

1 of 1985

A Local Law Amending Village Zoning Law-Local Law # 6 of 1978

ADOPTED: 1/14/85

Be it enacted by the Board of Trustees of the Village of Wellsville as follows:

ARTICLE I

Local Law No. 6 1978 is hereby amended by the following Sections as indicated.

SECTION I

Section 2.02 DEFINITION OF WORDS AND TERMS is hereby amended as follows:

A. A new section 2.02.025 is hereby added as follows:  
2.02.025 AMUSEMENT CENTER Any indoor place or enclosure in which is maintained or operated for the amusement, patronage, or recreation of the public any coin controlled amusement device of any description, and particularly, but not by way of limitation, the types commonly known as pinball and video games.

B. A new section 2.02.026 is hereby added as follows:  
2.02.026 AREA, BUILDING The total of areas taken on a horizontal plane at the main level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

C. Section 2.02.03 is hereby amended to read as follows:  
2.02.03 AUTOMOBILE LAUNDRY A structure or building intended or designed for and having as its principal business or function the washing of motor vehicles.

D. Section 2.02.04 is hereby amended to read as follows:  
2.02.04 BASEMENT A story partly below finished grade level having at least one half of two outside walls or all of one outside wall (measured from floor to ceiling inside of basement) above finished grade level.

E. Section 2.02.07 is hereby amended to read as follows:  
2.02.07 CELLAR A story partly below finished grade level and having less than one half of two outside walls or less than all of one outside wall (measured from floor to ceiling inside of the

cellar) above finished grade level.

F. A new section 2.02.105 is hereby added as follows:

2.02.105 DAY NURSERY A facility for the regular weekday care of three or more children away from their homes and whose daily period of care is of three hours or more, but less than twenty four hours during any day and regardless of whether or not any compensation, reward, or otherwise is paid or received for such care.

G. A new section 2.02.145 is hereby added as follows:

2.02.145 EFFICIENCY APARTMENT A dwelling unit usually designed or intended for one or two persons and which does not have a bedroom separate from the living areas.

H. A new section 2.02.185 is hereby added as follows:

2.02.185 FLOOR AREA. The total floor area of rooms used for living purposes in a dwelling unit, but not including areas available for use in common by residents of another dwelling unit. The term "floor area" does not include attached or built in garages, open porches or terraces, or cellars. The term shall be construed to refer to all finished floor area having a minimum clear headroom of seven feet, six inches, and having sidewalls of not less than five feet, six inches in height.

I. (1) Section 2.02.23 is hereby amended to read as follows:

2.02.23 HOME OCCUPATION Any occupation or activity, regardless of payment or consideration, which

- (a) is customarily carried on within a dwelling unit, and
- (b) is clearly incidental and subordinate to the use of the dwelling unit for residential purposes, and
- (c) is carried on by a member of the family residing in the dwelling unit, and
- (d) will not tend to produce offensive odor, noise, vibration, smoke, vapor, dust, heat, glare or other objectionable effects, and
- (e) which conforms to all of the following:
  1. The occupation shall be carried on wholly within the principal dwelling.
  2. The space used for the occupation shall not occupy more than 25 percent of the total floor area of such dwelling unit and in no event more than 500 square feet of floor area.

3. No more than one person who is not both a resident of the dwelling unit in which the home occupation is conducted and also a member of the family that resides in that dwelling unit shall be employed or engaged in the home occupation. Notwithstanding the foregoing, a barber shop or beauty shop operated as a home occupation may be operated by only one person who is a member of the family residing in the dwelling unit. No other person may be employed or engaged in the operation of such barber shop or beauty shop operating as a home occupation.
4. No exterior alterations to the dwelling which are not customary in residential buildings or which change the essential character thereof for such use.
5. No inventory or stock of merchandise shall be maintained or stored on the premises except for articles or items produced on the premises, although samples of merchandise are permitted.
6. No display or advertising sign shall be visible from outside the residence or any portion of the building other than an exterior sign as may be permitted by Section 6.10.02.
7. No storage of materials or products except within the dwelling unit.
8. Is not one of the following occupations or uses: laundry, veterinary office, real estate office, insurance office, antique dealer or dealer in second hand merchandise, convalescent home of any nature whether licensed or unlicensed by the State of New York including what is commonly known as proprietary homes for adults, nursery school, day nursery, photographer's studio, repair of motor vehicles, repair of internal combustion engines.
9. In the event that the home occupation relates to music or dancing instruction it shall be permitted only in a one family detached dwelling, shall be limited to two students at any given time and there shall be no electronic amplification of instruments other than an organ. This shall not prohibit playing of recorded music within prescribed volume limitations.
10. Establishments operated by persons engaging in home occupations shall be open to customers and clients only between the hours of 7:00 a.m. and 9:00 p.m.

11. That the activity is not inconsistent with the General Purposes of this Local Law.

(2) Notwithstanding the provisions of Section 4.02.03 (d) and the provisions of Section 7 of this Local Law, the Zoning Officer may permit, as an accessory use, a home occupation in a one or two family detached dwelling in an R-2 District, permission to be based upon standards or criteria approved by the Zoning Board of Appeals. In the absence of such standards, the Zoning Officer shall apply and follow the general standards contained in Section 7.03 of this Local Law. If the Zoning Officer, in the exercise of his discretion, refuses to issue such a permit, the applicant may apply for same by making application to the Zoning Board of Appeals.

J. Section 2.02.25 is hereby amended to read as follows:

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, or teacher as herein restricted; provided that no more than two persons who are not both residents of the dwelling unit in which the home professional office is located and also members of the family that resides in that dwelling unit shall be employed or engaged in the conduct of the home professional office, and that such office shall be in the main building and shall not occupy more than the equivalent of one half of one floor of said building. For 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 instruments 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.

K. A new section 2.02.265 is hereby added as follows:

2.02.265 LODGER A transient, temporary or permanent guest of the type who is usually, but not always, a paying guest.

L. Section 2.02.31 is hereby amended to read as follows:

2.02.31 LOT AREA The total horizontal area included within lot

lines, exclusive of the area reserved for streets, public sidewalks, and other open public space.

SECTION II

Section 3.01 DISTRICTS is hereby amended to read as follows:

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

R-1	Residential
R-2	Residential
B-1	General Business
G.I.	General Industrial
C.I.P.	Commercial-Industrial Park
RC	Recreation

SECTION III

Section 4.01.02 ACCESSORY USES is hereby amended to read as follows:

- 4.01.02 a) Accomodations for not more than two lodgers 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

SECTION IV

Section 4.01.03 SPECIAL EXCEPTION USES, is hereby amended to read as follows:

The conversion of an existing dwelling to what is commonly known as a proprietary home for adults provided that such be licensed by the State of New York; 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 or supplies. A business office operated by a utility, or a repair or storage facility for equipment or supplies used by or for a utility shall not be considered a special exception use.

SECTION V

- (1) A new section 4.01.05 is hereby added:

4.01.05 MODIFICATION OF DIMENSION REGULATIONS BY ZONING OFFICER

A. Notwithstanding any other provisions or sections of this Local Law, application may be made to the Zoning Officer who, subject to

the terms herein, may authorize additions to be made to nonconforming dwellings and to nonconforming accessory structures.

A new accessory structure may be added, provided that such addition or new structure does not encroach upon the side or rear yard to a greater extent than does any existing dwelling or private garage or accessory structure; does not cause a hardship to neighboring property owners, and does not adversely affect, in any substantial way, any neighbor's use and enjoyment of property.

The Zoning Officer may, at his discretion, require that any applicant for a building permit under this section apply to the Zoning Board of Appeals for an area variance pursuant to the provisions of Section 10 of this Local Law.

B. Application shall be in writing and a proposed site plan of the subject property and the affected neighboring properties drawn to scale shall be provided the Zoning Officer. The site plan shall include both side elevation and a top elevation showing the relationship of proposed and existing buildings on all affected properties. The requirements for these plans may be waived with the consent of the abutting land owner or owners.

C. Before the Zoning Officer grants any such application, he shall consider: the distance from the proposed construction to neighbors living space or any outside activity area; potential creation of noise or odors; interference with view; interference with sunlight; potential esthetic effects; potential effects on privacy; alternatives available to the applicant including changes in proposed site plan; potential effect upon property values; the GENERAL PURPOSES of this LOCAL LAW; any other long-or short-range factor that could reasonably adversely affect neighboring properties.

D. The zoning officer shall not issue any permit approving construction until copies of the application have been served upon any affected neighboring land owner together with a notice that shall contain a provision that the neighboring land owner shall have 14 days to object to the zoning officer, together with the address and phone number where objections can be made.

E. If all such neighboring land owners consent to the application or do not object in the manner specified in the notice, the zoning officer may authorize the necessary zoning approval.

F. If any neighboring land owner objects to the proposed encroachment, or if the zoning officer exercises his discretion not to authorize the encroachment, the applicant shall be required to apply

for an area variance.

(2) A new section 4.02.05 is hereby added to read as follows:

4.02.05 The provisions of Section 4.01.05 of this Local Law shall also be applicable to the R-2 Residential District.

#### SECTION VI

Section 4.02.03 (d) SPECIAL EXCEPTION USES is hereby amended to read as follows:

Greenhouse, professional office, medical arts building, funeral home, home occupation and home professional office in one or two family detached dwelling; private swimming pool; the conversion of an existing dwelling to what is commonly known as a proprietary home for adults provided that such be licensed by the State of New York; 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 or supplies. A business office operated by a utility, or a repair or storage facility for equipment or supplies used by or for a utility shall not be considered a special exception use.

#### SECTION VII

(1) Section 4.03.01 (a) is amended to read as follows:

(a) Public utility office, bank or other financial institution including drive-in facilities, funeral home, business office, professional office, retail store, except that the selling of motor vehicles, boats, trailers, mobile homes and heavy equipment is not permitted.

(2) Section 4.03.01 (c) is hereby amended to read as follows:

(c) Radio or television broadcasting studio; repair shop for household, business or personal appliances; restaurant; shop for custome work and for making articles to be sold at retail on premises; tavern, vocational school.

#### SECTION VIII

The following subsection is hereby added to Section 4.03.03:

(d) Automobile laundry not otherwise authorized as an accessory use; retail sale of motor vehicles and boats; business or professional school such as secretarial school; youth center; billiard parlor; dance and music instruction; dance hall; amusement center;

gymnasium; health or exercise spa.

#### SECTION IX

A new subsection 4.04.01(c) is hereby added as follows:

4.04.01(c) All permitted uses, accessory uses, and special exception uses permitted in the GENERAL BUSINESS DISTRICT by Section 4.03 shall be permitted uses in the GENERAL INDUSTRIAL DISTRICT, except that dwelling units over the first floor of a nonresidential use building shall not be permitted.

#### SECTION X

A new subsection 4.05.01(c) is hereby added as follows:

4.05.01(c) All permitted uses, accessory uses, and special exception uses permitted in the GENERAL BUSINESS DISTRICT by Section 4.03 shall be permitted uses in the COMMERCIAL -INDUSTRIAL PARK DISTRICT, except that dwelling units over the first floor of a nonresidential use building shall not be permitted.

#### SECTION XI

A new section 4.06 is hereby added as follows:

##### 4.06 (RC) RECREATION DISTRICT

4.06.01 Permitted Uses: Parks, playgrounds and other recreational facilities operated or controlled by any State or Local Government; the commercial or private growing of crops or other vegetation.

#### SECTION XII

Section 6.09.09 EXCEPTIONS AND WAIVERS is hereby amended to read as follows:

6.09.09 (a) Except as provided herein, the provisions of this Section 6.09 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 a Municipal Parking District, as such may be established by resolution of the Board of Trustees, the provisions for offstreet parking space requirements contained in Section 6 shall 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.

#### SECTION XIII

Section 9.05.03 is hereby amended to read as follows:

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

#### SECTION XIV

A new section 9.06.02 is hereby added as follows:

9.06.02 Upon the filing of an application for a building permit where the total valuation of the work is under \$200.00, a fee shall be payable in the amount of three dollars (\$3.00).

#### SECTION XV

A new Section 13.02.04 is hereby added to read as follows:

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

### ARTICLE II

#### AMENDMENTS TO ZONING DISTRICTS AND ZONING MAP

The following amendments are hereby made to the zoning districts and zoning map:

#### SECTION I

The following properties are hereby included in the GI-GENERAL INDUSTRIAL DISTRICT:

(a) The east side of Farnum Street southerly from Madison Creek, including lots designated by the following tax map numbers: 225.20-3-36, 225.20-3-37, the Colongy Partnership right-of-way, and 238.08-3-13.

(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.

#### SECTION XIII

Section 9.05.03 is hereby amended to read as follows:

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

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#### SECTION I

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(a) The east side of Farnum Street southerly from Madison Creek, including lots designated by the following tax map numbers: 225.20-3-36, 225.20-3-37, the Colongy Partnership right-of-way, and 238.08-3-13.

(b) The parcel on Railroad Avenue that abuts Farnum Street and designated as tax map number 238.08-3-14.

(c) The properties abutting the northeast side of Railroad Avenue from Farnum Street to East Genesee Street designated by the following tax map numbers: 238.08-3-60, 61, 58, 54, 53 and 52; and that portion of lot number 59 that is southeasterly of lot number 60.

(d) The property northeast of the intersection of Stevens Street and North Brooklyn Avenue, now or formerly owned by Duplan Corporation, and designated by tax numbers 238.12-4-26 and 31.

(e) The properties abutting the south side of West Hanover Street that are designated by tax map number 239.13-1-69.1, 70, 71, 72, 73 and 74.

## SECTION II

The following properties are hereby included in the R-2 RESIDENTIAL DISTRICT:

(a) The properties owned by Wellsville Central School District bordering the north side of West State Street and the east side of North Brooklyn Avenue, as follows: Tax Map number 238.12-4-7 (Wellsville High School property and contiguous lands) and 238.12-4-14 (Brooklyn School property).

(b) The property of Hillside Homes off South Brooklyn Avenue, identified in tax records as parcel number 800-1-22, and consisting of 15.95 acres, more or less; being the same parcel as was described in Local Law 1 of 1973.

(c) The following parcels on East Genesee Street: Tax Map Numbers 239.05-3-3 and 4, and the following parcels on East Pearl Street: Tax Map Numbers 239.05-3-52 and 53.

(d) That portion of property designated by tax map number 238.08-3-59 that is located southwesterly of the parcel designated by tax map number 238.08-3-15 and also located northeasterly of the parcel designated by number 238.08-3-57.

(e) That portion of property located on Trapping Brook Road commencing 180 feet east of its intersection with Sunnydale Street and running East to the Village Corporation boundary, said property having been annexed to the Village of Wellsville in 1984 and designated by tax map numbers 239.07-1-98, 99, and 100; being the same parcels of land as described in Local Law 1 of 1984 and Local Law 2 of 1984 of the Village of Wellsville.

(f) All parcels contained in the area bounded as follows: on the northerly side by East Dyke Street; on the easterly side by Osborne Street; on the southerly side by New York State Route 417 East; and on the westerly side by the westerly boundaries of parcels designated by tax map numbers 239.10-3-7- and 239.10-3-60.

### SECTION III

The following properties are hereby included in the R-1 RESIDENTIAL DISTRICT:

The following properties owned by the Wellsville Central School District: Tax map number 239.10-2-34 (Washington Elementary School property and contiguous lands bordering School Street) and 239.10-2-24 (property bordering Williams Avenue).

### SECTION IV

The following properties are hereby included in the B-1 GENERAL BUSINESS DISTRICT:

(a) All parcels on the east side of North Broad Street from East Fassett Street to East State Street, including lots designated by tax map numbers 239.38-1-34 through 44.

(b) The south side of Bolivar Road from the Village Corporation boundary in an easterly direction to the Genesee River: Tax Map numbers 238.07-3-50, 51, 52, 53, 54, 55, 56, 70 and portions of lot numbers 13, 14 and 15 to a depth of 181.40 feet measured from the center of Bolivar Road at right angles to the center line of the road.

### SECTION V

The Zoning Map is hereby amended to read "Stevens Street" where, on the west side of the Genesee River, the map now reads "Madison Street".

### ARTICLE III

#### EFFECTIVE DATE

This local law shall take effect immediately.