spaces originally required and installed for a particular use pursuant to Sections 6.08.03, 6.08.04 and 6.08.05 in cases where the Board of Appeals determines that, by reason of reduction in number of dwelling units or residents, or in floor area, seating capacity or area, number of employees, or change in other factors determining the demand for such spaces to proposed reduction in available spaces will be consistent with the requirements of Sections 6.08.03, 6.08.04 and 6.08.05, and further provided that the area so withdrawn from these uses remain in reserve for potential future increase in need.

SECTION XI

VIOLATIONS AND PENALTIES

11.01 PROCEDURE WITH RESPECT TO VIOLATIONS

11.01.01 Where a violation of this Local Law is determined to exist, the Zoning Officer shall serve notice by certified mail, return receipt requested, on (1) the owner, agent or contractor of the building, structure, or lot where such violation has been committed or shall exist; or (2) the lessee or tenant of the part of or of the entire building, structure, or lot where such violation has been committed or shall exist; or (3) the agent, architect, contractor or any other such person who takes part or assists in such violation, or who maintains any building, structure or lot in which any such violation shall exist.

- 11.01.02 Such notice shall require the removal of the violation within ten (10) days after service of the notice.
- 11.01.03 In cases where the removal of the violation within ten (10) days would be manifestly impossible, the Zoning Officer shall apply to the governing body of the municipality for a determination as to a reasonable period of time within which such violation shall be removed.
- 11.01.04 If those persons notified shall fail to remove such violation within the allotted time period, the Zoning Officer shall charge them with such violation of this Local Law before the appropriate court of law.

11.02 PENALTIES

- 11.02.01 Persons found guilty of such violation shall be subject to a fine not exceeding fifty dollars (\$50.00) or to imprisonment for not more than sixty (60) days, or both, for each violation. Each and every day such violation continues, after the allotted period of time for its removal, shall be deemed a separate and distinct violation.
- 11.02.02 In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure, or lot, or to prevent any illegal act, conduct, business or use in or about such premises.

SECTION XII

AMENDMENTS

12.01 PROCEDURE

The regulations, limitations and restrictions of this Local Law, including the zoning map, may be amended, changed, modified or repealed by the governing body in accordance with State Law.

In addition to the notice required by law, notices of such hearing(s) shall be mailed to every civic association in the Village which shall have registered its name and address for this purpose with the Village Clerk. Failure to give such notice by mail shall not however, invalidate any such amendment, change, modification or repeal. No amendment or change shall become effective unless the Local Law containing such amendment shall first have been submitted to the Planning Board for review. The Planning Board shall have a reasonable time, not

less than thirty (30) days for consideration and report. In the case of an unfavorable report by the Planning Board such amendment or change shall not become effective except by a favorable vote of three fifths(3/5) of the governing body.

SECTION XIII

INTERPRETATION

13.01 INTERPRETATION

In applying and interpreting this Local Law, its provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience or the general welfare. The following specific regulations shall apply:

- 13.01.01 A minimum required lot or yard size for one building or structure shall not be used in whole or in part as any part of a required lot or yard or for a second structure.
- 13.01.02 The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this Local Law.
- 13.01.03 The parking spaces required for one building or structure shall not be included in the computation of the required parking spaces for a second building or structure or use.

13.02 RELATION OF ZONING LOCAL LAW TO OTHER PROVISIONS OF LAW, AND TO PRIVATE COVENANTS AND AGREEMENTS

- 13.02.01 (A) Nothing contained in this Local Law shall be taken to repeal, abrogate, annul, or in any way impair or interfere with the Building Code, if one exists, or any rules or regulations adopted or issued thereunder, or any other provisions of law or Local Law or regulations, existing or as may be adopted in the future, when not in conflict with any of the provisions of this Local Law. Nor is it intended by this Local Law to interfere with or abrogate or annul any easements, covenants or other agreements between parties: provided, however, that when this Local Law imposes a greater restriction upon the use of buildings, structures, premises, lots or land, or upon the height of the buildings or structures, or requires larger lots, yards, courts or other open spaces than imposed or required by such other provision of law, Local Law or regulation, or by such easements, covenants or agreements, the provisions of this Local Law shall control.

(B) Compliance with this Local Law will in no way be considered compliance with, or waiver of compliance, of any requirement for the obtaining of a development permit before construction or development within any special flood hazard, in the Village of Wellsville, as identified by the Federal Insurance Administration.

(C) Compliance with this Local Law shall in no way be considered compliance with, a waiver of, or a substitute for, any laws or regulations relating to an Environmental Quality Review Act. In appropriate cases, environmental impact statements may be required.

13.02.02 Wherever the provisions of any other laws or Local Law or regulations impose a greater restriction than this Local Law the provisions of such law or Local Law or regulations shall control.

13.02.03 No provision contained in this Local Law shall be construed as justifying the encroachment of any building or structure or use within any street lines now or hereafter laid down on any subdivision plan filed in the office of the County Clerk or within any Federal, State, County or Municipal street or highway.

13.02.04 Notwithstanding any other provisions contained herein, the Village of Wellsville and its departments or agencies, in the exercise of any of their governmental or proprietary activities, shall not be subject to the provisions of this Local Law.

SECTION XIV

VALIDITY

14.01 VALIDITY

If any section or subsection, paragraph, clause, phrase or provision of this Local Law, or the location of any District boundary shown on the Zoning Map that forms a part hereof shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Local Law or Zoning Map as a whole or in any part or provision hereof other than the part so adjudged to be invalid or unconstitutional.

SECTION XV

EFFECTIVE DATE

15.01 EFFECTIVE DATE

This Local Law shall take effect upon enactment and publication in the manner provided by law.

Appendix A

A LOCAL LAW REGARDING SWIMMING POOLS

adopted 10/12/64

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WELLSVILLE, NEW YORK, AS FOLLOWS:

Section 31.1 COMPLIANCE

It shall be unlawful to construct or maintain any private swimming pool in the Village of Wellsville, except in compliance with the provisions of this ordinance.

Section 31.2 DEFINITION

SWIMMING POOL - Is hereby defined as a receptacle for water or an artificial pool of water, having a depth at any point of more than eighteen(18) inches, designed or intended for the purpose of immersion therein of human beings, and including all appurtenant equipment.

Section 31.3 FENCES

All swimming pools shall be completely enclosed by a fence and all fence openings or points of entry or egress shall be equipped with gates. The fence and gates shall be at least five(5) feet in height above grade level and shall be constructed of any substantial material. The horizontal aperture between adjacent vertical members of the fence and gates shall not exceed two(2) inches except when the vertical aperture between adjacent horizontal rails exceeds forty(40) inches in which event the maximum horizontal aperture shall be three and three-quarters(3 3/4) inches. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gates and all gates shall be locked whenever the pool is unattended.

Section 31.4 PENALTIES

Each and every violation of the provisions of this ordinance shall be punishable by a fine not to exceed one hundred dollars(\$100.00) or by imprisonment for not more than thirty(30) days, or by both such fine and imprisonment.

Section 31.5 EFFECTIVE DATE

This ordinance shall become effective immediately upon due publishing and posting in accordance with the applicable provisions of the Village Law.

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