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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~  
~~City~~ of Wellsville  
~~Town~~  
Village

Local Law No. 6 of the year 19 78

A local law amending Zoning Requirements and standards  
(insert title)

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

~~County~~  
~~City~~ of Wellsville as follows:  
~~Town~~  
Village

## SECTION 1

### ENACTING CLAUSE, GENERAL PURPOSES, SHORT TITLE

#### 1.01 ENACTING CLAUSE

Pursuant to the authority conferred by Article VI-A of the Village Law of the State of New York and for each of the purposes specified therein, the Village of Wellsville, County of Allegany, and State of New York, has ordained and does hereby enact the following Local Law regulating and restricting the location, size, and use of buildings and other structures and the use of land in the Village of Wellsville.

#### 1.02 GENERAL PURPOSES

- (a) This Local Law is adopted for the purpose of promoting the health, safety, morals, or the general welfare of the community, and in furtherance of the following related and more specific objectives:
- (b) To guide and regulate the orderly growth, development, and redevelopment to the municipality in accordance with a comprehensive plan and with long-term objectives, principles, and standards deemed beneficial to the interests and welfare of the people.
- (c) To protect the established character and social and economic well-being of the evolving community as it is affected by the use of both private and public property.
- (d) To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate.
- (e) To secure safety from fire, panic, and other dangers, and to provide adequate light, air and convenience of access.
- (f) To prevent overcrowding of land or buildings and to avoid undue concentration of population.
- (g) To lessen and, where possible, to prevent traffic congestion on public streets and highways.
- (h) To eliminate nonconforming uses gradually.
- (i) To conserve the value of buildings and to enhance the value of land throughout the municipality.

(j) To lessen the potential for excessive erosion and to conserve and reasonably to protect the natural scenic beauty of the municipality and its environs.

1.03 SHORT TITLE

This Local Law shall be known as and may be cited as "The Village of Wellsville Zoning Local Law of 1978".

## SECTION 2

### DEFINITIONS

#### 2.01 SCOPE AND MEANING OF CERTAIN WORDS AND TERMS

- (a) Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural, and the plural includes the singular.
- (b) The word PERSON includes a profit or non-profit corporation, company, partnership or individual.
- (c) The word SHALL is mandatory, and not directory; the word MAY is permissive.
- (d) The word LOT includes the word PLOT and the word LAND.
- (e) The word STRUCTURE includes the word BUILDING.
- (f) The word USE refers to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, made available or offered for use, or erected, reconstructed, altered, enlarged, moved, or rebuilt with the intention of design of using the same.
- (g) The word USED refers to the actual fact that a lot or land, building or structure, or part thereof, is being occupied or maintained for a particular USE.

#### 2.02 DEFINITION OF WORDS AND TERMS

- 2.02.01 ACCESSORY USE, BUILDING OR STRUCTURE. A subordinate use building or structure customarily incidental to and located on the same lot occupied by the principal use, building or structure. The term ACCESSORY BUILDING may include a private garage, garden shed, a private playhouse, and a private greenhouse.
- 2.02.02 ALTERATION. As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending on a side or by increasing in height; or moving from one location or position to another; the term "alter" in its various modes and tenses and its participial form, refers to the making of an ALTERATION.

- 2.02.03 **AUTOMOBILE LAUNDRY.** A structure or building designed for the washing, waxing, simonizing, or similar treatment of automotive vehicles as its principal function.
- 2.02.04 **BASEMENT.** A story partly underground but having less than one half of its clear height below finished grade.
- 2.02.05 **BILLBOARD.** A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally sold, offered or existing upon such lot.
- 2.02.06 **BUILDING.** A structure with a roof supported by columns or walls and having a horizontal area of more than 50 square feet.
- 2.02.07 **CELLAR.** A story partly underground and having one half or more of its clear height below finished grade.
- 2.02.08 **CLUB, COUNTRY.** A club catering to members and others for golfing, tennis or similar sports.
- 2.02.09 **CLUB, MEMBERSHIP, NON-PROFIT.** The premises and buildings used by a local chapter holding a valid charter from an international, national or state organization or by a bona fide local civic association catering exclusively to members and their guests primarily for a patriotic, fraternal, benevolent, social, educational, religious or political purpose. The club shall not be used in whole or in part for the conduct of any business or enterprise for profit, but this shall not be construed as preventing the utilization of a club for benefits or performances for a recognized charity; nor for the meeting of other organizations, nor for educational and cultural purpose.
- 2.02.10 **CUSTOM WORK, SHOP FOR.** A business premises used for the making of clothes, millinery, shoes or other personal articles to individual order and measure, for sale at retail on the premises only, and not including the manufacture of "ready to wear" or standardized products.
- 2.02.11 **DOG KENNEL.** The keeping of more than three dogs that are more than six months old.
- 2.02.12 **DWELLING.** A building arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises, but not including a boarding house or rooming house, hotel or lodging house or motel.
- 2.02.13 **DWELLING, MULTIPLE.** A building or portion thereof used as a dwelling containing three or more dwelling units. For purposes of this Local Law and for purposes of multiple resident inspections, the multiple dwelling shall also include a building

or dwelling which is occupied by five or more persons unrelated by blood, marriage or adoption who are either boarders, lodgers, roomers, or residents. This same definition shall be deemed to apply to a multiple residence also.

- 2.02.14 DWELLING UNIT. One or more rooms with provisions for cooking, living, sanitary and sleeping facilities arranged for the use of one family.
- 2.02.15 FAMILY. One or more persons occupying a dwelling unit as a single non-profit housekeeping unit. More than five persons exclusive of domestic servants, not related by blood, marriage or adoption, shall not be considered to constitute one family.
- 2.02.16 FENCE. A structure bounding an area of land designed either to limit access to the area or to screen such area from view, or both.
- 2.02.17 FILLING STATION. An area of land, including structures thereon, used for the supply of motor vehicle fuel, lubricants, accessories and such services as washing, polishing and minor repairs but not major repairs, collision service or painting.
- 2.02.18 FLAMMABLE LIQUIDS. Liquids having a flash point below 200 degrees Fahrenheit, closed cup tester. Class I flammable liquids, (e.g. gasoline, ether, liquid petroleum gas) are those having flash points below 25 degrees Fahrenheit. Class II flammable liquids (e.g. alcohol, ethyl or methyl acetate) are those having a flash point below 70 degrees Fahrenheit but not below 25 degrees Fahrenheit.
- 2.02.19 GARAGE, PARKING. A building, not a private garage used for the storage of automobiles, or trucks, and not used for making repairs thereto.
- 2.02.20 GARAGE, PRIVATE. An enclosed space for the storage of one or more vehicles, provided that no business, occupation or service is conducted for profit therein.
- 2.02.21 GARAGE, REPAIR. A building, other than a private or a parking garage used for storage, adjustment, painting, replacement of parts or other repair of motor vehicles, or parts thereof, whether or not accessory or incidental to another use.
- 2.02.22 HEIGHT OF BUILDING OR STRUCTURE. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of flat roofs; to the deck line on mansard roofs; or to the mean height between eaves and ridge for gable, hip and gambrel roofs.
- 2.02.23 HOME OCCUPATION. Any gainful occupation customarily conducted within a dwelling by the residents thereof that is

clearly secondary to the residential use, and that does not change the character of the structure as a residence. Said activity shall not occupy more than one-half of the ground floor area of the dwelling or its equivalent elsewhere in the dwelling if so used, and further provided, that there shall be no external evidence other than an announcement sign, and that no mechanical or electrical equipment is used except customary household equipment. However, HOME OCCUPATIONS shall not be construed to include such uses as the following: automotive repair, clinic or hospital, convalescent home, antique dealer, or stores, trades or businesses of any kind not herein excepted.

2.02.24 HOME PROFESSIONAL OFFICE. The office or studio of a resident physician, surgeon, dentist, or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, engineer, real estate broker or salesman, insurance broker or agent, or teacher as herein restricted; provided that no more than two persons are employed who are not members of the family, and that such office shall be in the main building and shall not occupy more than the equivalent of one-half of the one floor of said building. For the purposes of this paragraph, a "teacher" shall be restricted to a person giving individual instruction in academic or scientific subjects to a single pupil at a time. A HOME PROFESSIONAL OFFICE shall not include the office of any person professionally engaged in the purchase or sale of economic goods. Dancing instruction, band instrument or piano or voice instruction, tea rooms, tourist homes, beauty parlors, barber shops, hairdressing and manicuring establishments, veterinary or veterinary hospital, and stores, trades or businesses of any kind not herein excepted shall not be deemed to be HOME PROFESSIONAL OFFICES.

2.02.25 HOTEL. A building or part thereof which has a common entrance, common heating system, and general dining room, and containing seven (7) or more living and sleeping rooms designed to be occupied by individuals or groups of individuals for compensation which are available to the public for periods of less than one week at a time. A HOTEL shall not provide DWELLING UNITS.

2.02.26 JUNK YARD. Any land or structure, or part thereof, exceeding 200 square feet in area, where junk, waste, discarded or salvaged materials are stored, bought, sold, exchanged, sorted, packed, disassembled, handled or abandoned, including auto wrecking or dismantling yards, house wrecking yard, used lumber yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment and mobile homes, but not including pawn shops and establishments for the sale, purchase or storage of used furniture,

household equipment and clothing, for the processing of used, discarded or salvaged materials as part of manufacturing operations, or for the sale, purchase or storage of used motor vehicles or salvaged machinery to be re-used for the purpose for which originally manufactured.

- 2.02.27 LOT. A parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. A lot within the meaning of this Local Law may or may not be a lot as shown on a subdivision plat, assessment record, or file deed.
- 2.02.28 LOT, CORNER. A lot at the junction of and fronting on two or more intersecting streets.
- 2.02.29 LOT, INTERIOR. Any lot other than a corner lot.
- 2.02.30 LOT, THROUGH. A lot extending from one street to another.
- 2.02.31 LOT AREA. The total horizontal area included within LOT LINES.
- 2.02.32 LOT COVERAGE. The percentage of the horizontal area of the lot covered by a building or buildings, measured to the outside of the wall.
- 2.02.33 LOT LINES. Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed a side lot line.
- 2.02.34 LOT LINE, FRONT. The street line at the front of a lot. On a corner lot, the owner may specify the front lot line on the plot plan.
- 2.02.35 LOT LINE, REAR. The lot line opposite the front line.
- 2.02.36 LOT WIDTH. The horizontal dimension measured from side lot line to side lot line, along a line parallel to the street line at the required minimum front yard depth.
- 2.02.37 MOBILE HOME. A movable single family dwelling suitable for year-round occupancy and originally equipped with or having a vehicular chassis and provided with all of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration.
- 2.02.38 MOBILE HOME PARK. A residential land use, designed for the location of two or more mobile homes in designated home spaces and including appurtenant facilities and accessory services for residents only.

- 2.02.39 MOTEL. A building, or group of buildings, whether detached or in connected units, used as individual sleeping or living quarters with direct outside access and related office, and with or without restaurant facilities, designed primarily for transient automobile travelers, and provided with accessory offstreet parking facilities. The term MOTEL includes buildings designed as tourist courts, motor lodges, auto courts, and other similar appellations, but shall not be construed to include parking areas for MOBILE HOMES, or to include DWELLING UNITS except for that of the owner or manager.
- 2.02.40 NONCONFORMING BUILDING OR STRUCTURE. A building or structure lawfully existing at the effective date of this Local Law or any amendment thereto affecting such building or structure, which does not conform to the Table of Dimensional Regulations of this Local Law for the District in which it is situated, irrespective of the use to which structure is put.
- 2.02.41 NONCONFORMING USE. Any use of a building, structure, lot or land, or part thereof, lawfully existing at the effective date of this Local Law or any amendment thereto affecting such use, which does not conform to the Table of Use Regulations of this Local Law for the District in which it is situated.
- 2.02.42 NON-NUISANCE-INDUSTRY. Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration, radiation, or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards, and which does not include any outdoor processing of materials, or open accessory storage yard unless completely enclosed by a solid wall or fence not less than six (6) feet in height.
- 2.02.43 NURSERY SCHOOL. A building or structure, together with its lot and its accessory uses, building and structures, used as an organized instructional facility or other care for five (5) enrolled children under six (6) years of age other than the children of the resident family, but not provided with customary commercial public recreation features such as ferris wheels or roller coasters, and not furnishing sleeping quarters except for the resident family.
- 2.02.44 NURSING HOME. A building or part of a building together with its lot and accessory uses, buildings and structures, used for nursing care of two or more persons not related to the operator by family ties and for compensation. The term NURSING HOME includes convalescent homes and should not be construed as to include Proprietary homes.

- 2.02.45 PARKING AREA. A lot or part thereof used for the storage or parking of licensed motor vehicles, with or without the payment of rent or charges in money and/or other consideration.
- 2.02.46 PERMITTED USE. A specific principal use of a building, structure, lot or land, or part thereof, which this Local Law provides for in a particular District as a matter of right.
- 2.02.47 PERSONAL SERVICE ESTABLISHMENT. An office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a barber, beautician, tailor or dressmaker.
- 2.02.48 PLANNED RESIDENTIAL DEVELOPMENT. (Subdivision) A residential development of land based on an overall development plan approved by the Planning Board in accordance with the SPECIAL EXCEPTION USE procedure in which the dimensional regulations of this Local Law, and the type of housing may be varied as provided in the Local Law, and where certain lands are set apart as permanent open space or common land.
- 2.02.49 PLANNED COMMERCIAL INDUSTRIAL PARK. A development of land based on an overall development plan approved by the Planning Board in accordance with the SPECIAL EXCEPTION USE procedures for commercial and industrial uses other than retail stores, personal service establishment or other uses not indicated as permitted or special exception uses in the Commercial-Industrial Park District. Such an overall development plan may provide for variance of the dimensional regulations as provided in this Local Law.
- 2.02.50 PROHIBITED USE. A use of a building, structure, lot or land, or part thereof, which is not listed as a PERMITTED or SPECIAL EXCEPTION USE.
- 2.02.51 PROPRIETARY HOME. A private proprietary home shall mean a facility operated for the purpose of providing suitable care therein, for compensation and profit, to two or more adult persons unrelated to the proprietor who, though not requiring medical or nursing care, are in such condition by reason of their age, infirmities or disabilities as to require, in addition to lodging and board, the services of attendants to assure their safety and comfort and to enable them to be bathed, dressed, fed or to move about.
- 2.02.52 RESEARCH INSTITUTE OR LABORATORY. A building for experimentation in pure or applied research design, development, and production of prototype machines or devices or of new products, and uses accessory thereto; with respect to the

application of this Local Law, such RESEARCH INSTITUTE or LABORATORY shall meet the standards of a NON-NUISANCE-INDUSTRY.

- 2.02.53 RETAIL STORE. An establishment engaged in buying goods for resale to the general public for personal and household consumption, such as appliance shop, baker, confectioner, delicatessen, drug store, florist, fruit shop, grocer, hardware store, package liquor store, shoe store, stationery store, tobacconist and variety store. RETAIL STORE shall not be deemed to include establishments such as motor vehicle sales rooms that are specifically listed in this Local Law.
- 2.02.54 SETBACK. The setback required for all buildings as measured from street line.
- 2.02.55 SIGN. Any kind of billboard, sign-board, pennant, or other shape or device or display, used as an advertisement, announcement, or direction, including any symbol, lights, marks, letters, or figures painted thereon or painted on or incorporated in the composition of an exterior surface of a building or structure.
- 2.02.56 SIGN, BUSINESS. A temporary or permanent sign which directs attention to a business or profession conducted upon the property.
- 2.02.57 SIGN, PROFESSIONAL OR ANNOUNCEMENT. A temporary or permanent sign which directs attention to a resident's home, a home occupation, a home professional office, or a public or semi-private building.
- 2.02.58 SIGN, REAL ESTATE OR CONSTRUCTION. A sign advertising land or improvements thereto, or describing construction activity or a firm doing work related to construction on the premises on which sign is located.
- 2.02.59 SIGN, TEMPORARY. A temporary sign which directs attention to a special activity or entertainment, or one which indicates the location of a real estate subdivision.
- 2.02.60 SPECIAL EXCEPTION USE. Uses permitted upon application to the Zoning Board of Appeals, pursuant to the provisions of Section 7.
- 2.02.61 STREET. Any Federal, State, County, or Municipal highway or road.
- 2.02.62 STREET LINE. The dividing line between a lot and a street right-of-way.

- 2.02.63 STRUCTURE. Anything constructed or erected on or under the ground or upon another structure or building.
- 2.02.64 SWIMMING POOL. An artificial pool of water having a depth at any point of more than eighteen inches and a surface area of greater than one hundred square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.
- 2.02.65 VARIANCE. A modification of the regulations of the Local Law granted on grounds of practical difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Section 10.
- 2.02.66 WALL. A structure of wood, stone, or other materials or combination thereof intended for defense, security, screening, or enclosure, or for the retention of earth, stone, fill or other material as in the case of retaining walls or bulkheads.
- 2.02.67 YARD, FRONT. An open unoccupied space on the same lot with a building, situated between the nearest roofed portion of the building and the front lot line of the lot, and extending from side lot line to side lot line.
- 2.02.68 YARD, REAR. A space on the same lot with a building, situated between the nearest roofed portion of the building and the rear lot line of the lot, and extending from side lot line to side lot line.
- 2.02.69 YARD, SIDE. An open unoccupied space on the same lot with a building, situated between the nearest roofed portion of the building or of any accessory building and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard or to the rear lot line where no rear yard exists.

## SECTION 3

### ESTABLISHMENT OF DISTRICTS

#### 3.01 DISTRICTS

The Village of Wellsville is hereby divided into the following zoning districts:

R-1 Residence  
R-2 Residence  
B-1 General Business  
GI General Industrial  
C.I.P Commercial - Industrial Park

#### 3.02 BOUNDARIES OF DISTRICTS ON ZONING MAP

- (a) The boundaries of each of the Districts listed in Section 3.01 are hereby established as shown upon the duly adopted Zoning Map which accompanies this Local Law, and which, with all notations, references, and other matters shown thereon, is hereby declared a part of this Local Law. Said zoning map shall show the effective date of this Local Law and of each subsequent amendment to said map, and shall be duly certified by the Municipal Clerk.
- (b) The District boundary lines, unless shown otherwise, are intended generally to follow street centerlines, railroad right-of-way boundary lines or their centerlines, other similar right-of-way lines, or lot lines or boundaries of subdivisions, or municipal boundary lines, all as shown on the Zoning Map. Where a District boundary line does not follow such a line, but is shown parallel to such a line on the Zoning Map, the distance between the parallel lines shall be as dimensioned on the Zoning Map. Such dimensions shall be construed to read from the outside edge of all rights-of-way rather than from their centerlines.
- (c) Where the street layout actually on the ground varies from the street layout as shown on the Zoning Map, the designation shown on the mapped streets shall be applied in such a way as to carry out the Zoning Officer's judgment as to the purpose and intent of the Zoning Map for the particular area in question.
- (d) When the location of a District boundary line cannot be otherwise determined, the determination thereof shall be made by the Zoning Officer by scaling the distance on the Zoning Map from a line of known location to such District boundary line.
- (e) In the case of uncertainty as to the true location of a District boundary line in a particular instance, an appeal may be taken to the Board of Appeals, as provided in Section 10.

(f) When a District boundary line divides a lot in a single ownership at the effective date of this Local Law or any subsequent amendment thereto, the Board of Appeals may permit an extension into one District of a lawful conforming use existing in the other District as hereinafter provided in Section 10.04.03(a).

SECTION 4

DISTRICT REGULATIONS

4.01 R-1 RESIDENTIAL DISTRICT

4.01.01 PERMITTED USES:

- (a) One family detached dwelling.
- (b) Church, or similar place of worship or religious instruction, parish house or rectory, seminary, convent.
- (c) Park, playground or recreational area operated by a government entity.
- (d) Museum, school, elementary or high, public, denominational or private non-profit, accredited by N. Y. Education Dept.

4.01.02 ACCESSORY USES:

- (a) Accommodations for not more than two roomers, provided that separate kitchens and entrance facilities shall not be provided.
- (b) Customary accessory structure and/or use.
- (c) Home occupation.
- (d) Private swimming pool.
- (e) Signs pursuant to Section 6.

4.01.03 SPECIAL EXCEPTION USES:

Public Utility structure or right-of-way including sewage treatment plant or water supply facility, necessary to serve the community, but excluding business office, repair or storage of equipment.

4.01.04 DIMENSIONAL REGULATIONS:

(a) Lot area - minimum - square feet -----	10,000
(b) Lot coverage - per cent of total area occupied by main and accessory buildings per cent -----	30
(c) Lot depth - minimum - feet -----	125
(d) Lot width - minimum - feet -----	75
(e) Building height - maximum - feet -----	35
(f) Yards - minimum - feet	
(I) Front setback -----	20*
(II) Each side -----	8
(III) Side - abutting side street on corner lot -----	20
(IV) Rear -----	30

\*or established setback

4.02 R-2 RESIDENTIAL DISTRICT

4.02.01 PERMITTED USES:

- (a) One family and two family detached dwellings; conversion of existing one family detached dwelling for 2 families.
- (b) Other uses as specified in R-1 District.
- (c) Public library, community center, fire station, government office building.

4.02.02 ACCESSORY USES:

- (a) Same as (a) and (b) of R-1 District
- (b) Private garage or private offstreet parking area pursuant to Section 6.
- (c) Signs pursuant to Section 6.

4.02.03 SPECIAL EXCEPTION USES:

- (a) Multiple dwelling; conversion of existing one family detached dwelling to multiple dwelling.
- (b) Planned residential development; nursery school; private recreation area, non-profit; cemetery, college, university.
- (c) Membership club, non-profit; nursing home; proprietary home; philanthropic, fraternal, social or educational organization office or meeting room; public medical research building or similar facility.
- (d) Public utility structure or right of way including sewage treatment plant or water supply facility necessary to serve the community, business office, greenhouse; professional office, medical arts building; funeral home; home occupation and home professional office in one or two family detached dwelling; private swimming pool.

4.02.04 DIMENSIONAL REGULATIONS

- (a) Lot area - minimum - square feet ----- 8,000
- (b) Lot area - minimum per additional dwelling unit - square feet
  - (I) One Bedroom Unit ----- 1,500
  - (II) Two Bedroom Unit ----- 2,000
  - (III) Three Bedroom Unit ----- 2,500
- (c) Lot coverage - per cent of total lot area occupied by main and accessory buildings - per cent ----- 30

(d) Lot depth - minimum - feet -----	110
(e) Lot width - minimum - feet -----	75
(f) Building height - maximum - feet -----	35
(g) Yards - minimum - feet	
(I) Front setback -----	20*
(II) Each side -----	8
(III) Side - abutting side street on corner lot -----	20
(IV) Rear -----	30

\*or established setback

#### 4.03 B-1 GENERAL BUSINESS DISTRICT

##### 4.03.01 PERMITTED USES:

- (a) Business; bank, including drive-in facilities, funeral home, office, commercial business, professional or utility.
- (b) Personal service shop; dry cleaning or laundry service of less than 4,000 square feet, using only self-contained solvent reclaiming units, professional studio, travel agency or similar shop.
- (c) Radio or television broadcasting studio; repair shop for household, business or personal appliances; restaurants; retail store or shop; shop for custom work and for making articles to be sold at retail on premises; tavern; vocational school.
- (d) Other; church or similar place of worship or religious instruction, parish house, rectory, seminary or convent.
- (e) Park, playground or recreational area operated by the municipality; public library, museum, community center, fire station, municipal office or any governmental building of similar character.
- (f) School, elementary or high, public, denominational or private, non-profit, accredited by the N. Y. Education Dept.
- (g) Membership club, non-profit; philanthropic, fraternal, social or educational institution office or meeting room, non-profit.

##### 4.03.02 ACCESSORY USES:

- (a) Customary accessory use, building or structure, except prohibited uses.
- (b) Caretaker's or owner's dwelling unit; private swimming pool.

(c) Private garage or offstreet parking area pursuant to Section 6.

(d) Signs pursuant to Section 6.

4.03.03 SPECIAL EXCEPTION USES:

(a) Dwelling units over first floor of a non-residential use building.

(b) Public utility structure or right of way, necessary to serve the community; public passenger transportation station or terminal.

(c) Auditorium, meeting hall; bowling alley; filling station; hotel, motel; repair garage; theater or motion picture theater, other than outdoor drive-in theater; wholesale business; printing or publishing plant, research institute or laboratory; eating establishment (drive-in or open front).

4.03.04 DIMENSIONAL REGULATIONS:

Lot area - minimum - square feet -----	No Requirement
Lot area - minimum per dwelling unit - square feet -----	2,000
Lot coverage - per cent of total lot area occupied by main and access - story buildings - per cent -----	No Requirement
Lot depth - minimum - feet -----	No Requirement
Lot width - minimum - feet -----	No Requirement
Building height - maximum - feet -----	50
Yards - minimum - feet	
Front setback -----	Established setback
Side - minimum for one - No Requirement except 10 feet where provided	
Side - abutting side street on corner lot -----	No Requirement
Rear -----	Established Setback

4.04 (GI) GENERAL INDUSTRIAL DISTRICT

4.04.01 PERMITTED USES:

(a) Industrial - non-nuisance industry; printing or publishing plant; warehouse; research institute or laboratory.

(b) Other - fire station; municipal office or any governmental building or similar character; office; business, professional or utility; radio or television broadcasting studio; repair shop for household, business or personal appliances; restaurants; vocational school; wholesale business.

4.04.02 ACCESSORY USES:

- (a) Customary accessory use, building or structure except prohibited uses.
- (b) Caretaker's or owner's dwelling unit.
- (c) Private garage or offstreet parking area pursuant to Section 6.
- (d) Signs pursuant to Section 6.

4.04.03 DIMENSIONAL REGULATIONS:

Lot area - minimum - square feet -----	20,000
Lot coverage - per cent of total lot area occupied by main and accessory buildings - per cent -----	60
Lot depth - minimum - feet -----	200
Lot width - minimum - feet -----	100
Building height - maximum - feet -----	50
Yards - minimum - feet	
Front setback -----	50
Front on state or county highway -----	80
Each side -----	20
Side - abutting side street on corner lot -----	50
Rear -----	20

4.05 (C.I.P.) COMMERCIAL - INDUSTRIAL PARK DISTRICT

4.05.01 PERMITTED USES:

- (a) Industrial - same as GI.
- (b) Other - Bank; hotel, motel; motor vehicle, mobile home or boat salesroom or outdoor sales lot for products for sale and/or hire; office; business, professional cleaning or laundry service of less than 4,000 square feet using only self-contained solvent reclaiming units, professional studio, travel agency or similar shop; radio or television broadcasting studio; repair shop for household, business or personal appliances; restaurant; wholesale business.

4.05.02 ACCESSORY USES:

- (a) Same as GI (a), (b), (c) and (d).
- (b) Private swimming pool.

4.05.03 SPECIAL EXCEPTION USES:

- (a) Public utility structure or right of way, including airport,

public passenger transportation station or terminal.

- (b) Automobile laundry; bowling alley; skating rink; eating establishment (drive-in or open front); filling station; mobile home park, parking garage, recreation facility, outdoor; repair garage; theater or motion picture theater, other than an outdoor theater; truck terminal, truck transfer station; laundry plant; dry cleaning plant; outdoor storage area; planned commercial-industrial park.

4.05.04 DIMENSIONAL REGULATIONS:

Lot area - minimum - square feet -----	80,000
Lot area - minimum per dwelling unit - square feet -----	2,000
Lot coverage - per cent of total lot area occupied by main and accessory buildings - per cent -----	20
Lot depth - minimum - feet -----	200
Lot width - minimum - feet -----	200
Building height - maximum - feet -----	50
Yards - minimum - feet	
Front setback -----	50
Front on state or county highway -----	80
Each side-----	25
Side - abutting side street on corner lot -----	50

## SECTION 5

### 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 Table of Use regulations 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 shall 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 6

SUPPLEMENTAL USE AND DIMENSIONAL REGULATIONS

6.01 PLACEMENT OF ACCESSORY BUILDINGS AND USES, INCLUDING GARAGES 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 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. The Board of Appeals may grant not more than a one (1) year extension of such temporary dwelling use in accordance with Section 10.04.03 (g).

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.
- (d) Accessory storage of Class I and II flammable liquids shall be limited to an underground storage tank with a capacity not exceeding 1000 gallons.

6.01.03 IN NON-RESIDENCE DISTRICTS:

- (a) Accessory offstreet parking areas may be located within required front, side or rear yards except where a transitional yard is required in conformance with Section 6.04.
- (b) Accessory storage of Class I and II flammable liquids, in Districts where such storage is not a special exception use, shall be limited to underground tanks with a capacity not exceeding 12,000 gallons.

6.02 HEIGHT

6.02.01 Nothing herein contained shall restrict the height of the following:

- (a) 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 structure.

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 10 per cent 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) per cent 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 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 Districts adjoining Residence Districts shall be 30 feet.

- (b) In a B-1 or GI 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 35 feet of 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 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 A RESIDENCE DISTRICT:

- (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, notwithstanding 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 MINIMUM RESIDENTIAL FLOOR AREA

6.08.01 STATEMENT OF PURPOSE:

(a) The requirements contained in this Section are designed to promote and protect the public health; to prevent overcrowded living conditions; to guard against the development of substandard neighborhoods; to conserve established property values, and to contribute to the general welfare.

6.08.02 MINIMUM SCHEDULE:

(a) Every dwelling or other building devoted in whole or in part to a residential use, which is hereafter erected, or converted to accommodate additional families, shall provide a minimum floor area per family on finished floors within clear ceiling height of not less than seven (7) feet, six (6) inches in conformity with the following schedule and with the other provisions of this Section. The minima stipulated herein shall be deemed to be exclusive of unenclosed porches, breezeways, garage area, and cellar rooms or areas.

<u>Type of Residence Building</u>	<u>Minimum Required Floor Area per Family</u>
One and two family detached----- dwelling including row or town houses	800 sq. ft.
Multiple dwelling units:	
Efficiency apartments -----	550 sq. ft.
One bedroom apartments -----	675 sq. ft.
Two bedroom apartment -----	800 sq. ft.
Three bedroom apartment -----	950 sq. ft.

6.08.03 FIRST FLOOR AREA OF A DWELLING:

The minimum first floor enclosed area of a dwelling, exclusive of garage or other accessory building, shall be 800 square feet, and its least overall dimension shall be 20 feet.

6.09 OFFSTREET PARKING AND TRUCK LOADING SPACE REQUIREMENTS

6.09.01 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.

6.09.02 METHOD OF DETERMINING OFFSTREET PARKING SPACE REQUIREMENTS:

- (a) The offstreet parking space requirements is determined by Schedule 6.09.03 and 6.09.04 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.

6.09.03 SCHEDULE OF OFFSTREET PARKING SPACE REQUIREMENTS FOR RESIDENTIAL USES:

<u>USES</u>	<u>REQUIREMENT: NO. OF SPACES</u>
Single family and two family dwelling-----	2 per dwelling unit
Multiple dwelling -----	2 per dwelling unit

6.09.04 SCHEDULE OF OFFSTREET PARKING SPACE REQUIREMENTS FOR NON-RESIDENTIAL USES:

<u>USES</u>	<u>REQUIREMENT: NO. 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.	Same as Office
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 spaces 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, 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

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

6.09.05 OFFSTREET TRUCK LOADING SPACE REQUIREMENTS:

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

<u>SQUARE FEET OF FLOOR AREA</u>	<u>REQUIREMENT:NO. 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 and above the requirement for the first 40,000 sq. ft.

6.09.06 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 25 feet in length.

6.09.07 ACCESS DRIVEWAY REQUIREMENTS:

- (a) Parking garages, public parking area, filling stations, 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.

6.09.08 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 provision 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 ordinances, 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 24 feet when the parking spaces are at a 90 degree angle with the aisle; 18 feet when the parking spaces are at 60 degrees; and 12 feet when the parking spaces are at 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 8 per cent.
- (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 18 feet; or in the case of parking spaces for trucks or special equipment, 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 12 feet, a minimum length of 25 feet, and a minimum clear height of 14 feet. The related aisle shall have the same minimum clear height.

6.09.09 EXCEPTIONS AND WAIVERS:

- (a) Existing buildings and uses are exempt:  
The provisions of this Section 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 non-conforming use, or thereafter converted or changed without enlargement to a different lawful use having the same parking and truck loading requirements.
- (b) Within an established Municipal Parking District, where the municipality has, as a matter of public policy, taken the responsibility for providing adequate offstreet parking space, requirements stipulated in this Section shall be automatically 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.

## 6.10 SIGN REGULATIONS

### 6.10.01 SCHEDULE OF PERMITTED SIGNS:

The following schedule of permitted signs shall apply according to the District in which the lot is located on the Zoning Map, whether such lot to be used for a permitted use or for a special exception use:

#### PERMITTED SIGNS

<u>TYPE OF DISTRICT</u>	<u>PROFESSIONAL AND ANNOUNCEMENT SIGNS</u>	<u>IDENTIFICATION SIGNS</u>	<u>REAL ESTATE "FOR SALE" OR "FOR RENT" SIGNS AND CONSTRUCTION SIGNS</u>	<u>TEMPORARY SIGNS</u>
<u>Resident District</u>	One (1) on each public street frontage, pursuant to Sec. 6.10.02	Prohibited	One (1) on each public street frontage for single lots or buildings, two (2) subdivision signs on each public street frontage for each approved subdivision pursuant to Sec. 6.10.05(a)	Pursuant to Sec. 6.10.05(b)
<u>Business District</u>	One (1) on each public street frontage pursuant to Section 6.10.02	One (1) wall sign and one (1) detached or ground sign on each public street frontage, pursuant to Section 6.10.03	One (1) on each public street frontage for single lots or buildings pursuant to Sec. 6.10.05(a)	Pursuant to Sec. 6.10.05(b)
<u>Indust. District</u>	One (1) on each public street frontage pursuant to Section 6.10.02	One (1) wall sign and one (1) detached ground sign on each public street frontage pursuant to Section 6.10.04	One (1) on each public street frontage for single lots or buildings pursuant to Section 6.10.05(a)	Pursuant to Sec. 6.10.05(b)

### 6.10.02 PROFESSIONAL SIGNS AND ANNOUNCEMENT SIGNS - SUPPLEMENTAL REGULATIONS:

- (a) A professional sign or an announcement sign for a home professional office or home shall bear only the name and profession or occupation of the resident. Such sign shall have a maximum area of two (2) square feet and may be located on the building wall or in the required front yard, provided that it is set back at least 5 feet from all property lines and is not more than six (6) feet above the natural ground level at its location.

- (b) A parish house, club, school, or public or semi-public building may have one (1) announcement sign, not over six (6) square feet in area, on each public street frontage of its property, either fixed on the main wall of the building or located in the required front yard, provided that it is set back at least five (5) feet from the front property line and at least 25 feet from all other property lines. Such signs may be double-faced and may be lighted only by shielded light sources with light directed on the sign only.

6.10.03 BUSINESS DISTRICT IDENTIFICATIONS SIGNS - SUPPLEMENTAL REGULATIONS:

- (a) A wall identification sign shall be attached to or incorporated in the building wall. Such sign shall have:
1. No sign shall project across a street line.
  2. No sign shall be located in a required interior side yard or within ten (10) feet of any Residential District lot.
  3. A maximum area of two (2) square feet for each horizontal foot of building wall on which it is mounted.
  4. A maximum width of 75 per cent of the building wall's horizontal measurement, except that, where such horizontal measurement is 20 feet or less, the maximum width may be 90 per cent of such measurement.
- (b) A detached or ground identification sign may be erected where the building is set back from the street line a distance of 40 feet or more. Such sign shall have:
1. A maximum area of 40 square feet.
  2. A maximum height measured from the ground level of 18 feet.
  3. At least five (5) feet of clear space between the sign board and the ground, provided that necessary supports may extend through such clear space.
  4. A setback of at least 20 feet from any property line, except that if the average front setback of existing building within the same block is less than 10 feet, then the average setback so established shall be applied to such sign.
- (c) Identification signs may be interior lighted with non-glaring lights, or may be illuminated by shielded flood lights; provided, however, that red and green lights shall be set back at least 75 feet from the point of intersection of the street lines at a street corner, and further provided that intermittent or flashing lights shall not be used on or in any sign. Moving or animated signs are prohibited.

6.10.04 INDUSTRIAL DISTRICT IDENTIFICATION SIGNS - SUPPLEMENTAL REGULATIONS:

- (a) A wall identification sign shall be attached to or incorporated in the building wall. Such sign shall have:
  - 1. A maximum area of one (1) square foot for each horizontal foot on which it is mounted.
  - 2. A maximum width of 75 per cent of the building wall's horizontal measurement.
  - 3. A maximum projection of 12 inches from the face of the building wall to which the sign is attached.
- (b) A detached or ground identification sign may be erected where the building is set back from the street line a distance of 40 feet or more. Such sign shall have the same provisions as paragraphs 6.10.03 (b) and (c).

6.10.05 REAL ESTATE AND CONSTRUCTION SIGNS:

- (a) Real estate and construction signs shall be set back at least 15 feet from any property line. Such signs shall have a maximum area of eight (8) square feet, except that subdivision signs shall have a maximum area of 24 square feet, and shall not be illuminated.
- (b) Temporary directional signs indicating the location of a real estate subdivision shall be premitted as variances, under the provision of Section 10.04.03 (f) for a period of one (1) year and shall be the subject of applications to the Board of Appeals.

6.10.06 GENERAL PROVISION:

- (a) In no case shall lighted signs be so located that they constitute a hazard to vehicular traffic.
- (b) Temporary or permanent signs resting on, or attached to vehicles shall not be used as a means to circumvent the provision of this Local Law.
- (c) The provisions of this Section shall not be deemed to include signs placed or erected by the municipality, Allegany County or New York State for the purpose of showing street names, traffic directions or regulations or for other public purposes.

## SECTION 7

### 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 Ordinance. 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 the proper exercise of 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 Section 239 (l) and (m), Article 12-B 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 and shall be a public record. Each decision of the Zoning Board of Appeals with respect to the approval of a 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 90 days of such authorization in the event that such permit shall not be applied for within such 90 day period. Extension of such author-

ization may be granted by the Zoning Board of Appeals for an additional 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 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, of 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 AUDITORIUM, MEETING HALL:

- (a) No building or structure shall be built within 50 feet of any property line.
- (b) Lot coverage shall not exceed 20 per cent.
- (c) The site boundaries shall be at least 200 feet distant along any bounding street from any Residence District boundary line.

##### 7.04.02 AUTOMOBILE LAUNDRY:

- (a) The lot area shall be not less than 20,000 square feet, and shall have a minimum frontage of 150 feet along a through street or highway.
- (b) No church, school, library, playground or similar place of public assembly shall be within 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.
- (d) Outside premises shall not be used for the sale, rent, or display of automobiles, trailers, mobile homes, boats or other vehicles.

7.04.03 COUNTRY CLUB:

- (a) All buildings and structures shall be not less than 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.

7.04.04 EATING ESTABLISHMENT: 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.

7.04.05 FILLING STATION:

- (a) The lot area shall be not less than 20,000 square feet, and shall have a minimum frontage along the through street or highway of at least 150 feet.
- (b) No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- (c) All pumps shall be located at least 25 feet 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.
- (f) Outside premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.

7.04.06 HOTEL:

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

7.04.07 MEMBERSHIP CLUB, NON-PROFIT:

- (a) All buildings and structures shall be at least 50 feet from any property line.
- (b) Lot coverage shall not exceed 20 per cent.

7.04.08 MOBILE HOME PARK:

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

7.04.09 MOTEL:

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

7.04.10 NURSING HOME:

- (a) The lot area shall be not less than one (1) acre, and shall have the minimum frontage of 150 feet along the principal bounding street.
- (b) All buildings and structures shall be not less than 50 feet from any property line.
- (c) Lot coverage shall not exceed 50 per cent.

7.04.11 PARKING GARAGE, STORAGE GARAGE:

- (a) There shall be adequate provision 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.

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

- (a) All buildings and structures shall be not less than 50 feet from any property line.
- (b) Lot coverage shall not exceed 20 per cent.

7/04.13 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 of 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, drawing, 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 ordinance 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.

7.04.14 PLANNED COMMERCIAL INDUSTRIAL PARK:

- (a) The site area shall be not less than 10 acres.

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

7.04.15 PRIVATE SWIMMING POOL:

See Village of Wellsville Code, Chapter 31

7.04.16 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.

7.04.17 PROPRIETARY HOME:

- (a) Owners must meet all state health department regulations.
- (b) Must provide offstreet parking area. Two spaces plus one additional space for every two commercial residents.

## SECTION 8

### 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 re-enactments of such Local Law, which do not conform to the provisions of said original zoning ordinances, or to such revisions or re-enactments 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 upon 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 100 per cent 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 NONCORFORMING LOT separately owned and not adjoining any lot or land in the same ownership at the effective date of this Ordinance 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 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 non-conformity shall not be increased.

#### 8.04 EXTENSION

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

#### 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 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 years from such date.

## SECTION 9

### ENFORCEMENT & ADMINISTRATION

#### 9.01 ENFORCEMENT

- 9.01.01 The duty of administering 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 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 procedure 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 things:

- (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.

- 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 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 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 Board of Appeals.

#### 9.04 COMPLETION OF BUILDINGS FOR WHICH PERMITS HAVE BEEN ISSUED

9.04.01 Nothing in this Local Law shall require any change in the plans, construction or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this Local Law or any amendment thereto affecting such building or structure, or the use thereof, provided that:

- (a) The construction of such building or structure shall have been begun and diligently prosecuted within three (3) months from the date of such permit.
- (b) The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within one (1) year from the effective date of this Local Law or any such amendment thereto.

9.04.02 In the event that either condition (a) or (b) of Section 9.04.01 is not complied with, such building permit shall be revoked by the Zoning Officer.

#### 9.05 CERTIFICATE OF OCCUPANCY

9.05.01 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.

9.05.02 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 the New York State Department of Health is required, no certificate of occupancy shall be issued until such approval has been granted in writing.

9.05.03 The Zoning Officer 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; and shall obtain a written order from the Board of Appeals before issuing a certificate of occupancy involving a variance from the provisions of this Local Law pursuant to Section 10.

9.06 FEEES

9.06.01 Each application for a permit provided for by this Section shall be accompanied by a fee, in accordance with the following schedule:

Upon the filing of an application for a building permit, the following fees shall be payable:

<u>Where the Total Valuation of Work is</u>	<u>Fee</u>
\$200 to \$1,000	\$3.00
For each additional \$1,000 or fraction, up to and including \$15,000	\$1.00
For each additional \$1,000 or fraction, up to and including \$50,000	\$ .50
For each additional \$1,000 or fraction, exceeding \$50,000	\$ .25

Demolition Permits

For unit costing up to \$1,000	\$5.00
For each additional \$500.00 or fraction, up to and including \$100,000	\$5.00

SECTION 10

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 10 days prior to the date thereof, as follows:
  - (a) By publishing a 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.
  - (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 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, indicating 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.

10.02.05 Building permits authorized by Board of Appeals' action on variance cases shall be obtained within 90 days and shall automatically expire if construction under the permit is not started within one (1) year. Extensions of these periods may be granted by the Board of Appeals where good cause is shown.

10.02.06 The fee for variance applications to the Board of Appeals shall be determined by the Board of Appeals.

### 10.03 APPEALS ON INTERPRETATION OF THE ZONING LOCAL 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 safeguards 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:

- 1. 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 50 feet.

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

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

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

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

- (iii) 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 a nonconforming use, to an extent exceeding in aggregate 50 per cent of the replacement cost of such building or structure, exclusive of foundations.

- 3. To grant a certificate of occupancy for a change in a nonconforming use, provided that:

- (i) The Board of Appeals shall have made a determination that such change will be beneficial to the general neighborhood.

(ii) Such change be made subject to such reasonable conditions and safeguards as the Board of Appeals may stipulate.

(c) With respect to yard requirements:

1. 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 not feasible.

(d) With respect to fences:

1. 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 Sections 6.09.03, 6.09.04 and 6.09.05 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 6.09.03, 6.09.04 and 6.09.05 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 infeasible, because:

(i) The lot has too restricted area, unusual dimensions, shape or topographic character.

(ii) 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 6.09.03, 6.09.04 and 6.09.05 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, the proposed reduction in available spaces will be consistent with the requirements of Sections 6.09.03, 6.09.04 and 6.09.05, and further provided that the area so withdrawn from these uses remain in reserve for potential future increase in need.

(f) With respect to temporary building permits:

1. To grant a temporary building permit for a period not to exceed (1) year for a nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery, a real estate office or model houses located on or near a tract of land where individual properties are being offered for sale, provided that:

(i) Such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building, structure or use or to convert it to a conforming use upon expiration of the permit.

(ii) Such permit shall be subject to reasonable conditions as the said Board of Appeals shall determine to be necessary to protect the public health, safety, morals or general welfare.

2. Such permit may be renewed annually, at the direction of the Board of Appeals, for not more than one (1) additional year.

(g) With respect to a temporary residence in a building cellar or a garage or other non-residential accessory space approved by the State of New York Department of Health, as provided for in Section 6.01.01 (h), to grant an extension of not more than one (1) year, for such temporary residence.

## SECTION 11

### 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, and on (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, and on (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 10 days after service of the notice.
- 11.01.03 In cases where the removal of the violation within 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) or to imprisonment for not more than 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 12

AMENDMENTS

12.01 PROCEDURE

- 12.10.01 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 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 ordinance 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 two-thirds (2/3) of the governing body.

SECTION 13

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 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 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 or law or ordinance 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, ordinance or regulation, or by such easements, covenants or agreements, the provisions of this Local Law shall control.

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.

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 ordinance or regulations impose a greater restriction than this Local Law the provisions of such law or ordinance 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 plat filed in the office of the County Clerk or within any Federal, State, County or municipal street or highway.

SECTION 14

VALIDITY

14.01 VALIDITY

14.01.01 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 15

WHEN EFFECTIVE

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

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SCHEDULE OF LIMITATIONS

Zone	Minimum Lot Requirements			Yard Requirements			Maximum Height of Buildings	% of Total Area Occupied By Main & Accessory Buildings
	Area	Width	Depth	Rear	Front Setback	Side		
R-1	10,000 sq. ft.	75'	125'	30'	20' or established setback	(a) 8' each side (b) 20' on side abutting side street on corner lot	35'	30%
R-2	8,000 sq. ft.  Per additional dwelling unit: (a) one bedroom- 1,500 sq. ft. (b) two bedroom- 2,000 sq. ft. (c) three bedroom- 2,500 sq. ft.	75'	110'	35'	20' or established setback	(a) 8' each side (b) 20' on side abutting side street on	35'	30%
B-1	None	None	None	None	Established	(a) None except 10' where provided (b) None on side abutting side street on corner lot	50'	None
GI	20,000 sq. ft.	100'	200'	20'	50' and 80' on state or county highway	(a) 20' each side (b) 50' on side abutting side street on corner lot	50'	60%
C.I.P.	80,000 sq. ft.	200'	200'	None	50' and 80' on state or county highway	(a) 25' each side (b) 50' on side abutting side street on corner lot	50'	20%