

Local Law Filing

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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.

Village of Wellsville

Local Law No. 4 of the year 1999

A local law amending Local Law No. 6 of the year 1978, as amended,

Be it enacted by the Board of Trustees of the

Village of Wellsville as follows:

**ERRATA LIST FOR ZONING LAW OF THE VILLAGE OF WELLSVILLE,
NEW YORK Local Law OF THE YEAR 1978, AS AMENDED:**

PAGE	SECTION	ACTION	ERRATA
5-25	2.02	revise	revised per Local Law #4 of 1999
23	6.01.02 (d)	delete	revised per Local Law #3 of 1987
23	6.01.03 (b)	delete	revised per Local Law #3 of 1987
26	6.08.02 all parts	delete	revised per Local Law #3 of 1987
26&27	6.08.03 all parts	delete	revised per Local Law #3 of 1987
33-35	4.07 complete section	amend	revised per Local Law #4 of 1999
40	7.04.15 complete section	amend	revised per Local Law #3 of 1987
45	9.04 all parts	delete	revised per Local Law #3 of 1987
45-53	6.09 complete section	amend	revised per Local Law #4 of 1999
46	9.06 all parts	delete	revised per Local Law #1 of 1990
48	10.02.05 paragraph	delete	revised per Local Law #3 of 1987
50	10.04.03(b)3(i)(ii)	delete	revised per Local Law #3 of 1987
51	10.04.03(f)1	delete	revised per Local Law #3 of 1987
52	10.04.03(f)1(i)(ii)	delete	revised per Local Law #3 of 1987
52	10.04.03(f)2	delete	revised per Local Law #3 of 1987
52	10.04.03(g)	delete	revised per Local Law #3 of 1987
56-58	7.04.01	amend	revised per Local Law #4 of 1999
back	Village of Wellsville Zoning District Map	revised	revised per Local Law #2 of 1989

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VILLAGE OF WELLSVILLE
Local Law No. 6 of the Year 1978

A Local Law amending Zoning Requirements and Standards.

SECTION I
ENACTING CLAUSE, GENERAL PURPOSES AND 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

This Local Law is adopted for the purpose of promoting the health, safety, morals, and the general welfare of the community, and in furtherance of the following related and more specific objectives:

- (A) To guide and regulate the orderly growth, development, and redevelopment of 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.
- (B) 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.
- (C) To promote, in the public interest, the utilization of land for the purposes for which it is most appropriate.
- (D) To secure safety from fire, panic, and other dangers, and to provide adequate light, air and convenience of access.
- (E) To prevent overcrowding of land or buildings and to avoid undue concentration of population.

- (F) To lessen and, where possible, to prevent traffic congestion on public streets and highways.
- (G) To eliminate nonconforming uses gradually.
- (H) To conserve the value of buildings and to enhance the value of land throughout the municipality.
- (I) To lessen the potential for excessive erosion and to conserve and to reasonably 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 II

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 or 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

- .01 **ACCESSORY USE, BUILDING OR STRUCTURE.** A structure subordinate to a principal structure on the same lot or on an adjoining lot under the same ownership, and used for purposes customarily incidental to those of the principal structure. Accessory structures include, but are not limited to, portable, demountable or permanent enclosures, shade structures, carports, garages, and storage sheds.
- .02 **ACCESSORY USE.** A use, occupancy or tenancy customarily incidental to the principal use or occupancy of a building. In a multiple dwelling, such accessory uses may include, among others, the following;
- (i) offices for the building management; or
 - (ii) dining rooms, banquet rooms, public kitchens, and ballrooms; or
 - (iii) recreation and play rooms; or
 - (iv) laundries for the use of tenants and occupants, and in connection with the management and operation of the multiple dwelling;
 - (v) maintenance and work shops, storage rooms for linen, bedding, furniture, supplies, and tenants' equipment and effects; or
 - (vi) rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspapers, candy, and cigar stands; or
 - (vii) garages within the multiple dwelling or on the premises thereof used primarily for the storage of passenger-type motor vehicles.
- .03 **ADDITION.** Extension or increase in area, height, or equipment of a building
- .04 **ADULT BOOKSTORES.** Any business enterprise whether retail or wholesale, having more than 5% of its net floor space set aside or more than 5% of the value of its stock in trade allocated to recordings, books, magazines, pamphlets, pictures, drawings, photographs, periodicals, motion picture films, videotapes, cassettes, tapes or sound recordings, compact discs, dvd's, computer files, or printed, visual or audio material of any kind for sale or viewing on or off the premises, which are characterized by their emphasis on matter describing or depicting human males or females in full or partial nudity, including, but not limited to, displaying male or female genitals, pubic areas or buttocks with less than a full opaque covering or related to sexual activities.

- .05 ADULT ENTERTAINMENT ESTABLISHMENT.** Any business enterprise having more than 5% of its net floor space area set aside for the presentation of live shows, motion picture films or sound recordings, or similar visual or audio or computer material, which are characterized by their emphasis on the description or depiction of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or specified sexual activities; or any business enterprise at which entertainers or waiters or waitresses appear in a state of full or partial nudity or that display male or female genitals, pubic areas or buttocks; or any business enterprise that offers services requiring the client or customer to appear in full or partial state of nudity or to display male or female genitals, pubic areas or buttocks; or any business enterprise that offers services in which the provider is in a full or partial state of nudity; except medical and health service establishments.
- .06 ADULT CABARET.** A night club, bar, restaurant or similar commercial establishment which regularly features:
- (a) Persons who appear in a state of nudity; or
 - (b) Live performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities; or
 - (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions or representations which are characterized by the depiction of human male or female genitals, pubic areas or buttocks with less than a full opaque covering or which are characterized by performers that carry out or simulate sexual activities.
- .07 ADULT MOTION PICTURE THEATER.** A business establishment used for presenting, previewing, projecting, or otherwise disseminating materials distinguished or characterized by an emphasis on matters depicting, describing or relating to human male or female nudity, or depicting human male or female genitals, pubic areas or buttocks, for observation by patrons.
- .08 ADULT THEATER.** A theater, concert hall, auditorium or similar establishment which features persons who appear in a state of nudity or provide live performances which are characterized by the exposure of human male or female genitals, pubic areas or buttocks, by performers who carry out or simulate sexual activities.

- .09 **ADULT USE.** For purposes of this law, the term Adult Use shall include Adult Bookstores, Adult Entertainment Establishments, Adult Cabarets, Adult Motion Picture Theaters and Adult Theaters as well as any use determined by the Village Board to be similar in nature and character to the uses specifically identified herein.
- .10 **AGRICULTURAL USE.** The raising of agricultural products including livestock, poultry, dairy products, farm crops, fruits, vegetables, and nursery stock whether for gain or otherwise. This term does not include livery or boarding stables.
- .11 **ALLEY.** Narrow supplementary thoroughfare for the public use of vehicles, pedestrians, affording access to abutting property.
- .12 **ALTERATION.** Any change, rearrangement, or addition to a building, other than repairs; any modification in construction or in building equipment.
- .13 **AMUSEMENT GAME CENTER.** A continuous commercial use in which six (6) or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, token, etc. or for their operation or use of which a charge is made.
- .14 **APARTMENT.** A dwelling unit.
- .15 **APARTMENT, GARDEN.** A multiple dwelling or group of multiple dwellings containing dwelling units, occupying not more than 35 percent of the area of the site or plot on which such dwelling or dwellings are situated.
- .16 **APARTMENT HOTEL.** A multiple dwelling in which dwelling units are leased to permanent and/or transient tenants.
- .17 **APARTMENT HOUSE.** A multiple dwelling in which dwelling units are leased to permanent tenants.
- .18 **APPROPRIATE.** Especially suitable or compatible under conditions of use.
- .19 **AREA OF PUBLIC ASSEMBLY.** An area of public assembly includes a building or a portion of a building used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social or similar purposes, the entire fire area of which it is a part, and the means of egress therefrom.
- .20 **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.

- .21 **ASSEMBLY SPACE.** A room or space for the purpose of assembly of people per the NYS Building Code regulations.
- .22 **ATTIC.** Space between the top of uppermost floor construction and underside of roof.
- .23 **BAR.** A business establishment licensed by the State of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.
- .24 **BASEMENT.** That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.
- .25 **BATHROOM.** Enclosed space containing one or more bathtubs or showers, or both, and which may also contain water closets, lavatories, or fixtures serving similar purposes.
- .26 **BED AND BREAKFAST.** A building containing a single dwelling unit in which one, but not more than four, sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests with or without meals.
- .27 **BILLBOARD.** A sign or structure 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.
- .28 **BOARDING HOUSE.** A building, other than a hotel, motel, club, fraternity house or sorority house which may contain a general kitchen and a general dining room in which at least three(3) sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be considered a boarding house.
- .29 **BUFFER YARD.** An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier, the land shall be covered with natural plantings or manmade material to provide a continuous physical screen preventing visual access and reducing noise.

- .30 **BUILDING.** A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.
- .31 **BUILDING, DETACHED.** A building surrounded by open space on the same lot.
- .32 **BUILDING, GROUP.** A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.
- .33 **BUILDING, HEIGHT.** The vertical distance measured from the average elevation of the proposed or existing finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
- .34 **BUILDING LINE.** Line established by law, Local Law, or regulation, beyond which no part of a building, other than parts expressly permitted, shall extend.
- .35 **BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use of the lot on which said building is situated.
- .36 **BUILDING, SEMI-DETACHED.** A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.
- .37 **BULK.** A term to describe the size, volume, area, and shape of buildings and structures, and the physical relationship of their exterior walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.
- .38 **BULK PLANT OR TERMINAL.** That portion of a property where liquids, gases or solids are received by tank vessel, pipelines, tank car or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids, gases or solids by tank vessel, pipeline, tank car, tank vehicle, portable tank or container.
- .39 **CARPORT.** Roofed structure intended to offer weather protection to motor vehicles with a minimum of two sides open at all times-one side being length and the other being width and with no more than four vertical supports per twenty four (24) linear feet. Any carport over 24' by 24' is not allowed.
- .40 **CAR WASH.** A building, premises or portions thereof where automobile are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

- .41 **CELLAR.** That space of a building that is partly or entirely below grade, which is more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.
- .42 **CERTIFICATE OF COMPLIANCE/OCCUPANCY.** A certificate issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Local Law and such variances thereto granted by the Zoning Board of Appeals.
- .43 **CHURCH OR PLACE OF WORSHIP.** A building or premises used for regular worship by members or representatives of a religious sect or organization as defined by State statute.
- .44 **CLUB, COUNTRY.** A club catering to members and others for golfing, tennis or similar sports.
- .45 **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 guest(s) primarily for a patriotic, fraternal, benevolent, social, educational, religious or political purpose. The club shall not be used in whole for the conduct of any private 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 purposes.
- .46 **CODE ENFORCEMENT OFFICIAL.** The officer charged with enforcement of building codes and/or fire codes and/or the Village Zoning Local Law.
- .47 **COMBUSTIBLE.** Material or combination of materials which will burn, ignite, support combustion, or liberate flammable vapor or gas. (See definition of noncombustible.)
- .48 **COMMERCIAL VEHICLE.** A vehicle used for the transportation of persons or goods primarily for gain.
- .49 **COMMUNICATIONS TOWER.**
- .50 **COMMUNITY RESIDENCE.** A facility for mentally disabled as defined by the Mental Hygiene Law and the rules and regulations issued under this law.

- .51 **CONDOMINIUM.** A building or group of buildings, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.
- .52 **CONTIGUOUS PARCEL.** A tract of land under the control of the applicant or his agent and is not divided by any natural or man-made barriers such as existing streets and highways, public right-of-ways identified on the official map and is not bisected by bodies of water.
- .53 **CONTRACTOR'S YARD.** Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, which are in active use by a construction contractor.
- .54 **CONVALESCENT HOME.** A building used for the accommodating and care of persons recuperating from illness.
- .55 **CORRIDOR.** Passageway or hallway which provides a common way of travel to an exit or to another passageway leading to an exit. (See definition of exit.)
- .56 **CUSTOM WORK SHOP.** 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.
- .57 **DAY CARE CENTER.** An establishment that provides activities, meals and supervision to adults or children during the day and is approved and regulated by the New York State Department of Health.
- .58 **DEAD END (STRUCTURE).** A portion of a corridor in which the travel to an exit is in one direction only.
- .59 **DECK.** An open porch without a permanent roof. A deck may be a patio or terrace.
- .60 **DISTANCE SEPARATION.** An open space between buildings on the same premises or between a building and an interior lot line, provided to prevent the spread of fire.
- .61 **DRIVE-IN USE.** Shall mean any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

- .62 DWELLING. A building arranged, intended or designed to be occupied by one or more persons living independently of each other upon the premises, but not including a boarding house or rooming house, hotel or lodging house or motel.
- .63 DWELLING, MULTIPLE. see multiple dwelling.
- .64 DWELLING UNIT. One or more rooms with provision for living, cooking, sanitary, and sleeping facilities arranged for the use of one family.
- .65 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.
- .66 EQUIPMENT. Plumbing, heating, electrical, ventilating, air conditioning, refrigeration, elevators, dumbwaiters, escalators, or other mechanical additions or installations.
- .67 EXIT. That portion of the way of departure from the interior of a building or structure to the exterior at street, or grade level accessible to street, consisting of:
- (a) corridors, stairways, and lobbies enclosed in construction having a fire-resistance rating, including the door opening thereto from a habitable, assembly or occupied space;
 - (b) an interior stairway;
 - (c) a horizontal exit;
 - (d) a door to the exterior at grade; or
 - (e) an exterior stairway or ramp.
- .68 EXTERIOR FACING. Material, assembly or trim applied to an exterior wall for decorative treatment, protection or surface insulation and which is not intended to add to the structural stability of a wall.
- .69 FACTORY-MANUFACTURED HOMES. A dwelling unit constructed off-site, consisting of one or more segments and designed to be permanently anchored to and supported by a foundation, to become a fixed part of the real estate. Such dwelling unit shall bear an insignia of approval issued by the State of New York.
- .70 FAMILY. A household constituting a single housekeeping unit occupied by one or more persons.
- .71 FENCE. A barrier constructed of wood, masonry, stone, wire, metal, vegetation or any other permitted material or combination of materials, bounding an area of land and designed to limit access to the area, to confine and/or protect children and others, to screen such area from view, or for decorative or aesthetic purposes.

- .72 **FLAMMABLE.** Capable of igniting within five seconds when exposed to flame and continuing to burn.
- .73 **FLOOR AREA.** The floor area within surrounding walls of a building, or portion thereof.
- .74 **GARAGE, PARKING.** A building, not a private garage, used for the storage of automobiles, or trucks, and not used for making repairs thereto.
- .75 **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.
- .76 **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.
- .77 **GASOLINE-DISPENSING SYSTEM.** The portion of a property where gasoline used as a motor fuel is stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. The system shall include the gasoline dispensers, gasoline tanks and associated piping, and the service island.
- .78 **GASOLINE FILLING STATION.** An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline substances, which may include as accessory uses sale of motor vehicle accessories and/or used vehicles, and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment), or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.
- .79 **GASOLINE/GROCERY SERVICE MART.** A commercial retail use which combines the sale of motor vehicle fuel and accessory substances as well as the sale of beverages, dairy and baked goods, snack foods, and similar grocery items.
- .80 **GROUP HOMES.** A building shared by four (4) or more handicapped persons or persons receiving professional treatment, including resident staff, who live together as a single housekeeping unit and in a long-term family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach his or her maximum potential.
- .81 **HABITABLE SPACE.** Space occupied by one or more persons for living, sleeping, eating, or cooking. Restaurants for employees and occupants, kitchens serving them, and kitchenettes shall not be deemed to be habitable space. See definitions of assembly space, area of public assembly, and exit.

- .82 HALLWAY. An enclosed passageway leading to a stairway or other required exit, which provides common access to rooms or exitways in the same story in a building.
- .83 HANGAR. A building in which aircraft are stored, serviced, or repaired.
- .84 HEATER/BOILER ROOM. Space containing central heat producing or heat transfer equipment.
- (a) High capacity - Containing equipment having an individual or combined rated gross capacity of 1,000,000 BTU per hour or more, or capable of operating at more than 15 lbs. psi for steam or more than 30 lbs. psi or 250°F for hot water.
 - (b) Moderate capacity - Containing equipment having an individual or combined rated gross capacity from 250,000 to 1,000,000 BTU per hour, and operating at less than 15 lbs. psi for steam or less than 30 lbs. psi or 250°F for hot water.
 - (c) Low capacity - Containing equipment having a rated gross capacity of less than 250,000 BTU per hour, and operating at less than 15 lbs. psi for steam or less than 30 lbs. psi or 250°F for hot water.
- .85 HISTORIC BUILDINGS. Buildings which have been specifically designated as historically significant by the State or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing on the National Register by the Secretary of the Interior.
- .86 HOIST WAY. Vertical opening, space, or shaft way in which an elevator or dumbwaiter is installed.
- .87 HOME OCCUPATION/HOME OFFICE. An accessory use which is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof, and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by proprietor of such use and other occupants of such dwelling unit and in which not more than one person not residing in such dwelling is employed.
- .88 HOSPITAL. An institution for the care and treatment of sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury which requires bed care.

- .89 HOTEL. A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining facilities.
- .90 INCINERATOR: A structure, such as a furnace, for burning materials.
- .91 INDUSTRIAL USE. Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or part of which is marketed off the premises or marketed to other than the ultimate consumer.
- .92 INN. A building containing a single dwelling unit in which more than four and less than fifteen sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests with or without meals.
- .93 JUNK YARD. Any lot, land or structure or part thereof used primarily for the collection, storage or sale of waste paper, rags, scrap metal or other scrap or discarded material or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.
- .94 KENNEL. Any place at which there are kept three or more domestic animals more than four months of age or any number of dogs that are kept for the primarily commercial purposes of sale or for the boarding, care, or breeding for which a fee is charged or paid.
- .95 LAMP POST: A pole or post used for the purpose of supporting a lamp, light or lantern, to illuminate a street, park, driveway, yard or other area.
- .96 LAUNDRY SERVICE. A business premises equipped with individual clothes washing machines and clothes drying machines for the use of retail customers. Does not include laundry facilities provided as an accessory use in a multiple dwelling. May also be referred to as a Launderette or Laundromat.
- .97 LEGAL OPEN SPACE. Open space on the premises, such as yards or courts, or an open space at least 25 feet wide permanently dedicated to public use which abuts the premises.
- .98 LOBBY. A public lounge or waiting place adjacent to and connected with other spaces and a passageway which serves as a principal entrance or exit.
- .99 LODGER. A transient, temporary or permanent paying guest.
- .100 LODGING HOUSE. A multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, to 15 or less transient occupants, for compensation.

- .101 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 plot, assessment record, or file deed.
- .102 LOT AREA. The total horizontal area included within lot lines.
- .103 LOT, CORNER. A lot at the junction of and fronting on two or more intersecting streets.
- .104 LOT COVERAGE. The percentage of the horizontal area of the lot covered by a building or buildings, measured to the outside of the wall.
- .105 LOT, DEPTH OF. The mean distance from the front street line of a lot to its rear line.
- .106 LOT FRONTAGE. A lot line which is coincident with the right-of-way line of a public road or which is measured 30 feet from the center line of a private road.
- .107 LOT, INTERIOR. Any lot other than a corner lot.
- .108 LOT LINE. Line dividing one premises from another, or from the center of the street or other public space.
- .109 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.
- .110 LOT LINE, REAR. The lot line most distant from the front lot line.
- .111 LOT, THROUGH. A lot which faces on two or more streets at essentially opposite ends or sides and which is not a corner lot.
- .112 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.
- .113 MANUFACTURED HOME. A dwelling unit constructed off site, consisting of one (1) or more segments and designed to be permanently anchored to and supported by a perimeter foundation, to become a fixed part of the real estate which it is attached to.
- .114 MEDICAL CLINIC. A place where medical or dental care is furnished to persons on an out-patient basis by physicians who have common offices in a building

which shall also offer laboratory and diagnostic facilities to patients on an out-patient basis and not just in conjunction with normal professional services.

- .115 **MEZZANINE.** An intermediate floor between the floor and ceiling of any space that is completely open or provides adequate visibility.
- .116 **MOBILE HOME.** A dwelling unit bearing a seal issued by the Federal Department of Housing and Urban Development that is manufactured as a relocatable living unit, which is designed to be transported on a single permanent chassis and to be installed on a site with or without permanent foundation when connected to utilities. This does not include Department of Motor Vehicles registered recreation vehicles, travel trailers, or dwelling units that are prebuilt in one or more parts and transported to and assembled on a permanent foundation.
- .117 **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.
- .118 **MOTEL.** A multiple dwelling, intended primarily for motorists, in which the exit from each dwelling unit or sleeping rooms is directly to the exterior. (Includes, but is not limited to, the terms motor court, motor hotel, tourist court.)
- .119 **MULTIPLE DWELLING/MULTIPLE RESIDENCE.** A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.
- .120 **MUNICIPALITY.** A city, town, or village.
- .121 **NET FLOOR AREA.** The actual square footage of an occupied area, not including accessory unoccupied areas or thickness of walls.
- .122 **NONCOMBUSTIBLE.** Material or combination of materials which will not ignite, support combustion or liberate flammable gas when subjected to fire when tested in accordance with generally accepted standards.
- .123 **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.

- .124 **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.
- .125 **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.
- .126 **NURSERY SCHOOL.** A nonpublic school organized for the purpose of educating six (6) or more children less than seven (7) years of age for less than three (3) hours per day; two (2) sessions may be held daily, as registered with and regulated by the New York State Education Department under 8 NYCRR Part 125.
- .127 **NURSING HOME.** A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services and meals are furnished as approved and regulated by the New York State Department of Health.
- .128 **OCCUPANCY.** Use of a building, structure, or premises.
- .129 **OCCUPANT.** The person in occupancy, in possession or in control of premises, or using premises.
- .130 **OWNER.** Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building.
- .131 **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.
- .132 **PATIO.** See definition of Deck.
- .133 **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.

- .134 **PERSONAL SERVICE ESTABLISHMENT.** A commercial operation, office, store, or other place of business catering to the personal needs of a customer, such as normally conducted by a beautician, tailor, or dressmaker.
- .135 **PLANNED COMMERCIAL INDUSTRIAL PARK.** A development of land based on any 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.
- .136 **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.
- .137 **PORCH, OPEN.** A roofed open structure projecting from the outside wall of a building without window sash or any other form of permanent enclosure or partial enclosure other than the outside wall or walls of the building. (See definition for Deck, also.)
- .138 **PREMISES.** A lot, plot or parcel of land including all the buildings, structures and uses thereon.
- .139 **PROFESSIONAL OFFICE.** An office principally occupied by a licensed professional such as a physician, dentist, lawyer, engineer, architect, accountant, insurance or real estate agent, or similar occupation.
- .140 **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.
- .141 **PROPERTY LINE.** Line establishing the boundaries of premises.
- .142 **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 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; and is approved and regulated by the New York State Department of Health.

- .143 **PUBLIC ASSEMBLY AREA.** The actual square footage of an area used for gathering people together, not including accessory or other areas used for different purposes nor for the thickness of walls.
- .144 **PUBLIC WAY.** Any street, alley, or similar parcel of land essentially open to the outside air, deeded, dedicated or otherwise permanently appropriated to the public for the public use and having a clear width and height of not less than 10 feet (304.8.cm).
- .145 **REPAIR SHOP. Personal Service -** A store or other place of business at which is conducted the repair of personal customer items, such as shoes, clothing, jewelry, etc.
- .146 **RESEARCH INSTITUTE OR LABORATORY.** A building for experimentation and manufacture of prototypes, in pure or applied research design, development. No mass production of 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.
- .147 **RESIDENCES, RESIDENTIAL.** A building, or any part of a building, which contains dwelling units for permanent occupancy. "Residence", therefore, includes all one-family, and multi-family, boarding, fraternity and sorority houses. However, "residences" shall not include the following:
- (a) transient accommodations, such as hotels, motels, and hospitals; or
 - (b) that part of a building containing both residences and other uses which is used for any non-residential uses, except accessory uses for residences.
- .148 **RESTAURANT, FAST FOOD.** An establishment where food and/or beverages are sold in form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building.
- .149 **RESTAURANT, STANDARD.** Any establishment, however designated, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, play field, or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.
- .150 **RETAIL USE.** Business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public.

- .151 **RIGHT-OF-WAY.** The property under public ownership or easement normally used for movement of vehicles, and/or persons, including, but not restricted to, any pavement area.
- .152 **ROOF.** A horizontal or inclined structural element of a building which serves as the top enclosure.
- .153 **ROOMING HOUSE.** See Boarding House.
- .154 **SATELLITE TELEVISION ANTENNA/DISH.** An antenna, the purpose of which is, to receive television and/or radio signals from orbiting satellites.
- .155 **SELF-SERVICE STORAGE FACILITY.** A building having two or more tenants or occupants that is used for the purpose of storage of personal property.
- .156 **SET BACK.** The horizontal distance between a building or other structure and a lot line or street line of the lot on which it is located.
- .157 **SHOPPING CENTER.** A building or group of buildings containing a combination of three (3) or more separate shops, stores, or offices on a single lot providing primarily retail services with supporting service and office establishments.
- .158 **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.
- .159 **SIGN, BUSINESS.** A temporary or permanent sign which directs attention to a business or profession conducted upon the property.
- .160 **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.
- .161 **SIGN, REAL ESTATE OR CONSTRUCTION.** A sign advertising land or improvement thereto, or describing construction activity or a firm doing work related to construction on the premises on which the sign is located.
- .162 **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.
- .163 **SINGLE OWNERSHIP.** Possession of land under single or unified control, whether by sole, joint, common, or other ownership or by a lease having a term of

not less than ten years, regardless of any division of such land into parcels for the purpose of financing.

- .164 **SMOKE-DETECTING ALARM DEVICE, SINGLE-STATION.** An assembly comprised of a photoelectric or ionization type of smoke detector, control equipment and audible alarm in one unit which, upon detection of smoke, activates the alarm.
- .165 **SPECIAL EXCEPTION USE.** Uses permitted upon application to the Zoning Board of Appeals, pursuant to the provisions of Section 7.
- .166 **SPECIFIED ANATOMICAL AREAS:** These include: (1) less than completely and opaquely covered: human genitals, pubic region, buttock and breast below a point immediately above the top of the areola; and (2), human male genitals in a discernible turgid state, even if completely and opaquely covered.
- .167 **SPECIFIED SEXUAL ACTIVITIES:** Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy or fondling or other touching or other erotic touching of human genitals, pubic region, buttock or breast.
- .168 **STAGE.** Place used for theatrical presentations or other entertainment, whereon movable scenery or other accessories are used.
- .169 **STORE.** See definition for Retail Use.
- .170 **STORY.** Portion of a building which is between one floor level and the next higher floor level or the roof.
- .171 **STORY, HALF.** That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-to-ceiling height of the story below. An attic with a finished floor shall be considered a half story.
- .172 **STREET.** Thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.
- .173 **STREET LINE.** Line dividing a lot, plot or parcel from a street.
- .174 **STREET, LOCAL.** A street or road designed primarily to provide access to abutting properties.

- .175 **STREET, MARGINAL ACCESS.** Those streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.
- .176 **STREET, PRIMARY.** A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.
- .177 **STREET, PRIVATE.** A drive that services or is designed to serve no more than two principal uses and is built to Village specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the Village.
- .178 **STREET, PUBLIC.** A road or street that serves three or more principal uses, that is built to Village specifications and is dedicated to the Village for maintenance.
- .179 **STREET, SECONDARY.** A public street which serves, or is designed to serve as a traffic way for a neighborhood or as a feeder to a primary street.
- .180 **STRUCTURE.** Anything constructed or erected on or under the ground or upon another structure or building.
- .181 **SWIMMING POOL.** A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, and provided with a recirculating and/or controlled water supply and having a surface area of greater than one hundred square feet.
- .182 **TERRACE.** See definition of deck.
- .183 **TOWNHOUSE.** A building consisting of three or more attached single-family dwelling units each having separate entrances and common vertical party walls.
- .184 **TRAILER, HOUSE.** See "Mobile Home".
- .185 **TRAILER, PARK.** See "Mobile Home Park".
- .186 **TRELLIS:** A structure or frame of latticework used as a screen or support for climbing plants.
- .187 **TRUCKING TERMINALS.** A building or part of a building or premises for the storage and/or transfer of goods, wares, and merchandise for the owner or others by truck transport.
- .188 **USE.** This term is employed in referring to:

- (a) The purpose for which any buildings, other structures, or land may be arranged, designed, intended, maintained, or occupied.
 - (b) Any occupation, business activity, or operation conducted in a building or other structure, or on land.
- .189 **USE, PRINCIPAL.** The main or primary purpose for which a building, other structure and/or lot is designed, arranged, or intended, or for which they may be used, occupied or maintained under this Local Law.
 - .190 **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.
 - .191 **VESTIBULE.** An enclosed space, with doors or opening protectives, to provide protected passage between the exterior and interior of a building, or between spaces within a building.
 - .192 **VEHICLE SALES AREA.** A premises, including open areas, other than a street or way, and/or enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, and/or recreational vehicles.
 - .193 **VETERINARY HOSPITAL.** A building for the treatment of animal illness including facilities for boarding animals receiving treatment.
 - .194 **WALL.** A structure of wood, stone, or other materials or combination thereof intended for support, 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.
 - .195 **WAREHOUSE.** A building or premises, for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation and whether it is a public or private ownership use.
 - .196 **WAY.** A thoroughfare, however designated, permanently established for passage of persons or vehicles.
 - .197 **WHOLESALE (STORE, BUSINESS, ESTABLISHMENT).** A business establishment engaged in selling to retailers or jobbers rather than directly to customers.
 - .198 **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.

- .199 **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.
- .200 **YARD, REQUIRED.** That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a setback depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.
- .201 **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 III

ESTABLISHMENT OF DISTRICTS

3.01 DISTRICTS

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

R-1	RESIDENTIAL
R-2	RESIDENTIAL
B-1	GENERAL BUSINESS
GI	GENERAL INDUSTRIAL
CIP	COMMERCIAL-INDUSTRIAL PARK
RC	RECREATION

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 IV

DISTRICT REGULATIONS

4.01 R-1 RESIDENTIAL DISTRICT

The Intent of this district shall be to delineate those areas where predominantly single-family, low-density residential development and limited multi-family residential development has occurred or is likely to occur and to protect the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with this predominant type and intensity of use.

4.01.01 USES:
See District Use Regulation Table, section 4.07

4.01.02 DIMENSIONAL REGULATIONS:

- (A) Lot area-minimum square feet-----10,000
- (B) Lot coverage-percent of total area
occupied by main and accessory buildings-----30
- (C) Lot depth-minimum feet-----125
- (D) Lot width-minimum feet-----75
- (E) Building height-maximum feet-----35
- (F) Yards-minimum feet;
1. Front setback-----20*

- 2. Each side-----8
- 3. Side-abutting side street on corner lot---20
- 4. Rear-----30

*or established setback

4.01.03 **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 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 any 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 may be required by 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.

(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 outside activity area; potential creation of noise or odors; interference with view; interference with the 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/sent to any affected neighboring land owner together with a notice that shall contain a provision that the neighboring land owner shall have 10 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.

4.02 R-2 RESIDENTIAL DISTRICT

The Intent of this district shall be to delineate those areas where predominantly single-family, moderate-density residential development and some multi-family residential development has occurred or is likely to occur, to allow in special instances, in accordance with site plan review, and all other applicable regulations, multiple-family dwellings and group homes and to protect the integrity of these residential areas by controlling the type and intensity of uses so that the overall character and density is preserved.

4.02.01

USES:

See District Use Regulation Table, section 4.07

4.02.02

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-percent of total lot area occupied
by main and accessory buildings-----30
- (D) Lot depth-minimum feet-----110
- (E) Lot Width-minimum feet-----75
- (F) Building height-maximum feet-----35
- (G) Yards-minimum feet

1. Front setback-----20*
 2. Each side-----8
 3. Side-abutting side street on corner lot----20
 4. Rear-----30
- *or established setback

4.02.03 The provisions of Section 4.01.03 of this Local Law shall also be applicable to the R-2 Residential District.

4.03 B-1 GENERAL BUSINESS DISTRICT

The intent of this district shall be to delineate the Village Business District which is primarily utilized, and is appropriate for, retail, business and personal service, financial, institutional, office, cultural residential and governmental uses, and to provide and promote a full range of central business uses that cater to the needs of the population and to ensure that any use is compatible with the character of the district and its permitted types and intensities of uses.

4.03.01 USES:
See District Use Regulation Table, Section 4.07

4.03.02 DIMENSIONAL REGULATIONS:

- (A) Lot area-minimum square feet-----No requirement
- (B) Lot area-minimum per dwelling unit-square feet-----2000
- (C) Lot coverage-percent of total lot area occupied by main and accessory buildings-percent-----No requirement
- (D) Lot depth-minimum feet-----No requirement
- (E) Lot width-minimum feet-----No requirement
- (F) Building height-maximum feet-----50
- (G) Yards-minimum feet
 1. Front setback-----Established setback
 2. Side-minimum for one-----No requirement-
except 10 feet where provided
 3. Side-abutting side
street corner lot-----No requirement
 4. Rear-----Established setback

4.04 GI-GENERAL INDUSTRIAL DISTRICT

The intent of this district is to delineate areas within the Village which are now used for and are appropriately suited to manufacturing, distribution, major wholesaling, warehousing, processing or industrial uses, to preserve these areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other land uses and to regulate such industrial development so that it will not be detrimental or hazardous to the Village and its citizens.

4.04.01 USES:
See District Use Regulation Table, Section 4.07

4.04.02 DIMENSIONAL REGULATIONS:

- (A) Lot area-minimum square feet-----20,000
- (B) Lot coverage-percent of total lot area occupied
by main and accessory buildings-percent-----60
- (C) Lot depth-minimum feet-----200
- (D) Lot width-minimum feet-----100
- (E) Building height-maximum feet-----50
- (F) Yards-minimum feet
 - 1. Front setback-----50
 - 2. Front on State or County highway-----80
 - 3. Each side-----20
 - 4. Side-abutting side street on corner lot-----50
 - 5. Rear-----20

4.05 CIP COMMERCIAL-INDUSTRIAL PARK DISTRICT

The intent of this district is to delineate areas within the Village that are suitable and appropriate for development as intense uses for commercial and industrial applications such as manufacturing, research, business incubators and related uses, and allow cluster development by these uses.

4.05.01 USES:
See District Use Regulation Table, Section 4.07

4.05.02 DIMENSIONAL REGULATIONS:

- (A) Lot area-minimum square feet-----80,000
- (B) Lot area-maximum percent of total lot area occupied
by main and accessory buildings-----20
- (C) Lot depth-minimum feet-----200
- (D) Lot width-minimum feet-----200
- (E) Building height-maximum feet-----50
- (F) Yards-minimum feet
 - 1. Front setback-----50
 - 2. Front on State or County highway-----80
 - 3. Each side-----25
 - 4. Side-abutting side street on corner lot-----50
 - 5. Rear-----20

4.06 RC RECREATION DISTRICT

4.06.01 USES:
See District Use Regulation Table, Section 4.07

4.07 DISTRICT USE REGULATION TABLE

4.07 DISTRICT USE REGULATION TABLE

District Use Regulation Table

KEY:

P=PERMITTED

O=NOT PERMITTED

SEU=SPECIAL EXCEPTION USE

	R1	R2	B1	GI	CIP	RC
RESIDENTIAL USE:						
Apartment(s) connected with business	O	O	P	O	O	O
Bed & Breakfast	SEU	P	O	O	O	O
Boarding House	O	SEU	P	O	O	O
Group Home	O	SEU	O	O	O	O
Guest Home	O	P	O	O	O	O
Inn	O	SEU	P	O	O	O
Manufactured Home(factory)(side-by-side)	P	P	O	O	O	O
Mobile Home	O	O	O	O	O	O
Multiple dwelling	O	P	O	O	O	O
One family dwelling	P	P	O	O	O	O
Rooming House	O	P	P	O	O	O
Senior Citizen Housing	O	P	O	O	O	O
Tourist Home	O	P	O	O	O	O
Townhouse	SEU	P	O	O	O	O
Two family dwelling	O	P	O	O	O	O
GENERAL USES						
Cemetery	O	SEU	O	O	O	O
Church, etc.	P	P	P	O	O	O
Cultural Facility	SEU	SEU	P	O	O	O
Day Care Center	O	P	P	P	P	O
Dispensing toxic substance	O	O	O	P	P	O
Dispensing Volatile & Flammable substance	O	O	O	P	P	O
Hospital	O	SEU	P	O	O	O
Incinerator	O	O	O	P	P	O
Junk Yard and salvage yard	O	O	O	P	P	O
Non-profit Club	O	SEU	SEU	O	O	O
Nursery School	O	P	P	P	P	O
Parks- public recreation	O	P	O	O	O	P
Public Transportation (Station, Depot)	O	SEU	P	P	P	P
School (private, public)	O	SEU	SEU	O	O	O
Terminal (receiving -trucks, trains, bus)	O	O	P	P	P	O
Trash/Garbage/Recycling collection areas	O	O	O	P	P	O
Warehouse (wholesale, retail)	O	O	P	P	P	O

4.07 DISTRICT USE REGULATION TABLE

District Use Regulation Table

KEY:

P=PERMITTED

O=NOT PERMITTED

SEU=SPECIAL EXCEPTION USE

	R1	R2	B1	GI	CIP	RC
BUSINESS USES						
Adult Uses	O	O	SEU	SEU	SEU	O
Amusement Center or Park	O	O	P	P	O	P
Auditorium	O	O	P	P	O	P
Bank, Financial Inst.	O	O	P	P	P	O
Bar, Tavern	O	O	P	P	P	O
Barber & Beauty Shop	O	O	P	P	P	O
Bowling Alley	O	O	P	P	P	O
Business Office	O	P	P	P	P	O
Car Wash	O	O	P	P	P	O
Drive In Services	O	O	P	P	P	O
Dry Cleaning Store	O	O	P	P	P	O
Educational Institution (Large)	O	O	O	P	O	O
Funeral Home	O	SEU	P	O	O	O
Garage Service/Repair	O	O	P	P	O	O
Gas Filling Station	O	O	P	P	O	O
Gas/Grocery Mart	O	O	P	P	O	O
Hotel	O	O	P	P	P	O
Motel	O	O	P	P	P	O
Newspaper Printing	O	O	P	P	P	O
Nightclub	O	O	P	P	P	O
Parking Lot Commercial	O	O	P	P	P	P
Parking Structure	O	O	P	P	P	O
Personal Service Establishment	O	O	P	P	O	O
Pool Hall	O	O	P	P	P	O
Printing Shop	O	O	P	P	P	O
Professional Office	O	P	P	P	P	O
Repair Shop-Large	O	O	P	P	O	O
Repair Shop-Small	O	O	P	P	O	O
Restaurant - fast food	O	O	P	P	P	O
Restaurant - standard	O	O	P	P	P	O
Retail - General	O	O	P	P	P	O
Self Service Laundry	O	O	P	P	O	O
Skateboard Rink (area)	O	O	O	O	O	P
Skating Rink	O	O	O	O	O	P
Studio	O	O	P	P	O	O
Theater	O	O	P	P	O	P

4.07 DISTRICT USE REGULATION TABLE

District Use Regulation Table

KEY:

P=PERMITTED

O=NOT PERMITTED

SEU=SPECIAL EXCEPTION USE

	R1	R2	B1	GI	CIP	RC
INDUSTRIAL USES						
Assembling	O	O	O	P	P	O
Contractor Yard-Storage	O	O	O	P	P	O
Manufacturing	O	O	O	P	P	O
Research/Development Labs	O	O	P	P	P	O
Testing Labs/Buildings	O	O	O	P	P	O
ACCESSORY USES						
Antenna > 3' H	P	P	P	P	P	O
Carport (per definition)	P	P	O	O	O	O
Fence	P	P	P	P	P	P
Garage (private) attached or separate	P	P	P	P	P	O
Home Occupation	P	P	O	O	O	O
Kennel (3 or more)	O	O	SEU	O	O	O
Lamp post	P	P	P	P	P	P
On Different Lot	P	P	P	P	P	O
On Same Lot	P	P	P	P	P	O
Parking Lot (Private)	O	P	P	P	P	O
Play equipment	P	P	P	P	P	P
Professional Office	O	P	P	O	O	O
Satellite Dish > 3' in diameter	P	P	P	P	P	O
Sauna & Hot Tub	P	P	P	P	P	P
Signs refer to § 6.09						
Solar Collector	SEU	SEU	SEU	P	P	O
Storage Structure	P	P	P	P	P	P
Swimming Pool	P	P	P	P	P	P
Trellis	P	P	P	O	O	O
Wind Energy	SEU	SEU	SEU	P	P	O

SECTION V

APPLICATION OF REGULATIONS

5.01 GENERAL APPLICATION

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

5.02 USE REGULATIONS

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

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

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

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

5.03 DIMENSIONAL REGULATIONS

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

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

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

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

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

SECTION VI

SUPPLEMENTAL USE AND DIMENSIONAL REGULATIONS

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

6.01.01 IN ALL DISTRICTS:

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

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

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

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

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

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

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

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

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

6.01.02 IN RESIDENCE DISTRICTS:

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

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

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

6.01.03 IN NON-RESIDENCE DISTRICTS:

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

6.02 HEIGHT

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

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

(A) Have a lot coverage in excess of ten (10) percent of the lot area.

(B) Be used for residence or tenancy purposes.

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

6.03 YARDS

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

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

(B) Open arbor or trellis.

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

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

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

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

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

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

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

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

6.04 REQUIRED TRANSITIONAL YARDS AND SCREENING

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

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

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

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

6.05 SPACING BETWEEN BUILDINGS

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

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

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

6.06 PERMITTED FENCES AND WALLS

6.06.01 IN RESIDENCE DISTRICTS:

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

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

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

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

6.07 CORNER CLEARANCE

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

6.08 OFFSTREET PARKING AND TRUCK LOADING SPACE REQUIREMENTS

6.08.01 GENERAL STANDARD:

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

6.08.02 METHODS OF DETERMINING OFFSTREET PARKING SPACE REQUIREMENTS:

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

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

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

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

6.08.03 SCHEDULE OF OFFSTREET PARKING SPACE REQUIREMENTS FOR RESIDENTIAL USES:

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

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

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

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

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

6.08.05 OFFSTREET TRUCK LOADING SPACE REQUIREMENTS:

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

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

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

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

6.08.07 ACCESS DRIVEWAY REQUIREMENTS:

(A) Parking garage, public parking area, filling station, and repair garages may have separate or combined entrances and exits.

(B) Every separate entrance or exit driveway shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit driveway shall have a minimum unobstructed width of twenty (20) feet. Parking area with 20 spaces or more shall have at least two separate ten (10) feet driveways.

(C) The intersection of an exit or combined exit and entrance driveway of a public parking area with the public street shall have the same corner clearance as prescribed for intersecting streets in Section 6.07.01

6.08.08 DESIGN REQUIREMENTS FOR OFFSTREET PARKING AND TRUCK LOADING AREAS:

(A) All accessory offstreet parking and truck loading areas shall be located in accordance with the provisions of Section 6.01.

(B) The physical improvements of offstreet parking and truck loading areas shall include:

(1) Curbs, paving, sidewalks, and drainage facilities complying with the standards established in municipal Local Laws, regulations, or specifications.

(2) Adequate lighting in public parking areas to assure the general safety and convenience of the public.

(3) Appropriate screening for the protection of adjacent properties, particularly along District boundary lines as provided in Section 6.04.

(C) All aisles within parking areas shall have a minimum width of twenty-four (24) feet when the parking spaces are at a ninety (90) degree angle with the aisle; eighteen (18) feet when the parking spaces are at sixty (60) degrees; and twelve (12) feet the spaces are at forty-five (45) degrees.

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

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

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

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

6.08.09 EXCEPTION AND WAIVERS:

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

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

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

6.09 SIGNS

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

- 6.09.01 To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the land and intensity of development permitted in the Village; to reduce hazards caused by signs that impede or distract traffic or otherwise interfere with public safety.
- 6.09.02 To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry.

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

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

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

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

(C) Removal and maintenance of signs

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

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

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

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

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

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

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

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

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

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

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

6.09.05

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

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

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

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

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

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

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

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

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

6.09.06

SIGNS NOT REQUIRING A PERMIT

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

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

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

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

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

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

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

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

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

(I) Sandwich board signs meeting the following criteria:

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

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

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

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

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

6.09.07

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.09.08

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

(A) Cloth signs, streamers, etc. which may be suspended over, or placed on public property after review and approval by the Planning Board. The Planning Board may require reasonable liability insurance coverage for such installation. Such signs shall be removed within twenty-four (24) hours after the advertised event or at the end of the season if a seasonal event is advertised.

(B) Ground signs (other than real estate developer's offering) in excess of thirty-two (32) square feet (but not to exceed ninety-six (96) square

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

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

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

(E) All projecting signs:

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

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

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

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

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

(F) Hanging and/or Arcade signs

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

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

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

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

(G) Awnings and canopies

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

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

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

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

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

SECTION VII

SPECIAL EXCEPTION USES

7.01 DELEGATION OF AUTHORITY

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

7.02 GENERAL PROCEDURE AND CONDITIONS

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

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

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

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

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

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

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

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

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

7.03 GENERAL STANDARDS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.04 SPECIAL CONDITIONS AND SAFEGUARDS FOR CERTAIN SPECIAL EXCEPTION USES

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

7.04.01 ADULT USES:

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

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

(A) General Regulations:

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

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

(B) Site Regulations:

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

(C) Registration Procedures:

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

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

(D) Transferability:

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

7.04.02 AUDITORIUM, MEETING HALL:

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

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

7.04.03 CAR WASH:

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

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

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

7.04.04 COUNTRY CLUB:

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

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

7.04.05 EATING ESTABLISHMENTS: DRIVE IN OR OPEN FRONT:

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

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

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

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

7.04.06 FILLING STATION:

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

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

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

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

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

7.04.07 HOTEL:

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

7.04.08 MEMBERSHIP CLUB, NON-PROFIT:

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

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

7.04.09 MOBILE HOME PARK:

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

7.04.10 MOTEL:

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

7.04.11 NURSING HOME:

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

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

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

7.04.12 **PARKING GARAGE, STORAGE GARAGE:**

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

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

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

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

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

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

7.04.14 **PLANNED UNIT DEVELOPMENT:**

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

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

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

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

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

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

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

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

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

7.04.15

PLANNED COMMERCIAL INDUSTRIAL PARK:

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

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

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

7.04.16

PRIVATE SWIMMING POOL

See Appendix A, Page 78.

7.04.17

PROFESSIONAL OFFICE, MEDICAL ARTS BUILDING

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

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

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

7.04.18 PROPRIETARY HOME:

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

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

SECTION VIII

NONCONFORMING USES AND NONCONFORMING BUILDINGS OR STRUCTURES

8.01 APPLICATION OR REGULATIONS

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

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

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

8.03 CONTINUANCE

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

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

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

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

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

8.04 EXTENSION

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

8.05 CHANGE

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

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

8.06 ABANDONMENT

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

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

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

8.07 COMPULSORY TERMINATION

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

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

SECTION IX

ENFORCEMENT AND ADMINISTRATION

9.01 ENFORCEMENT

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

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

9.02 **BUILDING PERMITS-GENERAL PROCEDURE**

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

9.03 BUILDING PERMITS-SITE PLAN PROCEDURE AND STANDARDS

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

- 9.03.06 Building permits for special exception uses or variances shall be in accordance with the conditions established by the Planning Board or Zoning Board of Appeals, respectively.
- 9.03.07 When an applicant for such a building permit for a special exception use questions the interpretation of the site plan requirements, he may appeal the decisions to the Zoning Board of Appeals.

9.04 CERTIFICATE OF OCCUPANCY

- 9.04.01 It shall be unlawful to use or to permit the use of any building, structure, premises, lot or land, or part thereof, hereafter erected or altered, enlarged or moved, or put into use, in whole or in part, after the effective date of this Local Law, or any building or structure, premises, lot or land, or part thereof of which the use is changed, until a certificate of occupancy has been obtained by the owner.
- 9.04.02 No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless the erection, construction, reconstruction, structural alteration, restoration, repair, or moving of such building or structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this Local Law. Where the approval of New York State Department of Health is required, no certificate of occupancy shall be issued until such approval has been granted in writing.
- 9.04.03 The Building Inspector shall obtain a written order from the Zoning Board of Appeals before issuing a certificate of occupancy in a case involving a special exception use pursuant to Section 7, or before issuing a certificate of occupancy involving a variance from the provisions of this Local Law pursuant to Section 10.

9.05 FEES

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

SECTION X

BOARD OF APPEALS

10.01 ORGANIZATION AND GENERAL PROCEDURE

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

10.02 APPLICATION AND PUBLIC HEARING PROCEDURE

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

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

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

10.03 APPEALS ON INTERPRETATION OF THE LOCAL ZONING LAW AND MAP

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

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

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

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

10.04 VARIANCES

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

10.04.01 GUIDING PRINCIPLES:

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

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

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

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

10.04.02 GENERAL STANDARDS:

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

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

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

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

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

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

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

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

10.04.03 SPECIFIC TYPES OF VARIANCES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION XI

VIOLATIONS AND PENALTIES

11.01 PROCEDURE WITH RESPECT TO VIOLATIONS

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

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

11.02 PENALTIES

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

SECTION XII

AMENDMENTS

12.01 PROCEDURE

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

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

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

SECTION XIII

INTERPRETATION

13.01 INTERPRETATION

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

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

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

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

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

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

- 13.02.02 Wherever the provisions of any other laws or Local Law or regulations impose a greater restriction than this Local Law the provisions of such law or Local Law or regulations shall control.
- 13.02.03 No provision contained in this Local Law shall be construed as justifying the encroachment of any building or structure or use within any street lines now or hereafter laid down on any subdivision plan filed in the office of the County Clerk or within any Federal, State, County or Municipal street or highway.
- 13.02.04 Notwithstanding any other provisions contained herein, the Village of Wellsville and its departments or agencies, in the exercise of any of their governmental or proprietary activities, shall not be subject to the provisions of this Local Law.

SECTION XIV

VALIDITY

14.01 VALIDITY

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

SECTION XV
EFFECTIVE DATE

15.01 EFFECTIVE DATE

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

Appendix A

A LOCAL LAW REGARDING SWIMMING POOLS

adopted 10/12/64

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

Section 31.1 COMPLIANCE

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

Section 31.2 DEFINITION

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

Section 31.3 FENCES

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

Section 31.4 PENALTIES

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

Section 31.5 EFFECTIVE DATE

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

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