

Village of Ellicottville Local Laws

Local Law #		Date Filed
5-1991	Abolish the position of Assessor	10/18/91
4-1990	Abolish Police Department	01/13/91
2-1989	Alarm System	07/19/89
1-2009	Amend 2-1989 (Fees)	01/26/09
1-2016	Amend to Establish & Regulate Standards	10/14/16
7-1975	Annexation (Sewer Plant)	10/24/75
1-1983	Annexation (Holihilton Rt 242)	02/25/83
4-2003	Ban on Bicycles, Skateboards, etc. (Business District)	09/29/03
6-2003	Amend 4-2003 add Scooter and Boundaries	11/19/03
4-2012	Best Value Procurement Standard	10/17/12
4-1975	Enforcing State Building Construction Code	06/06/75
1-1980	Amend 4-1975 (Fees)	04/25/80
5-2003	Amend -1975 (Changes to Section 12&15)	10/09/03
8-2006	Add State uniform Fire Prevention& Building Code	12/14/06
4-2007	Add Requiring permits for public improvement	10/26/07
3-2018	Amend 5-2003 (Section 12)	11/22/18
3-2022	Implement and Enforce the Uniform Building , Fire and Energy Code	12/09/22
1-2017	Code of Ethics	08/21/17
1/2002	Constable Creation	11/06/12
2-1981	Curfew Establishment	10/01/81
VO-1949	Dog Article 1 Section 3 of Village Ordinance	07/25/49
VO-1957	Amend Article 1 Section 3 with 3a to confine the dog to their premises at which the owner resides	08/13/57
2-1977	Amend Article 1 Section 3 Dogs running at large	04/01/77
4-1987	Control, Confining & Leashing of Dogs	
2-1999	Dogs defecate on public or private property without permission of property owner must remove it immediately	10/05/99
2-2016	Amend local law 4-1987 Leash Law	12/21/16
3-1976	Exemption Real Property income \$4,000.00	12/13/76
5-1978	Amend local law 3-1976 added (a) income \$4,800.00	09/05/78
2-1980	Repealed L.L. 5-1978 (a) income is now \$5,500.00	07/17/80
2-1982	Amend 2-1980 (a) to \$5,800.00	06/17/82

1-1984	Amend 2-1982 (a) to \$6,800.00	05/21/84
4-1988	Amend 1-1989 (a) to \$7,800.00	01/03/89
2-2001	Amend 3-1976 (a) to 16,500.00	10/22/01
3-1984	Exemption Real Property Taxation Veterans	10/13/84
2-1998	Exemption Real Property Taxation Veterans	12/21/98
3-1987	Flood Damage Prevention	05/27/87
1-1994	Flood Damage Prevention	03/17/94
3-2014	Flood Damage Prevention	12/19/14
5-1988	Historic Preservation	02/08/89
1-1993	Hydrant Regulating use of fire hydrant	03/19/93
2-2015	Issuance of appearance ticket by public servants of the Village of Ellicottville	10/15/15
3-1982	Lawn care guide lines	07/16/82
4-2011	3-1982 add Sect 5A Removal of Brush & Leaves	08/09/11
1/2015	3-1982 amended Sect.5 (fines)	10/15/15
4-2018	2-2011 Amended Sect.5A (pick up times)	09/25/18
6-1989	Temporary Moratorium granting approval of Subdivions Condominium, Plan Unit & Community Development	11/20/89
1-1990	Temporary Moratorium granting approval of Subdivions Condominium, Plan Unit & Community Development	
3-1990	Temporary Moratorium granting approval of Subdivions Condominium, Plan Unit & Community Development	01/17/91
1-1997	Temporary Moratorium granting permits for S.O.B	05/08/97
5-1997	Temporary Moratorium granting permits for S.O.B	
7-2003	Moratorium Prohibiting issuance of Approvals & permits (Zoning, Planning & Building)	12/15/03
1-2008	Moratorium Prohibiting issuance of Approvals & permits (Zoning, Planning & Building)	11/12/08
2-2021	Temporary Moratorium accepting, processing & issuing permits for second or accessory dwelling or lock out rooms	02/01/21
1-1985	Noise Ordinance	08/26/85
6-2006	Update 1-1985 (Noise Ordinance)	12/11/06
3-2020	Amending 1-1985 & 6-2006	11/04/20
2-1975	Official Newspaper Designation	01/16/75
3-1981	Open Container	09/23/81
4-1989	Supersede & Take the place of 3-1981	09/14/89

2-2006	Peddler	04/10/06
4-1991	Unlawful deposits of human excrement(PeePeelaw)	10/10/91
1-2022	Prior Written Notice (Claims for damages arising from condition of public right-away or infrastucture)	04/25/22
1/2012	Property Tax Levy	03/05/12
1-2020	Override the Tax Levy Limit for Fiscal yr. 2020	06/29/20
2-2022	Override the Tax Levy Limit for Fiscal yr. 2022	
1-1975	Public Hearing (prescribing the notice it be given)	01/16/75
5-2006	Real Property Condo	10/30/75
1-1987	Residency Village Clerk	05/21/87
3-1975	Sewer Law	01/16/75
3-1977	Amend to allow (PVC) plastic pipe	07/28/77
2-1979	Relation to certain toxic / add subdivision (bb)	03/12/79
2-1996	Establishing Sewer Rents	07/01/96
4-1996	Establishing Sewer Rents	12/23/96
3-2006	Sewer Pump Station	04/10/06
3-2011	In regard to Local Sewer Use Law	08/09/11
3-2013	3-2011 (Establish Sewer meter & demand Rates)	05/02/13
1-2018	3-2011 (Remove and discontinue demand Rates)	03/19/18
2-2019	Repealing 3-2011	12/24/19
3-2021	Sidewalk Cafe	07/23/21
2-2009	Snow and Ice Barriers	
2-1994	Snow Removal (Private)	04/18/94
1-2000	Amend Section 2 (Restrictions)	11/16/00
3-1996	Snowmobiles (regulating the use & operation)	12/09/96
1-2001	Amend 3-1996 (changed Text)	04/02/01
4-1997	Standardizing Bldg. Number for 911	12/23/97
5-2006	Taxi (to regulation the operation)	10/30/06
7-2006	Taxi (to regulation the operation)	12/11/21
2-2007	Amend Article II sect 2-3 of 7-2006 (ins)	08/20/07
2-2003	Term of Office (Mayor& Trustees)	08/09/03
VO-1964	Article VI (TRAFFIC) Ordinance	11/12/64

VO-1970	Amend Subdivision (b) Section 605 (Stop Sign)	06/22/70
VO-1973	Flashing signal & Curb lines West Washington	11/05/73
1-1976	Sect. 601 to read "Village Police Officer"	01/28/76
	Sect.605 Four way stop @ Elk, Jefferson & Elizabeth	
	Sect. 607 Curb line Park Square, W. Washington & Jefferson	
	Sect.607 Curb line Monroe from Washington to Elizabeth	
2-1976	Sect.605 Stop Sign Mechanic, Elk & Parkside	08/02/76
4-1976	Curb line Jefferson-Washington & Public Square	12/13/76
4-1979	Repealed & New Article VI is hereby added	09/21/79
1-1981	607 Added 2 New Paragraphs 17 & 18 (parking lots)	08/18/81
2-1986	607 Mechanic between Elizabeth & Elk	10/20/86
1-1988	605 Stop intersection Maybee Alley-Monroe	01/03/89
	Maybee Alley-Jefferson, Maybee Alley-adjacent to M&T Bank, Hughey Alley & Monroe, Hughey Alley & Jefferson	
1-1989	Section 606 MAXIMUM SPEED LIMIT	03/20/89
2-1990	607(e) Parking (2hr parking)	12/03/90
6-1991	Added to 607(e) (2hr parking)	11/22/91
2-1992	Sect.608 sub(b) adding paragraph (5) (Stopped Standing or parked on Sideway), Sect.610 (a) No person shall drive or operate any vehicle including snowmobiles and recreational vehicle upon any sidewalk	03/12/92
3-1993	Sect.607 sub. (d16) repealed added Martha, Adam North side & adding sub.(17) & (18) West side Elk&south side Ellizabeth	11/16/93
3-1994	Sect.607 sub. (d17) of 3-1993 East side Elk	06/16/94
1-1995	Added Sect.605-1 One way Street & Alley (Marshell)	11/29/95
1-1996	Sect.607 Adding sib.(g) Parking Restriction	05/21/96
2-1997	Repealed sub. (b) of Sect.605 sub.(f) adding a paragraph (5) Elizabeth Adam, Madison, Jefferson, Elk, Monroe & Mechanic (Stop Sign to be erected)	10/30/97
1-2000	Added Sect.611 (Traffic Violations Bureau)	04/13/00
1-2003	Sect.607 sub.(d) adding sub.(19 & 20)	01/27/03
	Sub.(19) North side Rockwell (20) South side Rockwell within 20 feet of the intersection with Park & Rockwell	
3-2003	Sect.605 sub.(f)(2) Four Way Stop Martha & Monroe	09/29/03
1-2004	Sect.607 sub. (d) adding to sub. (19&20) (19) West side of Fillmore full length (20) East side Fillmore from Washington to Elk Creek	04/29/04
1-2006	Sect.607 sub.(d) Both sides of Mill From Martha to Washington	03/02/06
4-2006	Sect.604 (Penalties)	06/02/06
1/2007	Adding sub. (b) Sect.605-1 One Way (Maybee Alley)	05/10/07
1-2014	Adding sub. (b) Sect.605-1 One Way (Hughey Alley)	02/19/14
3-2016	Repealed sub.(b) 1-2014 (Hughey Alley) Two Way	12/02/16
5-1975	Village Attorney (employment & compensation)	06/06/75
1-1982	Village Tree Law	01/19/82
2-1988	Adding to Sect.1 (11) & Sect.2920 & 20A)	

1-1999	Amending 1-1982 and 2-1988	04/17/99
2-1993	Cross Connection	05/13/93
3-2012	Water Service (rules & regulations)	10/1812
2/2013	Water rates Schedule	05/02/13
2-1991	Waste & Recycling Management	04/12/91
3-1991	Added Sub.(b) putting to the curb no more than 48 hrs. prior to pick up, White goods no more the 72 hrs. prior to pick up.	10/10/91
1-2013	Establish Fees for Solid Waste	03/15/13
2-2020	Regulating Solid Waste Management & Recycling	07/29/21
1-2021	Regulating Solid Waste Management & Recycling	02/02/21
1-1964	Zoning	01/20/64
2-1964	Appointment & Terms of Office Zoning & Appeal Board	11/24/62
3-1964	Sect. 4.2 Hotel, Inn, Tourist or Auto Courts	12/04/64
4-1964	Introductory paragraph of Sect. 9.3 (Signs)	12/04/64
5-1964	To make certain technical changes therein	12/04/64
6-1964	Regulation to minimum off street parking	12/04/64
1-1966	Adjust Zoning map (AVM)	06/07/66
1-1968	Added Sect. 6.5 (Border Oil)	10/09/68
1-1969	Change classification of certain land (AVM)	04/28/69
1-1970	Change classification of certain land (Trailer Park)	08/24/70
6-1975	Change classification of certain land (Silver Fox)	09/03/75
8-1975	Change classification of certain land (Rt 242 Apartments)	12/14/75
1-1977	Change classification of certain land (Parkside Drive)	03/28/77
1-1978	Increase the # of rooms & persons permitted to be accommodated	06/19/78
2-1978	Change classification of certain land (Legion parking lot)	06/19/78
3-1978	Change classification of certain land (Townhouses N.side of 242))	06/23/78
4-1978	Change classification of certain land (1887 Building)	07/25/78
6-1978	Supersede Sect. 7-706 (Method of Adoption)	12/14/78
1-1979	Change classification of certain land (Perk Prperty)	01/26/79
3-1979	Implement National Flood Regulation & General Revisions	03/13/79
2-1983	Zoning classification for Annexed area	09/19/83
2-1984	Change classification of certain land (6 E. Washington St)	05/21/84
1-1986	Authorize & Regulate Zero Lot Line Development	06/16/86
2-1987	Repealing the Definition Sign	05/20/87
3-1988	Added definiens & expand provisions to Community Development Project	06/16/88
3-1989	Change classification of certain land (Stride Tool)	09/14/89
5-1989	Change classification of certain land (Trailer Park)	11/20/89
1-1991	Zoning Rewritten	03/14/91
1-1992	Establishing Fees related to application	01/21/92
3-1997	Sect. 1-10 of 1-1991 (Stride Tool)	12/15/97
1-1998	S.O.B.	01/16/98
3-1998	Fences	12/21/98
2-2004	Sect. 1-10 of 1-1991 (Wingate)	10/27/04
1-2005	1-1991 to provide for Comprehensive Zoning Plan & Adopting Zoning Map	01/26/04

2-2005	Adopting Subdivion Regulations & Procedures	01/26/05
3-2007	Sect. 3B Land Use Table Special Use Permit	10/31/07
3-2009	1-2005 Zoning Map	09/08/09
1-2011	3-2009 Zoning Map(11,13 & 15 Parkside Dr & portion of 41 Mechanic)	04/25/11
2-2011	2-2005 For Subdivision Review	05/18/11
2-2012	3-2009 Zoning Map (11-13 Elizabeth Street)	03/06/12
2-2014	3-2009 Zoning Map (16 Martha Street	05/16/14
2-2018	1-1994 updating Sect.2 Definitions Sect.3A Districts & Regulations	11/22/18
5-2018	2-2014 Added Sect. 2(2) 2-214 (Short Term Rentals)	09/25/18
1-2019	2-2012 Short Term Rentals	07/25/19
4-2021	Amend Village Zoning Laws pertaining to the siting of Secondary Dwelling Unit and Lockout Rooms	12/28/21

Village of Ellicottville
Local Law No...... 4 **of the year 1990**
A local law to abolish the Village of Ellicottville Police Department
Be it enacted by the Board of Trustees..... **of the**
Village ofEllicottville. **as follows:**

Section 1, Legislative intent.

Whereas the Town of Ellicottville intends to create a Town Police Department as of January 1, 1991, and

Whereas the Town Police Department pursuant to law will be required to provide Police protection to the Village of ellicottville as long as the Village does not have its own Police Department; therefore, it is the intent of this local law to abolish the Village of Ellicottville Police Department as of January 1, 1991 so that thereafter Police protection for the Village of Ellicottville will be provided by the Town of Ellicottville Police Department.

Section 2.The Village of Ellicottville Police Department is hereby abolished,

Section 3. Within thirty (30) days of the effective date of this local law, the Board of Trustees of the Village of Ellicottville shall notify the Commissioner of the Division of Criminal Justice Services that the Village of Ellicottville Police Department is abolished.

Section 4. This local law shall take effect on January 1, 1991, provided, however that such local law is subject to a permissive referendum if required by petition.

Village of Ellicottville

Local Law No. 5 **of the year 1991**

A local law relating to the termination of the Village of Ellicottville's status as an assessing unit for Village real property tax purposes.

Be it enacted by the Board of Trustees **of the Village of** Ellicottville..... **as follows:**

Section 1. Legislative intent. The intent of the Board of Trustees of the Village of Ellicottville is to implement section 1402(3) of the Real Property Tax Law providing for the voluntary termination of the Village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this local law to abolish the position of Assessor and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Ellicottville.

Section 2. On or after the effective date of this local law, the Village of Ellicottville shall cease to be an assessing unit.

Section 3. The position of Assessor in the Village of Ellicottville is hereby abolished.

Section 4. The Board of Assessment Review in the village of Ellicottville is hereby abolished.

Section 5. On or after the effective date of this local law, taxes in the Village of Ellicottville shall be levied on a copy of the applicable part of the assessment roll of the Town of Ellicottville with the taxable status date of such Town controlling for village purposes.

Section 6. Within five days of the effective date of this local law, the Board of Trustees of the Village of Ellicottville shall file a copy of such local law with the Clerk and Assessor of the Town of Ellicottville and with the State Board of Equalization and Assessment.

Section 7. This local law shall take effect immediately upon filing with the Secretary of State, provided, however, that such local law is subject to a permissive referendum if required by petition.

Village of Ellicottville

Local Law No. 2 of the year 1989

A local law ALARM SYSTEM LOCAL LAW

Be it enacted by theBOARD OF TRUSTEES of the Village of ELLICOTTVILLE as follows:

ALARM SYSTEM LOCAL LAW

Section 1. INTENT AND PURPOSE:

This Local Law is designed to regulate and control, and to establish standards for each of the various types of intrusion, holdup, fire alarm or other emergency alarms which furnish signals requiring police or fire department responses for the purposes of investigation, action or safeguarding of property at the location from which such alarm is generated.

The alarms intended to be covered by this Local Law are all those alarms which report by a signal transmitted by telephone, leased wire, radio or in any other way relayed to the police or fire department, or by an alarm device requiring an investigation or other action by any person acting in response to a signal actuated by an alarm device, including audible signals.

It is the intent and purpose of this Local Law that it shall be applicable not only to devices installed subsequent to the passage of this act, but also to such devices as are already in use within the village.

Section 2. DEFINITIONS:

ALARM DEVICE - Any mechanism, equipment or device which is designed to operate automatically or manually, to transmit an audible or visible signal, message or waing (electronic or otherwise) from one location to another location.

ALARM SYSTEM - More than one (1) alarm device connected together or tied together electronically or otherwise, designed to operate in conjunction with each other to protect the same premises or location.

FALSE ALARM - Any signal actuated through an alarm system to which the police or fire department respond, and which signal or alarin has not been caused, actuated or sent by reason of the events for which the alarm system or device is designed to operate against. In other words, the alarin device requires l'esponse from the police or fire department, and the underlying event, i.e., intrusion, holdup, fire, other emergency, has not occurred.

FIRE DEPARTMENT - The Fire Department which has responsibility for the territory encompassed by the Village of Ellicottville.

PERMIT - A periiit obtained from the village Clerk of the Village of Ellicottville, which has been

approved by either the Police Chief of the Village of Ellicottville Police Department, the Village of Ellicottville Code Enforcement officer, or the appropriate Fire Chief covering the territory of the Village of Ellicottville.

POLICE DEPARTMENT - The Police Department of the Village of Ellicottville.

Section 3. PERMIT:

No person, firm, partnership or corporation shall operate or maintain an alarm device or system which automatically transmits a signal, message or warning to the Police or Fire Department without first obtaining a permit for same.

Section 4. APPLICATION FOR PERMIT:

A. An application for a permit to install, maintain or operate an alarm device or system which is intended to automatically transmit a signal, message or warning by audible signal, visible signal or electronic transmission to the Police Department or Fire Department shall be filed with the village Clerk on forms supplied by the Village Clerk, together with an application fee of \$25.00. Said application shall contain and set forth at least the following information: The name, address and telephone number of the installer of the alarm device or system and the owner, lessee or user of the premises where such alarm device or system will be installed, together with the name, model number and: serial number of the alarm device or system.

B. The Chief of either the Police Department, Fire Department or the Code Enforcement Officer shall, upon receiving the application from the Village Clerk, immediately cause an inspection to be made of the premises described in the application and the location(s) where the alarm device or system will be installed. The application shall be approved if it is found that:

- 1) the use of said alarm device or system to transmit a signal, message or warning to either the Police Department or Fire Department will not interfere with the orderly conduct of Village, Police or Fire Department business;
- 2) the person, firm or corporation installing the device or system maintains an adequate service organization to repair, maintain and otherwise service said alarm device or system;
- 3) the applicant on whose premises the alarm device or system is to be installed, and the installer of the alarm device or system agree to install such device in either the Police Department or Fire Department in such a manner, and in locations designated by the Chief of Police or the Chief of the Fire Department.

Section 5. INSPECTION:

The Chief of either the Police Department or the Fire Department or the Code Enforcement Officer shall have the right to inspect any alarm device or system prior to issuance of the permit for its operation, and may cause an inspection of such device or system to be made at any time

after issuance of a permit, to determine whether such device or system is being used in conformity with the terms of the permit and the provisions of this Local Law.

Section 6. COMPLIANCE DATE:

All presently existing and installed alarm devices or systems must be brought into compliance with the provisions of this Local Law on or before the 1st day of SEPTEMBER, 1989.

Section 7. ANNUAL PERMIT FEE:

The annual permit fees for such alarm device or system shall be \$25.00. The year will run from June 1 to May 31. Permits will be renewable every June 1.

Section 8. LIMITATIONS:

No alarm device or system shall be connected to either the Police or Fire Department except in accordance with the provisions of this Local Law,

Section 9. INTENTIONAL FALSE ALARMS :

It shall be a violation of this Local Law to intentionally cause a false alarm to be made. Any person, firm or corporation who shall be found guilty of intentionally causing a false alarm shall be found to be a "disorderly person" and shall be subject to a fine not exceeding \$ 250.00 for each such offense.

Section 10. ACCIDENTAL FALSE ALARMS:

Any owner, lessee or user of the premises having an alarm device or system shall pay to the Village a fee for each and every false alarm (accidental or intentional) in which the Police Department or Fire Department responds, in each year, (June 1. to May 31) as follows:

- 1) first false alarm - written notification and warning
- 2) second false alarm - \$25.00
- 3) third false alarm - \$50.00
- 4) fourth & fifth false alarm - \$ 100.00
- 5) sixth and thereafter - \$250.00

B. Failure to pay any such false alarm fee, within (10) days of the OCCURRENCE of such false alarm, shall result in a doubling of such fee, and shall subject the applicant for such alarm permits to revocation of the permit.

Section 11. AUTOMATIC CUTOFF SYSTEM:

No external audible alarm of any type shall be installed or maintained in any building, structure or establishment which does not contain an automatic cut off system or feature, which automatically cuts off the source of power to the alarm after the alarm has sounded for a period

of fifteen minutes

Section 12. INSTALLATION AND MAINTENANCE:

The installation and maintenance of the alarm device or system permitted by this Local Law, including connections to locations designated by the Police Chief, Fire Chief or Code Enforcement officer, shall be made at no cost to the Village. The owner, lessee or user shall be responsible for the maintenance and service of the alarm device or system equipment and shall be responsible for all malfunctions of such equipment. If it is necessary to change the location for such device or system, the Village shall not be responsible for any expenses incurred in connection therewith.

Section 1.3. REVOCATION OF PERMIT:

The permit: for such alarm device or system shall be subject to revocation as follows:

- 1) failure to pay the annual permit fee as provided for in this Local Law;
- 2) failure to pay fees or fines imposed by reason of false alarms, accidental or intentional;
- 3) failure to install, maintain or operate such alarm device or system in accordance with the terms and conditions of any permit issued pursuant to this Local Law;

a) the Police Chief or Fire Chief, after inspection, may give written notice to the holder of the permit of failure to comply with the terms of such permit, and may provide a grace period to bring such alarm device or system into compliance and shall provide an opportunity for the permit holder to be heard by the Board of Trustees;

b) the order revoking such permit shall be signed by the Police Chief or Fire Chief and issued by the Village Clerk.

Section 14. Effective DATE:

This Local law shall take effect upon filing in the office of the Secretary of State.

Village of Ellicottville

Local Law No. 1 of the year 2009

A local law to amend Local Law No. 2 of the Year 1989 entitled Alarm System

Local Law.

Be it enacted by the Board of Trustees of the

Village of Ellicottville as follows:

LOCAL LAW NO. 1 OF THE YEAR 2009

Local Law No. 2 of the Year 1989 is amended to provide as follows:

Section 1. Intent and Purpose:

This Local Law is designed to regulate and control and to establish standards for each of various types of alarms, including but not limited to: intrusion, holdup, fire or emergency. These alarms furnish signals that require the Fire Department or Constable department to respond for the purpose of investigating, taking a specific action, or safeguarding the property at the location from which the alarm is generated.

The alarms are intended to be covered by this Local Law are those alarms which report by a signal transmitted by telephone, leased wire, radio or in any way relayed to the Constable, or Fire department, or by an alarm device requiring an investigation or other action by any person acting in response to a signal actuated by an alarm device, including audible signals.

It is the intent and purpose of this Local Law that it shall be applicable not only to devices installed subsequent to the passage of this act, but also to such devices as are already in use within the Village.

Section 2. Definitions:

Alarm Device: Any mechanism, equipment or device, which is designed to operate automatically or manually, to transmit an audible or visible signal, message or warning (electronic or otherwise) from one location to another location.

Alarm System: More than one (1) alarm device connected together or tied together electronically or otherwise, designed to operate in conjunction with each other to protect the same premises or location.

False Alarm: Any signal actuated through an alarm system to which the Constable or the Fire Department respond, and which signal or alarm has not been caused, actuated or sent by reason of events for which the alarm system or device is designed to operate against. In other

words, the alarm device requires response from the Constable or Fire Department, and the underlying event, i.e., intrusion, holdup, fire or other emergency has not occurred.

Fire Department: The Fire Department is the one which has responsibility for the territory encompassed by the Village of Ellicottville.

Permit: A permit is obtained from the Ellicottville Village Clerk and has been approved by either the Village of Ellicottville Code Enforcement Officer or the appropriate Fire Chief covering the Village of Ellicottville territory.

Constable Office: The Constable's Office of the Village of Ellicottville.

Keyholder: Any person designated by the owner, lessee or user of premises to hold a key to the premises for the purpose of providing access to the premises by the Fire Department or Constable Office as may be required by this Local Law.

Section 6. Compliance Date:

All presently existing and installed alarm devices or systems must be brought into compliance with the provisions of this Local Law by February 1, 2009,

Section 7. Annual Permit Fees:

The annual permit fees for such alarm device or system shall be as follows:

- a. Business location - \$50.00
- b. Private Home \$50.00
- c. Church, school or public building - No charge

Section 8. Limitations:

No alarm device or system shall be connected to either the Constable's Office or the Fire Department except in accordance with the provisions of this Local Law.

Section 9. Intentional False Alarm:

It shall be a violation of this Local Law to intentionally cause a false alarm to be made. Any person, firm or corporation who shall be found guilty of intentionally causing a false alarm shall be found to be a "disorderly person: and shall be subject to a fine not to exceed \$250.00 for each such offense.

Section 10. Accidental False Alarms:

- A. Any owner, lessee or user of the premises having an alarm device or system shall pay to the Village a fee for each and every false alarm (accidental or intentional) to which the Constable or Fire Department responds, in each year, as follows:
 - a. First (1st) false alarm – warning

- b. Second (2nd) false alarm - \$50.00
- c. Third (3) false alarm - \$100.00
- d. Fourth (4h) false alarm - \$150.00
- e. Additional false alarm fines will be determined by the Village Judge but may not exceed \$250.00 per incident.

B. Failure to pay any such false alarm fine within ten (10) days of the occurrence of the false alarm shall result in the doubling of the fine and shall subject the applicant of the alarm permit to have said permit revoked.

Section 11. Automatic Cutoff System:

No external audible alarm of any type shall be installed or maintained in any building, structure or establishment which does not contain an automatic cutoff system or feature, which automatically cuts off the source of power to the alarm after the alarm has sounded for a period of fifteen (15) minutes.

Section 12. Installation and Maintenance: The installation and maintenance of the alarm device or system permitted by this Local Law, including connections to locations designated by the Constable or Fire Chief shall be made at no cost to the Village. The owner, lessee or user shall be responsible for the maintenance and service of the alarm device or system equipment and shall be responsible for all malfunctions of such equipment. If it is necessary to change the location for such device or system, the Village shall not be responsible for any expenses incurred in connection therewith,

Section 13. Revocation of Permit:

The permit for such alarm device or system shall be subject to revocation as follows:

1. Failure to pay the annual permit fee as provided for by this Local Law;
2. Failure to pay fees or fines imposed by reason of false alarm, accidental or intentional
3. Failure to install, maintain or operate such alarm device or system in accordance with the terms and conditions of any permit issued pursuant to this Local Law;
 - a. The Constable or Fire Chief, after inspection, may give written notice to the holder of the permit of failure to comply with the terms of such permit, and may provide a grace period to bring such alarm device or system into compliance and shall provide an opportunity for the permit holder to be heard by the Board of Trustees;
 - b. The order revoking such permit shall be signed by the Village Constable or Fire Chief and issue by Village Clerk.
4. Failure of an owner, lessee or user of the premises to notify the Village Clerk in writing of a change in the name, address or telephone number of such owner, lessee or user of the premises or of a Keyholder within 10 days of such change.

Section 14. Effective date:

This Local Law shall take Effect upon filing in the Office of the Secretary of State.

Village of Ellicottville
Local Law No. 1of the year 2016

A local law Alarm Local Law

Be it enacted by the Village Board of the
Village of Ellicottville as follows:

**LOCAL LAW NO. 1-2016
LOCAL ALARM LAW**

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board of the Village of Ellicottville, New York
(collectively and individually, "Village") as follows:

Article I. Intent and Purpose.

This Local Law is designed to establish and regulate standards for intrusion, holdup, fire, or other emergency alarms which transmit signal (electronic, audible or otherwise) that may or may not require a police or fire department response for the purposes of investigation, action or safeguarding of property at the location from which such alarm is generated.

It is the intent and purpose of this Local Law that it shall be applicable not only to alarms installed subsequent to the passage of this act, but also to alarms already in use within the Village.

Article II. Definitions.

ALARM COMPANY – Means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an Alarm in an Alarm Site.

ALARM – Any mechanism, equipment or device, or system of mechanisms, equipment or devices, which is designed to protect the Alarm Site and to operate automatically or manually, to transmit an audible or visible signal, message or warning (electronic or otherwise) in any manner, including, but not limited to, to the Police Department or Fire Department.

ALARM FEE SCHEDULE – a separate schedule listing all fees associated with this Local Law, including, but not limited to, the Permit application fee, False Alarm fees, and appeal fees. This Alarm Fee Schedule may be amended from time to time by the Village, as necessary.

ALARM REVIEW BOARD - A three member committee appointed by the Village as follows: one member of the Police Department, one member of the Fire Department, and one resident of the Village of Ellicottville.

ALARM SITE - Means a single fixed premises or location served by an Alarm. Each tenancy, if served by a separate Alarm in a multi tenant building or complex shall be considered a separate Alarm Site.

ALARM UNIT COORDINATOR – the Police Department, as designated by the Village to administer this Local Law and to control and review False Alarm reduction efforts.

ALARM USER - Means any person, firm, partnership, corporation or other entity which uses or is in control of any Alarm at its Alarm Site. Where an Alarm Site is a rental unit, the owner of the Alarm Site shall be deemed the Alarm User.

CANCELLATION – Is the process by which an Alarm Company verifies with the Alarm User or Occupant that a false dispatch has occurred and that there is not an existing danger at the Alarm Site requiring a response from a Responding Unit. A Cancellation only occurs if a Responding Unit is not dispatched.

FALSE ALARM - Any signal actuated through an Alarm to which a Responding Unit responds, and which signal or alarm has not been caused, actuated or sent by reason of the events for which the Alarm is designed to operate against. In other words, the Alarm requires a response from a Responding Unit, and the underlying event, i.e., intrusion, holdup, fire, other emergency, has not occurred.

FIRE DEPARTMENT – The fire department which has responsibility for the territory encompassed by the Village of Ellicottville.

NOTICE – The ticket, including fee amount, or notice of appearance administered to an Alarm User that a False Alarm has occurred at the Alarm User's Alarm Site; the Notice will indicate the time and date of the False Alarm and the Responding Unit.

PERMIT – A permit obtained from the Village Clerk of Ellicottville, the purpose of which is to register an Alarm.

OCCUPANT - Person occupying the Alarm Site, including but not limited to the owner, renter or guest of the Alarm Site.

POLICE DEPARTMENT – The Ellicottville Police Department or its successors.

RESPONDING UNIT – The unit dispatched by the Cattaraugus County Communications Center to respond to the signal transmitted by an Alarm, including, but not limited to, the Fire Department, the Police Department and the Cattaraugus County Sheriff's Department.

Article III. Permit.

Alarm Users must obtain a Permit for any Alarm.

Article IV. Application for Permit.

An application for a Permit to install, maintain or operate an Alarm shall be filed with and supplied by the Village Clerk, together with the fee, as designated on the Alarm Fee Schedule. The application shall contain and set forth at least the following information: the name, address and telephone number of the Alarm Company that installed the Alarm and the Alarm User, together with the name, model number and serial number of the Alarm.

Article V. Compliance.

All presently existing and installed Alarms must be brought into compliance with the provisions of this Local Law on or before February 1, 2016.

Article VI. Annual Permit Fee.

The annual fee for an Alarm Permit shall be designated in the Alarm Fee Schedule. The year will run from February 1 through January 31, and permits must be renewed on or before February 1 of each year.

Article VI. Limitations.

No Alarm shall be connected to either the Police or Fire Department except in accordance with the provisions of this Local Law.

Article VII. False Alarms.

The Alarm Unit Coordinator shall issue a Notice to Alarm Users for first and second false alarms; Notices shall be sent to Alarm Users by regular mail and certified mail. The Alarm Unit Coordinator shall issue a Notice, including fee amount, to Alarm Users for the third False Alarm, and all subsequent False Alarms, as set out in the Alarm Fee Schedule. Failure to pay any False Alarm fee, within (10) days of the proof of receipt of the Notice sent by certified mail of such False Alarm, shall result in a doubling of such fee.

Article VIII. Automatic Cut Off System.

No Alarm shall be installed or maintained in any building, structure or establishment which does not contain an automatic cutoff system or feature, which automatically cuts off the source of power to the alarm after the alarm has sounded for a period of thirty minutes.

Article IX. Installation and Maintenance.

The installation and maintenance of the Alarm permitted by this Local Law, including connections to locations designated by the Police Department or Fire Department, or any other entity designated by the Village, shall be made at no cost to the Village. The Alarm User shall be responsible for the maintenance and service of the Alarm equipment and shall be responsible for all malfunctions of such equipment. If it is necessary to change the location for such Alarm, the Village shall not be responsible for any expenses incurred in connection therewith.

Article X. Appeals.

10.1 An Alarm User may appeal a Notice, and any associated fees, to the Alarm Unit Coordinator of the Department issuing the Notice. Appeal forms can be obtained from the Village Clerk and must be submitted with any appeal fees, as designated in the Alarm Fee Schedule. Appeal fees will be returned to the Alarm User if the appeal is granted. The filing of an appeal with the Alarm Unit Coordinator stays the assessment of the fee until the Alarm Unit Coordinator makes a final decision.

10.2 The Alarm User shall file a written appeal to the Alarm Unit Coordinator by setting forth the reasons for the appeal within ten (10) days after receipt of the Notice. The appeal shall be denied if the Alarm User failed to accept service, for any reason, within the ten (10) days of delivery of the certified mail Notice.

10.3 A second level of appeal is available to the Alarm Review Board ("Board") in cases where the Alarm User is not satisfied with the decision reached at a lower level.

10.3.1. The applicant Alarm User, or the Alarm Company on behalf of the Alarm User, may appeal the decision of the Alarm Unit Coordinator to the Board by filing a written request for a review setting forth the reasons for the appeal within twenty (20) days after receipt of the notice from the Alarm Unit Coordinator.

10.3.2. The Board shall conduct a formal hearing once a month, on a date and time to be designated by the Board, or as necessary, to consider relevant evidence by any interested person(s). The Board shall make its decision on the basis of the preponderance of evidence presented at the hearing. The Board shall render a decision within thirty (30) days after the appeal hearing is held. The Board may affirm, reverse or modify the assessment of the

fee. The decision of the Board is final as to administrative remedies of the Village of Ellicottville.

Filing a request for appeal shall stay the action by the Alarm Unit Coordinator suspending a registration or requiring payment of a fee, until the Board has completed the review. If a request for appeal is not made within the twenty day (20) period, then the action of the Alarm Unit Coordinator is final.

Article XI. Revocation of Permit.

The Permit for such Alarm shall be subject to revocation as follows:

1. Failure to pay the annual permit fee as provided for in this Local Law;
2. Failure to pay fees or fines imposed by reason of False Alarms;
3. Failure to install, maintain or operate such Alarm in accordance with the terms and conditions of any permit issued pursuant to this Local Law;

a. The Alarm Unit Coordinator, after inspection, may give written notice to the Alarm User of failure to comply with the terms of the Permit and may provide a grace period to bring such Alarm into compliance and shall provide an opportunity for the Alarm User to be heard by the Alarm Appeals Board.

Failure to pay any fees as set out in this Local Law and its accompanying Alarm Fee Schedule subjects the Alarm User to any legal remedies available to the Village, including, but not limited to, obtaining a civil judgment against the Alarm User.

b. The order revoking such permit shall be signed by the Alarm Unit Coordinator.

Article XII. Governmental Immunity.

Registration of an Alarm is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity is retained. By registering an Alarm, the Alarm User acknowledges that law enforcement response may be based on factors such as: availability of law enforcement units, priority of calls, weather conditions, traffic conditions, or emergency conditions staffing levels.

Village of Ellicottville

Local Law No. 7 **of the year 1975**

A local law to provide for the annexation of certain territory by the village of Ellicottville.

Be it enacted by the board of trustees **of the**

Village of Ellicottville **as follows:**

Section 1. The village of Ellicottville shall contain on and after the date specified in section 3 hereof, in addition to the territory heretofore contained with its boundaries, the following described territory, to wit;

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished by being part of Lot No. 32, in Township No. 4 in the 6th Range of Townships according to the Holland Land Company's Survey, bounded as follows:

Beginning at a point in the south bounds of the village of Ellicottville, where said south bounds intersect the easterly bounds of the changed or altered route (about 1903) of the Buffalo, Rochester and Pittsburgh Railway, now (1975) the Baltimore and Ohio Railroad; thence southerly along the easterly bounds of said railway's lands to the center of the Great Valley Creek, being the division line between the lands of the parties hereto; thence easterly along the center line of said creek to a point 235 feet distant, measured at right angles, from the center line of said changed or altered route of said railway; thence north 7° 17' west, 125 feet; thence north 85° 44' west, 135 feet, more or less, to a point 160 feet, measured at right angles, from the tangent to the center line of said changed or altered route of said railway; thence northerly on a line parallel with and 100 feet distant, measured at right angles, from the tangent to the east bounds, and 160 feet distant, also measured at right angles, from the tangent to the center line, of said changed or altered route, to the south bounds of said Village of Ellicottville; thence south 60° west along the south bounds of said village to the place of beginning; containing 2 1/8 acres of land, be the same more or less,

Being a portion of the premises conveyed to the Village of Ellicottville by Carrie Rogers by deed dated September 2, 1975 and recorded in the Cattaraugus County Clerk's Office in Liber 760 of Deeds at Page 102,

ALL TRACT OR PARCEL OF LAND. situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished by being a part of Lot No. Thirty-seven in the Fourth Township and Sixth Range of Townships of the Holland Land Company's Survey, bounded and described as follows: Northerly and easterly by the Great Valley Creek; southerly by the north bounds of the Searl (1904, Whitcome and 1971, James S. & Jeane E. Dineen) farms and westerly by the lands of the Baltimore and Ohio Railroad (formerly the Buffalo, Rochester and Pittsburgh Railroad).

Being the premises conveyed to the village of Ellicottville by Carl Hints and Nona Hints by deed dated December 29, 1971 and recorded in the Cattaraugus County Clerk's Office in Liber 725 of Deeds at Page 845.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished by being part of Lot No. 37, in Township No. 4, in the 6th Range of Townships of the Holland Land Company's Survey, bounded as follows: Beginning at a point in the easterly bounds of the lands and right-of-way of the Baltimore & Ohio Railroad at the distance of 42 chains, 48 links north from the south bounds of said Lot No. 37; thence southerly long said easterly bounds of the Baltimore & Ohio Railroad 1794.2 feet to a concrete monument; thence easterly on a line parallel with the south bounds of said Lot No. 37 at the distance of 21 chains 10 links northerly therefrom 301.1 feet to an iron pipe thence north 2° west 676.5 feet to an iron; thence south 88° east 144.8 feet to an iron; thence north 2° east 38 feet to the bank of the Great Valley Creek as the same now (1971) flows thence generally northwesterly along the bank of said Great Valley Creek, following its meanderings, to a point 42 chains 48 links northerly from the south bounds of said lot; thence westerly on a line parallel with and 42 chains 48 links northerly from the south line of said Lot No. 37. 639.15 feet to the place or beginning, containing nineteen and one-half acres more or less.

Being the promise Conveyed to the village of Ellicottville by James S. Dineen and Jean E. Dineen by deed dated December 29, 1971 and recorded in the Cattaraugus County Clerk's office in Liber 725 of Deeds at Page 847.

§2. The territory described in section 1 of this local law is hereby annexed to the Village of Ellicottville pursuant to the provisions of section 706, subdivision 1, and section 714 of the General Municipal Law.

§3. The annexation of the territory described in section 1 of this local law shall become effective on the 1st day of November, 1975.

§4. This local law will take effect immediately.

Village of Ellicottville

Local Law No. 1 **of the year 1983**

A local law to provide for the annexation of certain territory by the Village of Ellicottville

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

SECTION 1. The Village of Ellicottville shall contain on and after the date specified in Section 3 hereof; in addition to the territory heretofore contained within its boundaries, the following described territory, to wit;

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village and Township of Ellicottville, County of Cattaraugus, and State of New York, distinguished as being part of Lot No. 48 in Township 4, Range 6 of the Holland Land Company's Survey and more particularly described as follows:

BEGINNING at a point on the east bounds of Lot No, 48 at a point which is 2,107.38 feet southerly from the northeast corner of said Lot No, 48, said point of beginning also being the point of intersection of the center line of New York State Route 242 and the east bounds of said Lot No. 48; thence northerly and along the said east bounds of Lot No. 48, 400 feet to a point; thence westerly at an interior angle of 85° 32' 11", 354.82 feet to a point; thence southerly at an interior angle of 95° 00' 16", 400 feet to a point which is 10.87 feet southerly from the center line of New York State Route 242; thence easterly at an interior angle of 85° 2' 43" a distance of 358.59 feet more or less to the point or place of beginning.

Excepting therefrom all those parts of the above described premises which are presently situated within the corporate bounds of the Village of Ellicottville.

SECTION 2. The land annexed to the Village of Ellicottville as described in Section 1 shall be classified and zoned to form a portion of an "R-2 Residential District", and the zoning district map of the Village of Ellicottville, New York, is hereby amended accordingly.

SECTION 3. The territory described in Section 1 of this local law is hereby annexed to the Village of Ellicottville pursuant to the provisions of Section 714 of the General Municipal Law.

SECTION 4. The annexation of the territory described in Section I of this local law shall become effective on the 1st day of March, 1983.

SECTION 5. This local law shall take effect immediately.

Village of Ellicottville
Local Law No. 4 **of the year 2012**

A local law of the Village of Ellicottville for Authorizing the Use of the Best Value Procurement Standard.

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

SECTION 1. Purpose. The Board of Trustees of the Village of Ellicottville hereby enacts the following Local law pursuant to State of New York General Municipal Law§103(1) and of all other applicable laws.

SECTION 2. Definition of Best Value. Accordingly, the Village of Ellicottville hereby authorizes the use of the best value standard as part of Village procurement policies.

Best value is defined in New York State Finance Law§163. When awarding contracts under the best value standard, the Village must consider the overall combination of quality, price, and other elements of the required commodity or service that in total are optimal relative to the needs of the Village. Use of the best value standard must rely, wherever possible, on objective and quantifiable analysis. The best value standard may identify as a quantitative factor whether offerers are small businesses or certified minority or women-owned business enterprises as defined in New York Executive Law §310. The best value standard may only be used for purchase contracts, which includes contracts for service work, but excludes any purchase contracts necessary for the completion of a public works contract pursuant to Article Eight of the Labor Law.

SECTION 3. Procurement Policy. The Village of Ellicottville shall update its procurement policy in accordance with the provisions of this Local Law.

SECTION 4. Effective Date. This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

RESOLVED, that the Village of Ellicottville procurement policy is hereby amended by adding Guideline 4A as follows:

Guideline 4A. Notwithstanding the foregoing, the Village procurement policy pursuant to Village of Ellicottville Local Law No. 4 of the year 2012 and §103(1) of the New York General Municipal Law.

Village of Ellicottville

Local Law No. 4 of the year 2003

A local law prohibiting the use of bicycles, skateboards, in-line skates and roller skates on sidewalks in the business district of the Village

Be it enacted by the Board of Trustees of the

Village of Ellicottville as follows:

LOCAL LAW NO. 4 OF THE YEAR 2003

Section 1. Definitions. For the purposes of this local law, the following terms shall have the meanings indicated;

(a) Business District: The business district of the Village shall be Washington Street from Jefferson Street to Mill Street; Monroe Street from Elizabeth Street to Martha Street and Jefferson Street from Martha Street to Elizabeth Street.

(b) Bicycle: Every two or three wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it shall not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

(c) Skateboard: A single platform which is mounted on wheels, having no mechanism or other device with which to steer or control the direction of movement thereof while being used, operated, or ridden.

(d) In-line skate: A manufactured or assembled device consisting of an upper portion that is intended to be secured to a human foot, with a frame or chassis attached along the length of the bottom of such upper portion, with such frame or chassis holding two or more wheels that are longitudinally aligned and used to skate or glide, by means of human foot and leg power while having such device attached to each foot or leg.

(e) Roller skate: A manufactured or assembled device consisting of a frame or shoe having clamps or straps or both for fastening, with a pair of small wheels near the toe and another pair at the heel mounted or permanently attached thereto, skating or gliding by means of human foot and leg power.

Section 2. Use of Bicycles, Skateboards, In-Line Skates and Roller Skates Prohibited on Sidewalks in the Business District. No person shall use, operate, or ride upon any bicycle skateboard, in-line skates or roller skate on any sidewalk within the business district.

Section 3. Responsibility of parent or guardian. The parent of the minor child or the guardian of any minor shall not authorize or knowingly permit any such child to violate any of the provisions of this local law.

Section 4. Penalties for offenses; fees.

a) Any provision violating any provision of this local law shall be guilty of an offense and shall forfeit and pay a fine not to exceed \$50.00 for each and every offense.

(b) Any bicycle, skateboard, in-line skates and roller skates operated in violation of this local law may be immediately impounded. The Village shall store such impounded bicycle, skateboard, in-line skates and roller skates in a suitable secure location. No impounded bicycle, skateboard, in-line skates and roller skates may be released until all storage costs and fees have been paid. The violator shall be responsible for the payment of all such costs and fees. The per diem storage fee shall be \$2.00. The impound fee shall be \$10.00

Village of Ellicottville

Local Law No. 6 **of the year 2003**

A local law amending Local Law No. 4 of the Year 2003 prohibiting, use of bicycles, skateboards, in-line skates and roller skates on sidewalks in the business district of the Village

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

Section 1. Section 1 (a) of Local Law No. 4 of the Year 2003 entitled Business District shall be amended to read as follows:

(a) Business District: The business district of the Village shall be Washington Street from Adams Street to Mill Street; Monroe Street from Elizabeth Street to Martha Street; and Jefferson Street from Martha Street to Elizabeth Street.

Section 2. Section 1 of Local Law No. 4 of the Year 2003 entitled Definitions shall be amended by adding subdivision (f) as follows:

(f) Scooter. A wheeled device with two or more wheels propelled by the pushing motion of the rider's feet.

Section 3. Section 2 of Local Law No. 4 of the Year 2003 entitled Use of Bicycles, Skateboards, In-Line Skates and Roller Skates Prohibited on Sidewalks in the Business District shall be amended to read as follows:

Section 2. Use of Bicycles, Skateboards, In-Line Skates, Roller Skates, and Scooters Prohibited on Sidewalks in the Business District. No person shall use, operate, or ride upon any bicycle, skateboard, in-line skate, roller skate, or scooter on any sidewalk within the business district,

Section 4. Section 4 (b) of Local Law No. 4 of the Year 2003 shall be amended to read as follows:

(b) Any bicycle, skateboard, in-line skates, roller skates and scooter operated in violation of this local law may be immediately impounded. The Village shall store such impounded bicycle, skateboard, in-line skates, roller skates and scooter in a suitable secure location. No impounded bicycle, skateboard, in-line skates, roller skates or scooter may be released until all storage costs and fees have been paid. The violator shall be responsible for the payment of all such costs and fees. The per diem storage fee shall be \$2.00. The impound fee shall be \$10.00

Section 5. The title of Local Law No. 4 of the Year 2003 shall be amended to read as follows: A local law prohibiting use of bicycles, skateboards, in-line skates, roller skates, and scooters on sidewalks in the business district of the Village.

Section 6. This local law shall take effect immediately.

Village of Ellicottville
Local Law No. 4 **of the year 1975**

A local law *for administering and enforcing the State Building Construction Code and all other building regulations.*

Be it enacted by the board of trustees **of the Village of** Ellicottville**as follows:**

VILLAGE OF ELLICOTTVILLE
ADMINISTRATIVE LOCAL LAW - BUILDING INSPECTOR & BUILDING CODE

The board of trustees of the village of Ellicottville, having duly adopted a resolution accepting the applicability of the State Building Construction Code, hereby enacts the following administrative local law pursuant to the provisions of section 383 of the executive law of the state of New York and all other applicable laws:

Section 1. The mayor of the village of Ellicottville shall appoint a building inspector and may appoint one or more deputy building inspectors,

§2. The building inspector shall have all the powers relating to the administration and enforcement of the State Building Construction Code set forth in article 18 of the executive law and shall have the power to administer and enforce any and all other building regulations applicable to the village of Ellicottville under any other law or ordinance relating to building regulations now, or hereafter applicable to said village,

§3. A deputy building inspector shall have such powers and duties as may be delegated to him.

§4. The building inspector and any deputy building inspector may be appointed or employed by the village in conjunction with one or more other municipalities. The compensation of the building inspector and of the deputy building inspectors shall, from time to time, be fixed by the board of trustees.

§5. Neither the building inspector nor any deputy building inspector shall, during their respective terms of office or employment, be engaged directly or indirectly in any building business, or in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of any building or structure located on the Village of Ellicottville, or in the preparation of plans or specifications for building or structure so located.

§6. The building inspector shall keep permanent records of his office and shall make a monthly report thereof to the board of trustees. Such records and reports shall contain such information and shall be in such form as the board of trustees may prescribe.

§7. No person shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the building inspector for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature, and which cost less than five hundred dollars.

§8. Application for building permit shall be made to the building inspector or forms provided by him and shall contain the following information:

- a) A description of the land on which the proposed work is to be done;
- b) A statement of the use of occupancy of all parts of the land and proposed building or structure;
- c) The valuation of the proposed work;
- d) The full name and address of the owner and of the applicant, and the name and addresses of their responsible officers in any of them are corporations;
- e) A brief description of the nature of the proposed work;
- f) A duplicate set of plans and specifications as set forth in section ten; and
- g) Such other information as may reasonably be required by the building inspector to establish compliance of the proposed work with requirements of the applicable building laws, code, ordinances and regulations.

§9. Applications shall be made by the owner or lessee, or agent of either, or by the architect, professional engineer or builder employed in connection with the proposed work. When application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application,

§10. Each application for building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, width and grades of adjoining street, walks and alleys, and where required by the building inspector, details of structural, mechanical and electrical work, including computations, street diagrams and other essential technical data.

Plan and specifications shall bear the signature of the person responsible for the design and drawings and where required by section seven thousand three hundred seven of the education law of the State of New York, the seal of a licensed architect or a licensed professional engineer.

The building inspector may waive the requirements of filling plans and specifications for minor alterations.

§11. Applications for building permits shall be filed with the building inspector at the office of the village clerk and shall be accompanied by the following fees:

a) Demolition:	Costing up to \$500	No Fee
	Costing over \$500 up to \$2,000	\$5.00
	Costing over \$2,000	\$10.00
b) Repairs:	Costing up to \$500	No fee
	Costing over \$500 up to \$2,000	\$5.00
	For each \$1,000 thereafter	\$5.00

c) Construction:

Estimated value of construction or alteration or work:

Up to 1,000	\$10.00
For each additional \$1,000 or thereof up to and including 20,000	\$5.00
For each addition al \$1,000 or fraction thereof up to and including \$50,000	\$3.00
For each additional \$1,000 or fraction thereof exceeding \$50,000	\$2.00

Plumbing, heating, sprinkler, elevator or electrical work, etc. . Are included in the terms "construction or alteration work." When filed with complete plans, all such work is included one fee based on the total cost of building or structure, inclusive of such mechanical installations.

§12. After the work or demolition has been completed in compliance with the building permit, an application shall be made to the building inspector for the issuance of a certificate of occupancy (or of completion in the case of demolition), which shall be issued by him if, after inspection of the premises, it is determined that the provisions of the building permit, of the State Building Construction Code and of all other applicable codes, ordinances, rules and regulations have been complied with. It shall be unlawful for any person to occupy any building or structure, for which a building permit is required to be issued to permit work or demolition thereon, without first obtaining a certificate of occupancy.

§13. Applications for certificates of occupancy (or of completion) shall be filed with the building inspector and shall be accompanied by the following fee:

For work costing up to \$10,000	\$5.00
For work costing over \$10,000 and up to \$20,000	\$10.00
For work costing over \$20,000 and up to \$50,000	\$15.00
For work costing over \$50,000	\$20.00

§14. When demolition, repair or construction is to take place on land wholly exempt from real property taxation by the Village of Ellicottville (except veteran's exempt) no fee shall be charged for any building permit or certificate or occupancy or completion; and where the land is partially exempt under section 467 of the real property tax law the fees hereunder shall be reduced to the same extent as the rate of exemption allowed under that section.

§15. Any person who shall fail to comply with this local law, with the State Building Construction Code, with any rule or regulation made under either thereof, or with any order of the building inspector made under either thereof shall be deemed to have committed an offense against this local law punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or both such fine and imprisonment. Each day that the violation continues shall be deemed a separate offense.

§16. This local la shall take effect immediately.

Village of Ellicottville
Local Law No. 1 **of the year 1980**

A local law to amend the Village Ellicottville Administrative Local Law - Building Inspector & Building Code, in respect to fees.

Be it enacted by theboard of trustees.... **of the**
Village of Ellicottville..... **as follows:**

Section 1. Section eleven of the village of Ellicottville administrative local law - building inspector & building code, being local law number four of the year nineteen hundred seventy-five of the village of Ellicottville, is hereby amended to read as follows:

§11. Applications for building permits shall be filed with the building inspector at the office of the village clerk and shall be accompanied by the following fees:

- | | | |
|----------------|----------------------------------|---------|
| a) Demolition: | costing up to \$500 | no fee |
| | costing over \$500 up to \$2,000 | \$ 5.00 |
| | costing over \$2,000 | \$10.00 |
| b) Repairs: | costing up to \$5,000 | no fee |
| | for each \$1,000 thereafter | \$ 2.00 |

c) Construction:

Estimated value of construction or alteration work:

up to \$1,000	\$ 5.00
for each additional \$1,000 or fraction thereof up to and including \$20,000	\$ 3.00
for each additional \$1,000 or fraction thereof exceeding \$20,000	\$ 2.00

Plumbing, heating, sprinkler, elevator, electrical and similar work is included in the term construction or alteration work." When filed with complete plans, all such work is included under one fee based on the total cost of building or structure, inclusive of such mechanical installations.

§2. Section thirteen of such local law is hereby amended to read as follows:

§13. Applications for certificates of occupancy (or of completion) shall be filed with the building inspector and shall be accompanied by the following fee:

for work costing up to \$10,000	\$ 5.00
for work costing over \$10,000 and up to \$20,000	\$10.00
for work costing over \$20,000 and up to \$50,000	\$20.00
for work costing over \$50,000	\$30.00

§3. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 5 **of the year 2003**

A local law amending Local Law #4 of the Year 1975 entitled "A Local Law for Administering and enforcing the State Building Construction Code and All Other Building Regulations".

Be it enacted by theBoard of Trustees.**of the Village of** Ellicottville **as follows**

LOCAL LAW #5 OF THE YEAR 2003

SECTION 1. Section 12 of Local Law #4 of the Year 1975 entitled "A local law for administering and enforcing the State Building Construction Code and all other building regulations" shall be amended to read as follows:

§12. Certificate of Occupancy and Certificate of Zoning Compliance.

- (a) After the work or demolition has been completed in compliance with the building permit, an application shall be made to the building inspector for the issuance of a certificate of occupancy (or of completion in the case of demolition), which shall be issued by him if, after inspection of the premises, it is determined that the provisions of the building permit, of the State Building Construction Code and of all other applicable codes, ordinances, rules and regulations have been complied with and if there is compliance with subdivision (d) of this section 12.
- (b) No change shall be made in the use or occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued. A change of legal or equitable ownership is a change in occupancy under this section.
- (c) It shall be unlawful for any person to occupy any building or structure in which there has been a change in use or occupancy or for which a building permit is required to be issued to permit work or demolition thereon, without first obtaining a certificate of occupancy as required by this section.
- (d) No certificate of occupancy shall be issued without presentation to the building inspector of a certificate of zoning law compliance from the Village Zoning Enforcement Officer, certifying the following:
 - 1. That the premises are in compliance with the Village Zoning Law at the time of application for the certificate of occupancy.
 - 2. That the premises are not part of an unlawful subdivision of land in violation of the Village Zoning Law.
- (e) The fee for a certificate of zoning law compliance and certificate of occupancy shall be fixed by resolution of the Village Board of Trustees.

SECTION 2. Local Law #4 of the Year 1975 shall be further amended by adding Section 12-1 as follows:

§12-1. Inspections.

- (a) Before issuing a certificate of occupancy the building inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or in which there has been a change in the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time. There shall be maintained by the official inspection agency a record of all such inspections and examinations together with a record of violations of law..
- (b) Existing buildings not subject to inspection under subdivision (a) of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.
- (c) If entrance to make an inspection is refused or cannot be obtained the Village of Ellicottville after being notified by the inspector of the situation, may apply for a Warrant to make an inspection to any court of competent jurisdiction.
- (d) The periodic inspections to meet compliance with the above mentioned Provisions shall be agreed upon between the governing body and the official inspection agency.

SECTION 3. Section 15 of Local Law #4 of the Year 1975 shall be amended to read as follows:

§15. Violations

- (a) It shall be unlawful for any person, firm or corporation, to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of law or ordinance, as well as any rule or regulation promulgated by the municipality in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the municipality or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.
- (b) Any person who shall fail to comply with a written order within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendents or their agents, or any person taking part or assisting in the construction of use of the building who shall knowingly violate any of the applicable provisions of law, or any lawful, or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by fine or imprisonment or both. Each week that a violation continues shall be deemed a separate offense.
- (c) Whenever the designated inspector finds that there has been a violation of the State Uniform Code, this local law, or any rule or regulation adopted pursuant to this local law, a violation order shall be issued to the person or persons responsible by the local municipality of the issuing inspector.

- (d) Violation orders shall be in writing; shall identify the property of premises, shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance.
- (e) Violation orders may be served by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- (f) In case the owner, lessor, occupant or the agent of any of them shall fail, neglect, or refuse to remove, eliminate or abate the violation within the time specified, legal action shall be made to Village Court of the Village of Ellicottville or any other court of competent jurisdiction.

SECTION 4. Local Law #4 of the Year 1975 shall be amended by adding §15-1 as follows:

§15-1. Penalties.

- (a) Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this local law, rules or regulations adopted pursuant to this local law, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not more than \$250.00, or imprisonment not to exceed 15 days, or both, and each week such violation continues shall constitute a separate violation.
- (b) An action or proceeding in the name of the Village of Ellicottville may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this local law, any rules or regulations adopted pursuant to this local law, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law,

SECTION 5. Local Law #4 of the Year 1975 shall be amended by adding Section 15-2 as follows:

§15-2. Partial Invalidity.

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

SECTION 6. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 8 of the year 2006

A local law PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

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

**A LOCAL LAW PROVIDING FOR THE
ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING
CODE**

Local Law # 8 of 2006

Be it enacted by the Village Board of the Village of Ellicottville, in the County of Cattaraugus, as follows:

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Village. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS

In this local law:

"Building Permit" shall mean a permit issued pursuant to section 4 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Certificate of Occupancy" / "Certificate of Compliance"] shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

"Village" shall mean the Village of Ellicottville.

"Code Enforcement Officer" shall mean the Code Enforcement Officer appointed

pursuant to subdivision (b) of section 3 of this local law.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Compliance Order” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 4 of this local law.

“Operating Permit shall mean a permit issued pursuant to section 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this local law.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such

applications;

- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy / Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;
- (4) to issue Stop Work Orders;
- (5) to review and investigate complaints;
- (6) to issue orders pursuant to subdivision (a) of section 15 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the Village Board of this Village;
- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law, and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) Village Board shall appoint the Code Enforcement Officer. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by Village Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

- (d) One or more Inspectors may be appointed by Village Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Village Board of this Village.

SECTION 4. BUILDING PERMITS.

- (a) **Building Permits Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- (b) **Exemptions.** No Building Permit shall be required for work in any of the following categories:
 - (1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (Villagehouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
 - (2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (Villagehouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (Village houses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground
 - (4) installation of fences which are not part of an enclosure surrounding swimming pool;
 - (5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or MIA liquids;
 - (6) construction of temporary motion picture, television and theater stage

- sets and scenery;
- (7) installation of window awnings supported by an exterior wall of a one or two-family dwelling or multiple single-family dwellings (Villagehouses);
 - (8) installation of partitions or movable cases less than 5'-9" in height;
 - (9) painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - (12) repairs, provided that such repairs do not involve (1) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (ii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work.

The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. *Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:*

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) *the occupancy classification of any affected building or structure;*
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or

specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

(e) **Construction documents.** Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. How return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) **Issuance of Building Permits.** An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) **Building Permits to be displayed.** Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) **Work to be in accordance with construction documents.** All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a

directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) **Time limits.** Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12.7 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer,

(j) **Revocation or suspension of Building Permits.** If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

- (a) **Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.
- (b) **Elements of work to be inspected.** The following elements of the construction process shall be inspected made, where applicable:
- (1) work site prior to the issuance of a Building Permit;
 - (2) footing and foundation;
 - (3) preparation for concrete slab;

- (4) framing;
- (5) building systems, including underground and rough in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

c) **Inspection results.** After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) **Authority to issue.** The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
- (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) **Content of Stop Work Orders.** Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) **Service of Stop Work Orders.** The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail / certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) **Effect of Stop Work Order.** Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing,

taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) **Remedy not exclusive.** The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of the right and authority to pursue any other remedy or impose any other penalty under section 15 (Violations of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. (CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE)

(a) **Certificates of Occupancy / Certificates of Compliance** required. A **Certificate of Occupancy / Certificate of Compliance** shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

(b) Issuance of Certificates of Occupancy / Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections, and
- (2) flood hazard certifications.

(c) Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any,
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

(d) **Temporary Certificate.** The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment

has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) **Revocation or suspension of certificates.** If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Village shall promptly notify the Code Enforcement Officer of explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Village shall be identified and addressed in accordance with the procedures established by Local Law Number 6 of 2006, as

now in effect or as hereafter amended from time to time.

SECTION 10. OPERATING PERMITS.

- (a) **Operation Permits required.** Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:
- (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1 the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;
 - (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (3) use of pyrotechnic devices in assembly occupancies;
 - (4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more, and
 - (5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village Board of this Village.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- (b) **Applications for Operating Permits.** An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- (c) **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

- (d) **Multiple Activities.** In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- (e) **Duration of Operating Permits.** Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer,
- (f) **Revocation or suspension of Operating Permits.** If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- (g) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

- (a) **Inspections required.** Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
 - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
 - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this

subdivision, shall be performed at least once every thirty-six (36) months.

(b) **Inspections permitted.** In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting and inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(c) **OFPC Inspections.** Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and respons New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

- (1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- (2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

- (3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and
 - (4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.]
- (d) **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) if a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected; performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING.

- (a) The Code Enforcement Officer shall keep permanent official records of all

transactions and activities conducted by ait Code Enforcement Personnel, including records of:

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; and
- (9) all fees charged and collected.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

- (a) The Code Enforcement Officer shall annually submit to Village Board of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- (b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- (c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

SECTION 15: VIOLATIONS

- (a) **Compliance Orders.** The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail / certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the Compliance Order.
- (b) **Appearance Tickets.** The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- (c) **Civil Penalties.** In addition to those penalties prescribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Village.
- (d) **Injunctive Relief.** An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any

provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Village Board of this Village.

- (e) **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

SECTION 16: FEES

A fee schedule shall be established by resolution of the Village Board of this Village. Such fee schedule may thereafter be amended from time to time by resolution. The fees set forth in, or determined in accordance with such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of occupancy / Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

SECTION 17, INTERMUNICIPAL AGREEMENTS

The Village Board of the Village of Ellicottville may, by resolution, authorize the Village Mayor of this Village to enter into an agreement, in the name of Village, with other governments

to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

SECTION 18. PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

SECTION 19. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Village of ELLICOTTVILLE

Local Law No. 4 **of the year 2007**

A local law requiring permits for public improvements in the Village of Ellicottville

Be it enacted by the Village Board **of the**
Village of Ellicottville **as follows:**

§ 1 Actions Requiring Permit.

All improvements intended by a property owner or developer to be dedicated to the Village of Ellicottville or to be maintained by the Village of Ellicottville, either within a sub-division or as part of the development of a single parcel or lot, or public improvements and no such public improvement shall be installed without a public improvement permit issued by the Village of Ellicottville. With-out limitation, public improvement permits must be obtained for the construction of roadway pavements, curbs and gutters, sanitary sewers, ditches, channels, drainage systems, storm sewers and water mains.

§ 2 Applications.

Before the construction of any public improvement is commenced, the landowner or developer shall apply to the Village Engineer of the Village of Ellicottville for a public improvement permit for the construction thereof. The Application shall be made on a form provided by the Village Engineer and shall be based on complete plans and specifications for the public improvement project approved by the Village Engineer. Such plans and specifications shall include descriptions of the proposed public improvements, including locations, dimensions, type of material proposed to be used and detailed itemized quantities.

§ 3 Determination of Cost of improvements.

The estimated construction cost of the proposed public improvements shall be subject to the approval of the Village Engineer.

§ 4 Fees.

4.1 Public improvement permit fees are intended to recover the cost of inspection of the construction improvements. Such inspection shall be provided by the Village Engineer or by authorized agents or representatives of the Village Engineer. Fees for public improvement permits shall be determined on the basis of estimated construction costs of proposed public improvement permits and in accordance with the fee schedule for public improvement permits. The public improvement permit fees do not include survey or stake out work. Such survey and stake-out work is to be borne at the expense of the permit applicant with work to be done by competent, qualified personnel acceptable to the Village Engineer.

4.2 Public improvements permit fees shall be payable to the Village Clerk prior to the issuance of a public improvement permit pursuant to the provisions of this Local Law.

4.3. Public improvement permit fees shall be as follows:

Value of the Work	Fee Percentage
\$50,000 and less	8%
\$50,001 - \$250,000	6%
\$250,001 - \$500,000	5%
Greater than \$500,000	4.5%

§ 5 Performance Bond.

5.1 Where, by action of the Village Board, the owner is permitted to defer to a later date the construction of required public improvements, or subsequent part or phase of the development of a subdivision or single lot or parcel, the owner shall furnish and pay for a performance bond, acceptable to the Village Attorney, in an amount at least equal to one hundred percent (100%) of the estimated construction cost of said required public improvements. Such performance bond shall consolidate security for the construction of the public improvements, whose construction has been deferred, within the time specified by the Village Board, in accordance with approved plans and specifications and for the payment of all persons performing labor and furnishing materials in connection with such construction.

5.2 The application for a public improvement permit for any sub-division or parcel or lot where the construction of required improvements has been deferred shall state the name and address of the surety company that has furnished the performance bond and the amount of the performance bond.

5.3 The Village Board may accept that cash or certified funds be placed in escrow with the village in lieu of furnishing a performance bond. Such cash or certified funds will be released when the deferred work is completed and the Village Engineer has issued a certificate of approval.

§ 6 Maintenance Bond.

6.1 The owner shall furnish and pay for surety bonds, acceptable to the Village Attorney, for the maintenance, restoration and replacement of any parts of the public improvements where an unsatisfactory condition or damage develops due to defects in workmanship and materials, erosion, settlement of backfill or other causes within a period of one (1) year from the date of issue of the certificate of approval. The maintenance bond shall be for an amount at least equal to fifty percent (50%) of the estimated construction cost of the

proposed improvements.

6.2 The application for a public improvement permit shall state the name and address of the surety company that has furnished the maintenance bond and the amount of the maintenance bond.

§ 7 Special District Agreements.

Where applicable, prior to the issuance of a public improvement permit, the owner will be required to submit special district and homeowners' association agreements acceptable to the Village Attorney. Easements and right-of-Way Deeds for drainage purposes must be filed with the Cattaraugus County Clerk's Office prior to receipt of the public improvement permit.

§ 8 Requirements of owner's statement.

The application for a public improvement permit shall include statements by the owner, to be subscribed and sworn to before a notary public, to the effect that:

8.1 All work will be performed in accordance with approved plans and specifications and requirements of federal, state and local laws.

8.2 The owner will obtain and pay for all necessary permits.

8.3 The owner will commence work not later than sixty (60) days from the date of approval of the public improvement permit by the Village Board and will complete all work within one (1) year of said date of approval.

8.4 The owner will notify the Village Engineer forty-eight (48) hours before commencing work under the public improvement permit.

8.5 The owner is cognizant of the fact that the public improvement permit fee is based on work being performed during normal working hours (7:00 a.m. to 5:00 p.m.) Monday through Friday, except for legal holidays and that deviations from such schedule or hours will require Village Board approval and may also involve imposition of additional fees.

§ 9 Issuance of Certificate of Approval.

Upon completion of all work included in the public improvement permit in a manner satisfactory to the Village Engineer, the Village Engineer will issue a certificate of approval.

§ 10 Number of Application Copies.

Applications for public improvement permits shall be submitted in quadruplicate to the Village Clerk, together with four (4) complete sets of drawings (prints) and four (4) complete

copies of specifications for the project.

§ 11 Approval required.

Granting of a public improvement permit will be contingent upon approvals by the Village Engineering Department, the Village Highway Department and the Village Board. The public improvement permit shall not be effective until approval by the Village Board and until the Village Clerk has certified that the total public improvement permit fee has been paid.

§ 12 Effective Date.

The effective date of this Local Law shall be immediately.

Village of Ellicottville
Local Law No. 3 of the year 2018
A local law Amending Local Law#5 of the Year 2003
Be it enacted by the Board of Trustees of the
Village of Ellicottville as follows:

**Village of Ellicottville
Local Law No. 3 of 2018**

A Local Law Amending Local Law #5 of the Year 2003

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

Section 1: Section 1 of Local Law #5 of the Year 2003, which amended Section 12 of Local Law #4 of the Year 1975, shall be amended to read as follows:

§12. Certificate of Occupancy and Certificate of Zoning Compliance.

- (a) After the work or demolition has been completed in compliance with the building permit, an application shall be made to the building inspector for the issuance of a certificate of occupancy (or of completion in the case of demolition), which shall be issued by him if, after inspection of the premises, it is determined that the provisions of the building permit, of the State Building Construction Code and of all other applicable codes, ordinances, rules and regulations have been complied with and if there is compliance with subdivision (d) of this section 12.
- (b) No change shall be made in the use or occupancy classification or subclassification of an existing building, structure, or site, or portions thereof unless a certificate of occupancy authorizing such change shall have been issued.
- (c) It shall be unlawful for any person to occupy any building or structure in which there has been a change in use or occupancy classification or subclassification or for which a building permit is required to be issued to permit work or demolition thereon, without first obtaining a certificate of occupancy as required by this section.
- (d) No certificate of occupancy shall be issued without presentation to the building inspector of a certificate of zoning law compliance from the Village Zoning Enforcement Officer certifying the following:

1. That the premises are in compliance with the Village Zoning Law at the time of application for the certificate of occupancy.

2. That the premises are not part of an unlawful subdivision of land in violation of the Village Zoning Law.

- (e) The fee for a certificate of zoning law compliance and certificate of occupancy shall be fixed by resolution of the Village Board of Trustees.

Section 2: Section 2 of Local Law #5 of the Year 2003, which added Section 12-1 to Local Law #4 of the Year 1975, shall be amended to read as follows:

§12-1. Inspections.

- (a) Before issuing a certificate of occupancy the building inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or in which there has been a change in the use or occupancy classification or subclassification, and he may conduct such inspection as he deems appropriate from time to time. There shall be maintained by the official inspection agency a record of all such inspections and examinations together with a record of violations of law.
- (b) Existing buildings not subject to inspection under subdivision (a) of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.
- (c) If entrance to make an inspection is refused or cannot be obtained the Village of Ellicottville after being notified by the inspector of the situation, may apply for a warrant to make an inspection to any court of competent jurisdiction.
- (d) The periodic inspections to meet compliance with the above mentioned Provisions shall be agreed upon between the governing body and the official inspection agency.

Section 3: Severability. Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 4: Effective Date. This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Village of Ellicottville
Local Law No. 1**of the year 2017**
A local law A Local Law enacting a Code of Ethics for the Village Ellicottville
Be it enacted by theVillage of Ellicottville **of the**
Village of Ellicottville **as follows:**

**A LOCAL LAW ENACTING A CODE OF ETHICS
FOR THE VILLAGE OF ELLICOTTVILLE**

BE IT ENACTED by the Village Board (Board") of the Village of Ellicottville
("Village") as follows:

Article I. Title of Local Law.

This Local Law shall be entitled "A Local Law Enacting a Code of Ethics for the Village of Ellicottville" (*Local Law').

Article II. Authorization.

The Local Law is enacted pursuant to Gen. Mun. Law§806 and Mun. Home Rule Law §10. The ethical standards and prohibited conduct established by the Local Law are in addition to, and are not meant to condone by exclusion, any provisions prescribed by the statutes and common law of New York.

Article III. Statement of legislative intent.

The Board recognizes that New York enacted statutory provisions mandating Villages to establish rules and standards of ethical conduct for public officers and employees, which, if observed, can enhance public confidence in local government. The purpose of the Local Law is to implement this objective through the establishment of high standards of ethical conduct for Officers and Employees of the Village, to afford Officers and Employees of the Village guidance on such standards, to provide a means to enforce such standards, and to provide for the fair and effective administration of the Local Law.

Article IV. Definitions.

Officer: shall mean a member of any board, commission, district, council or other agency, department or unit of the government of the Village.

Employee: shall mean any officer or employee of the Village, whether paid or unpaid, including members of any administrative board, commission or other

agency thereof, whether serving in a full-time, part-time or advisory capacity. The term "Employee" does not include a person who is a member of a volunteer emergency services organization or a person who serves without compensation on a temporary Village committee and who is not otherwise an employee or officer of the Village.

Interest: shall mean a pecuniary or material benefit accruing to an Officer or Employee, a member of his or her household, his or her customer or client, or a significant contributor to his or her campaign.

Article V. Rules With Respect to Conflicts of Interest and Ethical Conduct.

a) An Officer or Employee shall not have any Interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties.

b) An Officer or Employee shall not have an Interest in any contract with the Village, whether individually or as a member of a board, nor shall Officers and Employees have the power or duty to negotiate, prepare, authorize or approve such contract or payments thereunder, audit bills or claims under such contract, or appoint any person who would have any of the powers or duties set forth herein.

c) An Officer or Employee having Village fiscal responsibilities shall not have an Interest in a bank or trust company designated as a depository of Village funds. This subsection does not prohibit ownership of up to five percent of the outstanding shares of such bank or trust company.

d) An Officer or Employee shall not accept other employment which will impair his independence of judgment in the exercise of his official duties.

e) An Officer or Employee shall not accept employment or engage in any business or professional activity which will require the disclosure of confidential information gained by reason of his official position or authority. An Officer or Employee, or former Officer or Employee, shall not disclose any confidential information acquired by him in the course of his official duties or use it to further personal interests.

f) An Officer or Employee shall not use, or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

g) An Officer or Employee shall not engage in any transaction as representative or agent of the Village with any business entity in which

he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

h) An Officer or Employee shall not make personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

i) An Officer or Employee shall pursue a course of conduct which will not raise suspicion, or give the impression among the public that he is likely to be engaging in acts that are in violation of his trust.

j) An Officer or Employee shall disclose any interest of which he is aware in any matters pending before any board of the Village.

k) An Officer or Employee shall not directly or indirectly solicit any gift or accept or receive any gift having a significant value, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or in any other form under such circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him in the performance of his official duties, or was intended as a reward for any official action on his part.

l) Town resources may not be used by an Officer or Employee in furtherance of his campaign activities, including, but not limited to, mass mailings, telephones, office supplies, postage, copying machines, computers or support staff.

m) An Officer or Employee shall not knowingly act contrary to a lawful resolution or motion duly adopted by the Board.

Article VI. Disclosure of Interest.

Any municipal officer or employee who has, will have, or later acquires an interest in an actual or proposed contract with the municipality or other matter pending before any board or agency thereof, shall publicly disclose the nature and extent of such interest in writing to the governing body thereof as soon as he has knowledge of such actual or prospective interest.

Article VII. Recusal.

Recusal is especially important as it relates to the potential appointment and/or employment of a family member. Recusal is required when a family member of a municipal official is being considered for a possible appointment to a position

within the government in which the official serves. It is imperative that the government official not participate in any discussion, deliberation and/or potential vote that may take place regarding hiring and/or appointment of the family member. Therefore, an Officer or Employee shall promptly recuse himself from acting on a matter, whether voting, appointing, or any other action, before the Village where acting on the matter may financially, or otherwise benefit, any of the following persons: (i) the Officer or Employee; (ii) his employer or business; (iii) a member of his household; (iv) his customer or client; (v) a person from whom the officer or employee has received significant election campaign contributions during the most recent election cycle. In the event that the Officer or Employee who shall recuse himself is the person responsible for making an appointment or hiring an employee, the responsibility to nominate or hire shall fall to a majority the Board.

Article VIII. Violations.

In the event that the Board determines that an Officer or Employee violated a provision of the Local Law, the Board may subject him to removal or any sanction or damages authorized by law.

Article IX. Administration,

Upon the adoption of the Local Law, the Mayor shall cause a copy to be distributed to every Officer or Employee of the Village and to keep a copy posted conspicuously in each public building under the jurisdiction of the Village. Failure to distribute or post the Local Law shall have no effect on its enforcement provisions or on an Officer or Employee's duty of compliance.

Article X. Severability Clause.

If any clause, sentence, paragraph, section or part of this local law shall be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Article XI. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

Village of Ellicottville

Local Law No. 1 of the year 2002

A local law to Create the position of Village Constable

Be it enacted by the Board of Trustees.....of the

Village of Ellicottville..... as follows:

LOCAL LAW #1 OF THE YEAR 2002

A Local Law to create the position of Village Constable.

SECTION 1. CREATION OF THE POSITION OF VILLAGE CONSTABLE.

There is hereby created the position of Village Constable who shall be appointed by the Mayor, subject to the approval of the Board of Trustees, and who shall have the powers and duties hereinafter set forth.

SECTION 2. COMPENSATION, BENEFITS, AND HOURS.

The compensation, benefits and hours of the Village Constable shall be fixed by the Board of Trustees. §

SECTION 3. POWER AND DUTIES OF VILLAGE CONSTABLE.

The Village Constable shall be a parking enforcement officer of the Village, and he shall also enforce the provisions of the Penal Law and Vehicle and Traffic Law of the State of New York and the local laws of the Village of Ellicottville when the violation of such local laws constitute a misdemeanor or violation, or traffic infraction. The Village Constable shall have the following powers in connection with the performance of the foregoing duties: 1. The power to make warrantless arrests pursuant to §140.25 of the Criminal Procedure Law; 2. The power to use physical force and deadly physical force in making an arrest or preventing an escape pursuant to §35.30 of the Penal Law; 3. The power to carry out warrantless searches whenever such searches are constitutionally permissible; 4. The power to issue appearance tickets pursuant to subdivision 3 of §150.20 of the Criminal Procedure Law; 5. The power to issue simplified traffic informations pursuant to §100.25 of the Criminal Procedure Law and §207 of the Vehicle and Traffic Law; 6. The power to issue uniform appearance tickets pursuant to article seventy one of the Environmental Conservation Law; 7. The power to possess and take custody of firearms not owned by the Village Constable, for the purpose of disposing, guarding, or any other lawful purpose consistent with his duties as a peace officer; 8. Any other power which a particular peace officer is otherwise authorized to exercise by any general, special or local law provided such power is not inconsistent with the provisions of the Penal Law or Criminal Procedure Law; and 9. Any other power granted to peace officers by §2.20 of the Criminal Procedure Law.

SECTION 3. TRAINING.

The Village shall comply with the peace officer training requirements of §2.30 of the Criminal Procedure Law.

SECTION 4. RESIDENCY.

The Village Constable shall be a resident of Cattaraugus County.

SECTION 5. EXERCISE OF HOME RULE PROVISION.

This local law is enacted pursuant to the home rule provisions of §10(1)(u)(a)(12) of the Municipal Home Rule Law.

SECTION 6.. EFFECTIVE DATE.

This local law shall take effect immediately,

Village of Ellicottville.....

Local Law No. 2 of the year 1981

A local law CURFEW FOR YOUTHS UNDER THE AGE OF 16 YEARS

Be it enacted by theBoard of Trustees..... of the
Village of Ellicottville as follows:

SECTION 1. ESTABLISHED: No minor actually or apparently under the age of sixteen years shall be abroad, or in the public streets, lanes, alleys, parks, or other public places in the Village of Ellicottville after the hour of 11:00 o'clock in the afternoon, unless accompanied by the parent or guardian or other adult person having authorized charge and control of such minor, or unless such minor in the performance of an errand of duty directed by said parent, guardian or other person having the care and custody of such minor person, or unless the business or employment of such minor person, engaged in with the consent of the parent or guardian or other custodian of such minor, makes it necessary to be upon the streets, other public places in said Village after the hours specified herein; provided, however, that this exception shall not apply when such minor shall be playing or unnecessarily loitering in on upon any street or other public place in said Village.

SECTION 2. RESPONSIBILITY: Any such minor who shall be found abroad, on or in any street or other public place within said Village, a peace officer or police officer having jurisdiction in said Village shall then and there investigate the facts and circumstances and make a report thereof in writing to the Chief of Police of the Village of Ellicottville, who shall maintain a record of all alleged violations of this Article, indexing same under the name of parent, guardian or other custodian of said minor.

SECTION 3. VIOLATIONS:

A.) Any minor found guilty of engaging in conduct prescribed by this Article shall be guilty of disorderly conduct and punishable therefore.

B.) Any parent, guardian or other custodian of any such minor who shall suffer or permit such minor to be abroad or upon the streets or other public places of said Village after the hours stated above, contrary to the provisions of this Article, and after such minor shall have been brought home by a peace officer or police officer, as stated above, shall be guilty of disorderly conduct and punishable therefore.

SECTION 4. EFFECTIVE DATE. This local law shall take effect upon its being duly filed with the Office of the Secretary of State and the Office of the State Comptroller.

Village ofEllicottville

Local OrdinancesArticle 1 of the year 1949

A local ordinances Article 1 section 3

Be it enacted by the board of trustees of the
Village of Ellicottville as follows:

Article 1
Section 3

Section #3.

No person shall permit to run at large within the village any dog of a dangerous nature or any bitch in heat. Any person harboring a dog for two or more days prior to any violation of this section shall be considered in control of such dog,

Ordinances were adopted to take effect July 25, 1949.

VILLAGE ORDINANCE .

TAKE NOTICE that the following is an ordinance duly adopted by the Board of Trustees of the Village of Ellicottville, New York on August 6, 1957 and entered in its Minutes

An ordinance to amend Article 1, Section 3 the ordinances of the Village of Ellicottville, to wit;

Section 3a

- (1) Definitions. The word "owner" includes a person harboring or keeping a dog. Any owner of a dog within the Village of Ellicottville must confine the dog to the premises at which the owner resides or keep the dog to a rope, chain or other leash, at all times.
- (2) Any dog which is not confined or leashed in the aforesaid manner shall be deemed a dog running at large.
- (3) Punishment. Other punishment provided in this Article to the contrary notwithstanding, any owner of a dog running at large shall be fined Five Dollars (\$5.00) for each subsequent offense.

This ordinance shall take effect immediately.

Dated August 13, 1957

Village of Ellicottville

Local Law No...... 2**of the year 1977**

A local law to amend Article I of the Ordinances of the Village as to dogs running at large.

Be it enacted by the board of trustees **of the Village of** Ellicottville**as follows:**

Section 1. Section 3a of Article I of the Ordinances of the Village of Ellicottville, adopted August 6, 1957, and any amendment thereof, is hereby repealed and a new section, to be Sec. 3-a, is hereby added, in lieu thereof, to read as follows:

Sec. 3-a,

(a) As used in this section: the word "dog" includes a female dog; the word "owner" includes a person harboring or keeping a dog; and the term "run at largo" means to be elsewhere than on the premises of the owner and unrestrained by an adequate rope, chain or leash.

(b) No person shall cause and no owner shall suffer or permit any dog, whether licensed or not, to run at large in the village. The fact that a dog is running at large in the village shall be presumptive evidence that the dog was permitted to run at large by its owner.

(c) Any other punishment provided in this article to the contrary notwithstanding, any person violating any provision of this section shall be: (1) subject to a civil penalty of not more than twenty-five dollars for the first violation, not more than fifty dollars for the second violation and not more than seventy-five dollars for the third violation and all subsequent violations; and (2) guilty of a violation as defined in the penal law punishable by a fine of not more than fifty dollars, by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

§2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 4 of the year 1987

A local law A local law relating to the control, confining and leashing of dogs

Be it enacted by the Board of Trustees of the

Village of Ellicottville as follows:

**VILLAGE OF ELLICOTTVILLE
LOCAL LAW NO. 4 OF THE YEAR 1987**

**A LOCAL LAW RELATING TO THE CONTROL,
CONFINING AND LEASHING OF DOGS.**

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

Section 1. Purpose:

The Village Board of the Village of Ellicottville finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons, damage to property and have created nuisances within the Village. The purpose of this local law is to protect the health, safety and well being of persons and property by imposing restrictions on keeping and running at large of dogs within the Village.

Section 2. Authority:

This local law is enacted pursuant to the provisions of Article Seven of the agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

Section 3. Title:

The title of this local law shall be "Dog Control Law of the Village of Ellicottville".

Section 4. Definition of Terms:

As used in this local law, the following words shall have the following respective meanings:

- a) Dog means male and female, licensed and unlicensed, members of the species *Canis Familiaris*.
- b) Owner means person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost, and such loss was promptly reported to the dog warden and a reasonable search has been made. If a dog is not licensed, the term owner shall designated and cover any person or persons, firm, association or corporation, who or which at any time owns or has custody or control of, harbors, or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one (1) week prior to the filing of any complaint charging a violation of this local law, shall be held and deemed to be the owner of such dog for the purpose of this local law. In the

event the owner of any dog found to be in violation of this chapter shall be under eighteen years of age, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog and violation of this local law.

- c) Run at large means to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.
- d) Village means the Village of Ellicottville.
- e) Dog Warden means a dog control officer on or after January 1, 1987, whether such dog control officer is appointed by the Village of Ellicottville or is appointed by another municipality under contract to enforce the terms of this local law for the Village of Ellicottville.

Section 4. Restrictions:

It shall be unlawful for any owner of any dog in the Village to permit or allow such dog to:

- a) Run at large unless an adequate leash restrains the dog or unless it is accompanied by its owner or a responsible person and under the full control of such owner or person.
- b) Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- c) Uproot, dig, or otherwise damage any vegetables, lawns, flowers, garden beds, or other property without the consent or approval of the owner thereof.
- d) Chase, jump upon or at or otherwise harass any person in such a manner as to reasonable cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- e) Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place, or upon private property without the consent or approval of the owner of such property.
- f) Create a nuisance by defecating, urinating or digging on public property, or on private property without the consent or approval of the owner of such property.
- g) If a female dog when in heat, be off the owner's premises unrestrained by a leash.

Section 6. Seizure of Dogs:

The procedure and impoundment of dogs in violation of Article 7 of the Agriculture and Markets Law and of Section 5 of the local law are as follows:

- a) The dog warden or any peace officer shall seize (1) any unlicensed dog whether on or off the owner's premises, (2) any dog not wearing a tag, and after January 1, 1987, not identified, and which is not on the owner's premises and (3) any dog found in violation of Section 5 of this local law. Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law. The dog warden or peace officer may also investigate and report to the Village Justice of the Village of Ellicottville any dangerous dog as described in Article 7 of the Agriculture and Markets Law, and see that the order of the Village Justice in such case is carried out.
- b) The dog warden or a peace officer having reasonable cause to believe that a person has

violated this local law shall issue and serve upon such person an appearance ticket for such violation.

- c) Any person who observes a dog in violation of this local law may file a complaint under oath with the Village Justice of the Village of Ellicottville specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this local law.

Section 7. Penalties:

Any person convicted of a violation of this local law shall be deemed to have committed a violation and shall be subject to a fine not exceeding \$250.00 or subject to imprisonment for a period not exceeding fifteen (15) days.

Section 8. Separability:

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 9. Repealed:

This local law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Village of Ellicottville and they shall be, upon the effectiveness of this local law, null and void

Section 10. Effective Date:

This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 2 **of the year 1999**

A local law A LOCAL LAW REQUIRING ANY PERSON OWNING, HARBORING, WALKING, OR IN CHARGE OF A DOG WHO ALLOWS THE DOG TO DEFECATE ON PUBLIC PROPERTY OR ON PRIVATE PROPERTY WITHOUT THE PERMISSION OF THE PROPERTY OWNER, TO REMOVE ALL FECES IMMEDIATELY AFTER IT IS DEPOSITED BY THE DOG.

Be it enacted by theBoard of Trustees.**of the**

Village of Ellicottville **as follows:**

LOCAL LAW NO. 2 OF THE YEAR 1999

A LOCAL LAW REQUIRING ANY PERSON OWNING, HARBORING, WALKING OR IN CHARGE OF A DOG WHO ALLOWS THE DOG TO DEFECATE ON PUBLIC PROPERTY OR ON PRIVATE PROPERTY WITHOUT THE PERMISSION OF THE PROPERTY OWNER, TO REMOVE ALL FECES IMMEDIATELY AFTER IT IS DEPOSITED BY THE DOG.

Be it enacted by the Board of Trustees of the Village of Ellicottville (hereinafter "Village") as follows:

Section 1. Any person owning, har boring, walking or in charge of a dog who allows the dog to defecate on public property, or on any private property without the permission of the property owner, shall remove all feces immediately after it is deposited by the dog. AU feces removed in accordance with this section shall be placed in a suitable bag or other container which closes, and removed for lawful disposal.

Section 2. The provisions of this local law shall not apply to blind persons using dogs as guides.

Section 3. Any police officer of the Village or other designee of the Board of Trustees who observes a violation of this section is hereby authorized to issue an appearance ticket setting forth a brief description of the circumstances of the violation.

Section 4. Any person who observes a violation of this section may appear before the Village Justice and sign an Information (criminal complaint). The Village Justice shall summon the person who allegedly violated this section of the local law to appear in person before him at a hearing, at which both the complainant and the alleged violator shall have an opportunity to be represented by counsel and to present evidence.

Section 5. Upon conviction, a violation of this local law shall be deemed an offense and punishable by a fine not exceeding twenty-five dollars for the first offense, and fifty dollars for each offense thereafter.

Section 6. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Board of Trustees of the Village of Ellicottville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 7. All Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 8. This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with section twenty given of the Municipal Home Rule Law.

Village of Ellicottville
Local Law No. 2 **of the year 2016**
A local law amending Local Law No. 4 of 1987 Relating to the Control, Confining and Leashing of Dogs
Be it enacted by the Village Board **of the**
Village of Ellicottville **as follows:**

LOCAL LAW NO. 2 2016

A LOCAL LAW AMENDING LOCAL LAW No. 4 OF 1987 RELATING TO THE CONTROL, CONFINING AND LEASHING OF DOGS

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board (“Board”) of the Village of Ellicottville, New York (“Village”) as follows:

Section 1: TITLE

This Local Law shall be known as the Local Law No. 2 - 2016, a Local Law Amending Local Law No. 4 of 1987 Relating to the Control, Confining and Leashing of Dogs

Section 2: PURPOSE

The Board finds that it is in the best interests of the Village and its residents that a dog owner is required to keep his or her dog on a leash at all times unless the dog is contained on private property with the permission of the property owner.

Section 3: AMEND LOCAL LAW No. 4 – 1987.

Section 4(a) Local Law No. 4 of 1987 is hereby amended as follows:

“It shall be unlawful for any owner of any dog in the Village to permit or allow such dog to run at large; a Dog Owner is required to keep his or her dog on a leash at all times unless the dog is contained on private property with the permission of the property owner.”

Section 4: EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York State Secretary of State.

Village ofEllicottville.....

Local Law No. 3 **of the year 1976**

A local law granting. partial exemption from real property taxation to certain persons sixty-five years of age or over.

Be it enacted by theboard of trustees..... **of the**

Village of Ellicottville **as follows:**

Section 1. A partial exemption from taxation by the village of Ellicottville is hereby granted to the persons, to the extent and in the manner now or hereafter provided by Section 467 of the real Property Tax Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of that section shall be four thousand dollars.

§2. This local law shall take effect immediately.

Village ofEllicottville

Local Law No. 5**of the year 1978**

A local law amending Local Law No. 3 of the year 1976 which granted partial exemption from real property taxation to certain persons sixty-five years of age or over.

Be it enacted by the board of trustees..... **of the**

Village Ellicottville..... **as follows:**

Section 1. Section 1 of Local Law no. 3 of the year 1976 is hereby amended to read as follows:

Section 1. A partial exemption from taxation by the village of Ellicottville is hereby granted to the persons, to the extent and in the manner now or hereafter provided by Section 467 of the Real Property Tax Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision. 3 of that section shall be four thousand eight hundred dollars (\$4,800.00).

Section 2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 2**of the year 1980**

A local law. amending Local Law No. 3 of the year 1976 which granted a partial exemption from real property taxation to certain persons sixty-five years of age or over and repealing Local Law No. 5 of the year 1978, a previous amendment.

Be it enacted by theBoard of Trustees..... **of the Village of**Ellicottville, New York..... **As follows:**

Section 1. Section 1 of Local Law No. 3 of the year 1976 is hereby amended to read as follows:

Section 1. A partial exemption from taxation by the Village of Ellicottville, New York is hereby granted to persons sixty-five years of age and older to the extent and in the manner nor or hereafter provided by Section 467 of the Real Property Tax Law of the State of New York, provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of Section 467 of said Real Property Tax Law shall be Five Thousand Five Hundred Dollars (\$5,500.00).

Section 2. Local Law No. 5 of the year 1978, which had previously amended Local Law No. 3 of the year 1976, is hereby repealed and replaced by this Local Law,

Section 3. This Local Law shall take effect immediately.

Village of Ellicottville

Local Law No..... 2of the year 1982

A local law to amend local law number three of the year nineteen hundred seventy-six, in relation to granting partial exemption from real property taxation.

Be it enacted by the.....board of trustees..... of the Village of Ellicottville as follows:

Section 1. Section one of local law number three of the year nineteen hundred seventy-six, as amended by local law number two of the year nineteen hundred eighty, is amended to read as follows:

Section 1. A partial exemption from taxation by the village of Ellicottville is hereby granted to the porsons, to the extent and in the manner now or hereafter provided by Section 467 of the Real Property Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of that section shall be five thousand eight hundred dollars.

§2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No..... 1 of the year 1984

A local law to amend local law number three of the year nineteen hundred seventy-six, in relation to granting partial exemption from real property taxation.

Be it enacted by the..... Board of trustees.....of the Village ofEllicottville..... is follows;

Section 1. Section one of local law number three of the year nineteen hundred seventy-six, as last amended by local law number two of the year nineteen hundred eighty-two, is amended to read as follows:

Section 1. A partial exemption from taxation by the village of Ellicottville is hereby granted to the persons, to the extent and in the manner now or hereafter provided by Section 467 of the Real Property Tax Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of that section shall be six thousand eight hundred dollars.

§2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No......4..... **of the year 1988**

A local law to amend local law number three of the year nineteen hundred seventy-six in relation to granting partial (caseti title) exemption from real property taxation.

Beit enacted by the Board of Trustees..... **of the**
of Ellicottville Ellicottville **as follows:**

Section 1. Section one of local law number three of the year nineteen hundred seventy-six, as last amended by local law number one of the year nineteen hundred eighty-four, is amended to read as follows:

Section 1. A partial exemption from taxation by the Village of Ellicottville is hereby granted to the persons, to the extent and in the manner now or hereafter provided by Section 467 of the Real Property Tax Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of that section shall be seven thousand eight hundred dollars.

Section 2. This local law shall take effect immediately.

Village of Ellicottville.....

Local Law No. 2**of the year 2001**

A local law to amend local law number three of the year nineteen hundred seventy-six, in relation to granting partial exemption from real property taxation.

Be it enacted by theBoard of Trustees.....**of the Village of** Ellicottville**as follows:**

Section 1. Section one of local law number three of the year nineteen hundred seventy six, as last amended, is amended to read as follows:

Section 1. A partial exemption from taxation by the Village of Ellicottville is hereby granted to the persons, to the extent and in the manner now or hereafter provided by Section 467 of the Real Property Tax Law; provided, however, that the amount of income used in applying paragraph (a) of subdivision 3 of that section shall be sixteen thousand five hundred dollars (\$16,500.00).

§2.This local law shall take effect on January 1, 2002.

Village of Ellicottville

Local Law No. 3**of the year 1984**

A local law in relation to the alternative veterans exemption from property taxation.

Be it enacted by the Board of Trustees.....**of the**

Village of Ellicottville**us follows:**

Section 1. The purpose of this local law is to provide that no exemption from real property taxes shall be granted pursuant to section 458-a of the real property tax law of the state of New York.

§2. Pursuant to the provisions of subdivision 4 of section 458-2 or the real property tax law of the state of New York, no exemption from real property taxes shall be granted pursuant to section 458-2 of the real property tax law for purposes of real property taxes levied for the village of Ellicottville.

§3. This local law shall take effect immediately.

Village ofEllicottville

Local Law No. 2**of the year 1998**

A local law repealing Local Law #3 of the year 1984 so as to allow veterans to use the alternate exemption provided by Section 458-a of the Real Property Tax Law of the State of New York.

Be it enacted by theBoard of Trustees.....**of the Village of** Ellicottville..... **as follows:**

Section 1. The purpose of this local law is to permit veterans as defined in Section 458-a of the Real Property Tax Law to use the alternative exemption provided in said Section 458-a.

Section 2. Local Law #3 of the year 1984 entitled, "A local law in relation to the alternative veteran's exemption from real property taxation" is hereby repealed so that the alternative exemption provisions of Section 458-a of the Real Property Tax Law shall be available to veterans as defined in Section 458-a.1(e) of the Real Property Tax Law.

Section 3. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 3 **of the year 1982**

A local law for FLOOD DAMAGE PREVENTION.

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36.

Be it enacted by the Board of Trustees **of the Village of** Ellicottville Cattaraugus County NY..... **as follows:**

**SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE**

1.1 FINDINGS

The Board of Trustees of the Village Ellicottville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ellicottville and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VO, VE, or V1-30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

"Building" means any structure built for support, shelter, or enclosure for occupancy or

storage.

"Cellar" - has the same meaning as "Basement".

"Coastal high hazard area" means the area subject to high velocity waters including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI - 30, VE, V or V.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

"Elevated building" means a non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Lowest Floor" means lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

"Mean Sea Level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the start of construction commenced on or after the effective date of this local law.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground,

"100-year Flood" has the same meaning as "Base Flood."

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.3-2 of this Law.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of construction" means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site,

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure, The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazards within the jurisdiction of the village of Ellicottville

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Village of Ellicottville of Cattaraugus County, New York", dated December 1978, with accompanying Flood Insurance Rate Maps and Flood Boundary Floodway Maps is hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and maps are on file at the

Town Hall

3.3 INTERPRETATION, CONFLICT WITH OTHER LAWS

This Local Law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local Law and any other applicable regulations. Any infraction of the provisions of this Local Law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this Local Law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Board of mistees from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local Law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Ellicottville , any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying development permit applications in accordance with its provisions.

4.2 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-1 APPLICATION STAGE

The following information is required where applicable:

- (a) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;
- (b) elevation in relation to mean sea level to which any non- residential structure will be flood-proofed;
- (c) when required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Section 5.1-3(1);
- (d) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 5.2; and
- (e) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2-2 CONSTRUCTION STAGE

Upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building. The floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected,

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to:

4.3-1 PERMIT APPLICATION REVIEW

- (1) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - (i) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
 - (ii) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of Section 5,1-5, Encroachments.

4.3-2 USE OF OTHER BASF FLOOD AND FLOODWAY DATA

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to Section 5.1-4 (4) in order to administer Section 5.2, SPECIFIC STANDARDS and Section 5.3 FLOODWAYS.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar,
- (2) For all new or substantially improved floodproofed structures:
 - (i) obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

- (ii) maintain the floodproofing certifications required in Sections 5.1 and 5.2.
- (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances when granted and Certificates of Compliance.

4.3-4 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

Base flood elevation data established pursuant to Section 3.2 and/or Section 4.3-2, when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

4.3-6 STOP WORK ORDERS

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this Local Law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 3.5 of this local Law.

4.3-7 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in

compliance with the requirements of either the Development Permit or the approved variance.

4.3-8 CERTIFICATE OF COMPLIANCE

- (1) It shall be unlawful to use or occupy or to permit the 'use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the local Administrator stating that the building or land conforms to the requirements of this Local Law.
- (2) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 4.3-7 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

5.1-1 ANCHORING

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured hanes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1-3 UTILITIES

- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service

facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required;

- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres .

5.1-5 ENCROACHMENTS

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 4.3-1(3), Permit Review. This may require the submission of additional technical data to assist in the determination,
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 4.3-2 or Section 5.1-4(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 4.3-2 the requirements of Section 5.3, Floodways, shall apply.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS and Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

5.2-1 RESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any resident structure shall:

- (1) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (2) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement' must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvements of any Commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

(iii) openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

(2) If the structure is to be floodproofed:

(i) a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(ii) a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

5.2-3 CONSTRUCTION STANDARDS FOR AREAS OF SPECIAL FLOOD HAZARDS WITHOUT BASE FLOOD ELEVATIONS

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 4.3-(2) or 2 feet above the highest adjacent grade where no elevation data is available,

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (iii) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

5.3 FLOODWAYS

Located within areas of special flood hazard are areas designated as floodways (see definition, Section 2.0). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 3.2 and Section 4,3-2, all encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Village Zoning Board of Appeals as established by Board of Trustees shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Village Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals. may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules,
- (4) In passing upon such applications, the Zoning Board of Appeals. shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factor of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions, including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 23 day of March 1987 by the Board of Trustees of the Village of Ellicottville of Cattaraugus County, New York, to be effective immediately

Village of Ellicottville
Local Law No. 1 **of the year 1994**

A local law FLOOD DAMAGE PREVENTION
as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

Be it enacted by the Village Board of Trustees **of the**

Village of Ellicottville Cattaraugus county, N.Y. **as follows:**

SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Board of Trustees of the Village of Ellicottville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ellicottville and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance,

"Area of shallow flooding" means a designated AO, AH or vo Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, vo, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100 year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Development" means any man-made change to improved or unimproved real state, including but not limited to buildings or other structures, mining, dredging, filling, paving,

excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or v, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate Flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots in which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicles" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters

for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Ellicottville

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency (COMPLETE ONE THROUGH FIVE AS NECESSARY):

- (1) Flood Insurance Rate Map (single panel) N0.360070 0001C whose effective date is May 2, 1994
- (2) A scientific and engineering report entitled "Flood Insurance Study, Village of Ellicottville New York, Cattaraugus County" dated May 2, 1994

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Village offices, Ellicottville, N.Y.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Ellicottville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the village of Ellicottville any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer (Building Inspector) is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$ 0.00 In addition, the applicant shall be responsible for reimbursing the Village of Ellicottville for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones

AI A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation,' certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of

Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones AI-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure

on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, change converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4 (1) and 4.4-4(2), and whether or not the structures contain basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,
 - (ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEM for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be

permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees other costs in relation to the application. The applicants must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

(1) New structures and substantial improvements to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces

5.2-2 CONSTRUCTION MATERIALS AND METHODS

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones AI-A30, AE or AH, and also Zone A if base floor elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria: .

(i) a minimum of two openings having a total net area of: not less than one square inch for every square foot of enclosed area subject to flooding; and

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on

all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in sub sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within zones AI-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) within zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2; STANDARDS

FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's 'FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1) (ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in zones AI-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone AI-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
 - (i) elevated in a manner such as required in paragraph 5.5(2), or
 - (ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (4) Within zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- (5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified-). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Village of Ellicottville shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities

and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structurell.
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Be it enacted this 14th day of March 1994 by the Board of Trustees of the village of Ellicottville Cattaraugus County, New York, to be effective immediately.

Village of Ellicottville
Local Law No. 3 **of the year 2014**

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

Be it enacted by the Board of Trustees.....**of the**
Village of Ellicottville**as follows:**

A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36

**SECTION 1.0 STATUTORY AUTHORIZATION AND
PURPOSE**

1.1 FINDINGS

The Board of Trustees of the Village of Ellicottville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ellicottville and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

(6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance,

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood

hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters;

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The

term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;
or

(2) any alteration of a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure",

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Ellicottville, Cattaraugus County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Village of Ellicottville, Community Number 360070, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Number:

360070 00010

whose effective date is May 2, 1994, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Village of Ellicottville, New York, Cattaraugus County" dated May 2, 1994.

(3) Letter of Map Revision, FEMA Case No. 14-02-1952P, effective February 4, 2015, amending panel 360070 0001C, Flood Insurance Study Profile 01P, 02P, 03P, 04P, 05P, 07P, 08P, and Floodway Data Table 2.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Village Clerk's Office, 1 W Washington Street, P.O. Box 475 Ellicottville, NY.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a

violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Ellicottville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Ellicottville, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer (Building Inspector) is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials,

drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$50.00. In addition, the applicant shall be responsible for reimbursing the Village of Ellicottville for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility flood proofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtained from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.
- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base

flood more than one foot at any location, or,

(ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize

- or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
 - (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2,

ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub section 5.4(1)(ii)

- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as Indicated in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

- (1) The Zoning Board of Appeals as established by the Village of Ellicottville shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions, including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

(6) Variances shall only be issued upon receiving written justification of:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would exceptional hardship to the applicant; and
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

SECTION 7.0
REPEAL OF LOCAL LAW NO. 1 OF THE YEAR 1994 ENTITLED
A LOCAL LAW FOR FLOOD DAMAGE PROTECTION

7.1 Local Law No. 1 of the Year 1994 entitled a local law for Flood Damage Protection is hereby repealed.

Be it enacted this 8th day of December , 2014 by the Board of Trustees of the

Village of Ellicottville, Cattaraugus County, New York, to be effective February 4, 2015,

Village of Ellicottville

Local Law No. 5 **of the year 1988**

A local law HISTORIC PRESERVATION

Be it enacted by the Board of Trustees. **of the**
Village ofEllicottville **as follows:**

Local Law relating to the establishment of landmarks or historic districts in the Village of Ellicottville.

Section 1. PURPOSE

It is hereby declared as a matter of public policy that the protection, enhancement, and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the Village of Ellicottville has many significant historic, architectural, and cultural resources which constitute its heritage, this act is intended to:

- (a) protect and enhance the landmarks and historic districts which represent distinctive elements of Ellicottville's historic, architectural, and cultural heritage;
- (b) foster civic pride in the accomplishments of the past;
- (c) protect and enhance Ellicottville's attractiveness to visitors and the support and stimulus to the economy thereby provided, and;
- (d) insure the harmonious, orderly, and efficient growth and development of the Village.

Section 2. DEFINITIONS

A. Alteration Permit.

A permit issued by the building inspector (Code Enforcement Officer) which is necessary before any work can be started which will occasion a material change in the use or appearance of a landmark or a structure, memorial or site within an historic district.

B. - Certificate Of Appropriateness.

A document evidencing approval by the Landmarks Preservation Commission of a proposal to make a material change of use or Appearance which must be obtained before an Alteration Permit may be issued.

C. Historic District.

An area which contained improvements which

- (1) have special character or special historic or aesthetic interest or value and
- (2) represents one or more periods of styles of architecture typical of one or more eras in the history of the Village, and
- (3) Cause such area, by reason of Such factors, to Constitute a visibly perceptible section of the Village.

D. Landmark.

A structure, memorial or site, or a group of structures or memorials, including the adjacent areas necessary for the proper appreciation of the landmark deemed worthy of preservation by reason of its value to the Village as:

- (1) an outstanding example of structure or memorial representative of its era:
- (2) one of the few remaining examples of an architectural style or combination of styles;
- (3) a place where an historical event of significance to the Village, region state or nation or representative activity of an era took place; or any structure, memorial, or site which has a special character, special historic and aesthetic interest and value as part of the development, heritage and cultural characteristics of the Village Of Ellicottville, including
- (4) sites of natural or ecological interest.

E. Material Change of Use or Appearance.

Material change of use or appearance includes:

- (1) any change in the type of use of land or of a structure or memorial
- (2) change or reconstruction or alteration of the size or external appearance of a structure or memorial;
- (3) change in the intensity of the use of land, such as an increase in the number of businesses manufacturing establishments, Offices or dwelling units in a structure
- (4) demolition of structure or memorials

(5) commencement of excavation;

(6) deposit of refuse, waste or fill on land not already used for that purpose, or which extends the height at any existing deposit: above the level of the land adjoining the site,

(7) Commencement or change in the location of advertising on the external part of any structure, and

(8) alteration of a shore, bank, or flood plain of a river stream, channel of any lake, pond artificial body of water.

Section 3. HISTORIC PRESERVATION COMMISSION

There is hereby created a Commission to be known as the Village Of Ellicottville Historic Preservation Commission.

(a) The commission shall consist of seven (7) members to be appointed, to the extent available in the community, by the mayor", subject to approval by the Village Board, as follows:

at least one shall be an architect:

at least one shall be an historian

at least one shall be a licensed real estate broker

at least one shall be an attorney:

at least one shall be a resident of an historic district

b) Commission members shall serve for a term of four years, with the exception of the initial term one of the seven members which shall be one year, one which shall be two years, and one which shall be three years.

(c) Commission members may be reappointed and may be removed for cause after a public hearing.

(d) Commission members shall serve without compensation.

Section 4. RULES OF THE COMMISSION

A. The Landmarks Preservation Commission shall elect from its membership a chairman, a vice chairman, and a secretary whose terms of office shall be fixed by the commission and shall have the right to vote. The chairman shall preside over the commission and shall have the right to vote. The vice-chairman shall, in cases of absence or disability of the chairman, perform the duties of the chairman. The secretary shall keep a record of all the resolutions, proceedings, and actions of the Landmarks Preservation Commission,

B. The Commission shall adopt rules for the transaction of its business which shall provide for the time and place of holding regular meetings. Regular meetings shall be held at least once each month. They shall provide for the calling of special meetings by the chairman or by at least four members of the Commission. All regular of Special meetings of the Commission shall be open to the public, and any person shall be entitled to appear and be heard on a matter before the Commission before it reaches its decision

C. The Commission shall keep a record, which shall be open to the public view, of its resolutions, Proceedings, and action. The vote op failure to vote of each member shall be recorded. The concurring affirmative vote of a simple majority of the total commission shall constitute approval of plans before it for review, or for the adoption of any resolution, motion, or other action of the Commission. The Commission shall submit an annual report of its activities to the Mayor and make such recommendations to the Village Board of Trustees as it deems necessary to carry out the principles of this local law.

Section 5, POWERS OF THE COMMISSION

The powers of the Commission shall include:

(i) Employment of staff and professional consultants as necessary to Carry out the duties of the Commission within the budgetary allowances.

(ii) Promulgation of rules and regulations as necessary For the conduct of its business.

(iii) Adoption of and publication of Criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.

(iv) Conduct Of Surveys of significant historic, architectural, Bod Cultural landmarks and historic districts within the Village,

(v)Designation of identified structures or resources as landmarks and historic districts.

(vi)Acceptance on behalf of the Village government of the donation of facade easements and development rights: the making of recommendations to the Village government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this local law,

(vii) Increasing public awareness of the value of historic, Cultural, and architectural preservation by developing and participating in public education programs.

(viii) Making recommendations to Village government concerning the utilization of state, federal,

or private funds to promote the preservation of landmarks and historic districts within the village.

(ix) Recommend acquisition of a landmark structure by the Village government where its preservation is essential to the purpose of this local law, and where private preservation is not feasible.

(x) Approval or disapproval of application for certification of appropriateness pursuant to this local law.

Section 6. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

a) The Commission may designate individual property as a landmark if it:

(i) Possesses special character or historic value as part of the aesthetic interest or value as part of the cultural, political, economic, or social history of the locality: region, state, or nation, or

(ii) Is identified with historic personages; or

(iii) Embodies the distinguishing characteristics of an architectural style; or

(iv) Is the work of a designer whose work has significantly influenced an age; or

(v) Because of a unique location or singular physical characteristic represents an established and familiar visual feature of the neighborhood;

(b) The Commission may designate a group of properties as a historic district if it:

(i) contains properties which meet one or more of the criteria for designation of a landmark; and

(ii) by reason of possessing such qualities, it constitutes a distinct section of the village.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Village Clerk's Office for public inspection.

(c) Notice of a proposed designation shall be sent by registered or certified mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Notice shall also be published at least once in a newspaper of general circulation not less than 7 days nor more than 15 days prior to the date of the public hearing. Once the Commission has issued a notice of a proposed designation, no building permits shall be issued by the Building Inspector (Code Enforcement Officer) until the Commission has made its decision.

(d) The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside the hearing.

(e) The Commission shall forward notice of each property designated as a landmark and of the boundaries of each designated distinct to the office of the Cattaraugus County Clerk for recording

Section 7 CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS

No person shall carry out any exterior alteration, restoration reconstruction, demolition, new construction, or moving of a landmark or property within the historic district, nor shall any person make any material change in the appearance of such a proper by texture of building materials, Siding materials, types of windows, doors, light fixtures. Signs, Sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Historic Preservation Commission...

Section B.CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

(a) In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not Consider charges to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley.

The Commission's decision shall be based upon the following principles:

- (i) properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible .
- (ii) any alteration of existing properties shall be compatible with its historic character: as well as the surrounding district; and
- (iii) new construction shall be compatible with the district in which it is located.

(b) In applying the principle of compatibility, the Commission shall consider the following factors

(i) the general design, character, and appropriateness to the property of proposed alteration or new construction.

(ii) the scale of the proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.

(iv) visual compatibility with surrounding properties: including portion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback.

(v) the importance of historic: architectural or other features to be significance of the property

Section 9. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE

(a) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application of such a certificate with the Historic Preservation Commission, the application shall contain:

(i) name, address, and telephone number of the applicant

(ii) location and photographs of the property

(iii) elevation drawing of proposed changes, if available.

(iv) perspective drawing including relationship to adjacent properties, if available

(v) samples of color materials to be used

(vi) where the proposal includes signs or lettering a scale drawing showing the type of lettering to be used: all dimensions and colors a description of material to be used, method of illumination, and a plan showing the sign's location on the property .

(vii) any other information which the Commission may deem necessary in order to visualize the proposed work.

(b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The certificate of appropriateness required by this local law shall be in addition to and not in lieu of any building permit that may be required by any other local law of the Village of Ellicottville.

(c) The Commission shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. The Commission shall approve, approve with modifications or deny the permit within 60 days from the receipt of the completed application and the close of the public hearing.

(d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered or certified mail and a copy filed with the Village Clerk's Office for public inspection. The Commission's decision shall state the reasons for the denying or modifying any application.

Section 10. HARDSHIP CRITERIA

(a) An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

(i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible:

(ii) the property can not be adapted for any other use, whether by current owner or by a purchaser, which would result in a reasonable return: and

(iii) efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(b) An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

(i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

Section 11. HARDSHIP APPLICATION PROCEDURE

(a) After receiving written notification from the Commission of the denial of a certificate of appropriateness an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.

(b) The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for the proponents and the opponents of the application to present their views.

(c) The applicant shall consult in good faith with the Commission, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

(d) All decisions of the Commission shall be in writing. A Copy shall be sent to the applicant by registered or Certified mail, and a copy filed with the Village Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

Section 12 ENFORCEMENT

All work performed pursuant to a certificate of appropriateness issued under this local law shall conform to any requirements included therein. It shall be the duty of the Building Inspector (Code Enforcement Office) to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Historic Preservation Commission, the Building Inspector (Code Enforcement Officer) shall issue a stop work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a Stop work order effect

Section 13. MAINTENANCE AND REPAIR REQUIRED

Nothing in this local shall be construed to prevent the orderly maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, color, or outward appearance.

No owner or person with an interest in real property designated as a landmark: or include within a historic district, shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgement of the Historic Preservation Commission, produce detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (a) Deterioration of exterior Wall or other verticle supports.
- (b) Deterioration of roofs or other horizontal members.
- (c) Deterioration of exterior chimneys.
- (d) Deterioration or crumbling of exterior stucco or mortar.
- (e) Ineffective Waterproofing of exterior Wall, roof or foundations, including broken windows or doors,
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

Section 14. VIOLATIONS

- (a) Failure to comply with any of the provisions of this local law shall be deemed a violation and the violator shall be 11 able for fine which Shall be established by the Village Board at its annual meeting. From the date of passage of this act until the first annual meeting thereafter, and until changed by the Village Board, the fine shall be not more than twenty five (\$25.00) for each day that the violation continues.
- (b) Any person who demolishes: alters constructs or permits a designated property to fall into a serious state of . disrepair in violation of this local law shall be required to restore the property and site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Village Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

Section 15. APPEALS

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 30 days of the decision, file a written application with the Village Zoning Board of Appeals for review of the decision.

Village of Ellicottville

Local Law No.1..... of the year 1993.

A local law Regulating The Use of Village Fire Hydrants

Be it enacted by theBoard of Trustees.of the

Village of Ellicottville.....as follows:

Section 1. Short Title

This local law shall be known and may be cited as "A Local Law Regulating The Use of Village Fire Hydrants."

Section 2. Purpose

In order to preserve, protect, and promote the health, safety, and welfare of the Village of Ellicottville and its inhabitants, it is necessary to regulate the use of Village fire hydrants.

Section 3. Prohibition

(a) No person shall turn on or attempt to turn on any fire hydrant owned by the Village of Ellicottville or connected to the Village water system without first having obtained a permit issued by the Village Superintendent of Public Works or his designates authorizing the person to whom the permit is issued to turn on a specified fire hydrant or hydrants at a specified date and time. Before issuing a permit the Superintendent of Public Works or his designates may require proof of financial responsibility and be satisfied of the applicant's knowledge of the necessary procedures to operate a fire hydrant.

(b) The provisions of Section 3(a) shall not apply to firemen responding to a fire emergency or to the use of the fire hydrants by the Ellicottville Fire Company, Inc. for practice drills or equipment testing authorized by the Chief of the Fire Company.

Section 4. Penalties

Any person who shall violate any of the provisions of this local law shall, upon conviction be subject to a fine not to exceed the sum of Two Hundred Fifty Dollars (\$250.00) or to imprisonment for a period not to exceed fifteen days, or both such fine and imprisonment.

Section 5. Effective Date This local law shall take effect immediately.

Village of Ellicottville
Local Law No. 2 **of the year 2015**

A local law authorizing the issuance of appearance tickets by public servants of the Village of Ellicottville.

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

LOCAL LAW NO. 2 OF THE YEAR 2015

A local law authorizing the issuance of appearance tickets by public servants of the Village of Ellicottville.

Section 1. The purpose of this Local Law is to authorize public servants of the Village of Ellicottville to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances, or rules and regulations of said Village which the public servants are authorized or required to enforce.

Section 2. The following public servants of the Village of Ellicottville are hereby authorized to issue and serve an appearance ticket with respect to violations of a state statute, a local law, ordinance, rule or regulation of the Village of Ellicottville that such public servants are, respectively, required or authorized to enforce:

- a. Building Inspector- Building, zoning, planning matters.

- b. Department of Public Works Superintendent- Local Law No. 3 of the year 1982 entitled a local law to require the owners and occupants of land to cut, trim, or remove brush, grass, rubbish and weeds as amended; Local Law No. 1 of the year 1994 entitled requiring removal of snow and ice deposit on Village sidewalks by operators of private snow removal equipment as amended; Local Law No. 2 of the year 1991 entitled a local law Regulating Solid Waste Management and Recycling in the Village of Ellicottville as amended together with any regulations adopted as authorized by Local Law No. 2 of the year 1991 and violations of Village local laws pertaining to the parking of motor vehicles. The Board of Trustees by resolution may designate an employee or employees of the Department of Public Works in addition to the Department of Public Works Superintendent to have authority to issue appearance tickets pursuant to this subdivision b.

c. Any other person or persons so authorized by the Board of Trustees of the Village of Ellicottville by resolution at an open meeting of the Board of Trustees of the Village of Ellicottville to enforce any provision of its local laws.

Section 3. Appearance tickets shall be in compliance with Article 150 of the Criminal Procedure Law of the State of New York.

Section 4. An appearance ticket other than for a parking violation shall be served personally.

Section 5. Village of Ellicottville public servants who have issued and served an appearance ticket must, at or before the time such appearance ticket is returnable, file or cause to be filed with the court in which it is returnable, an information or a simplified information or a misdemeanor complaint charging the person named in such appearance ticket with the offense specified therein. Nothing herein contained shall authorize the use of a simplified information when not authorized by law.

Section 6. This Local Law shall take effect immediately upon its filing in the office of the New York State of Secretary of State.

Village of Ellicottville

Local Law No. 3 **of the year 1982**

A local law to require the owners and occupants of land to cut, trim or remove brush, grass, rubbish and weeds.

Be it enacted by the board of trustees **of the Village of** Ellicottville **as follows:**

Section 1. the owners and occupants of land shall cut, trim or remove brush, high grass, rubbish and weeds and keep such land in a reasonably clean, sanitary and sightly condition.

§2. The owners and occupants of a lotabutting upon street shall keep cut and trimmed the grass and grass plots situated between the center of the street and a line connecting the parts of the building setting back from and nearest to the street and extending to the side lines of the lot, or if there be no building, between the center of the street all noxious weeds, long grass and other rank growths from such area; provided, however, this section shall not be construed to prevent the raising of garden or cultivated crops, nor to any land zoned for agricultural or forestry use, other than land immediately adjacent to a dwelling in such agricultural-forestry zone.

§3. The superintendent of the public works may cause a notice in writing to be served on the owner or occupant of land requiring compliance with any of the foregoing provisions of this local law within such time of not less than five days as may be specified in such notices. Service of such notice shall be made either personally or, if either the person to be served is a non-resident or after due diligence cannot be personally served within the village, by registered or certified mail addressed to his last known address.

§4. If any person served shall fail to comply with such notice the superintendent of public works may cause such grass, brush, rubbish, weeds or other materials to be cut, trimmed or removed by the village and the total cost thereof charged to removed from the persons so served.

§5. If the owner of land, or if there be more than one owner of any lot, any one of them, is served with such notice the total cost of such cutting, trimming or removal by the village may be assessed upon the real property on which such brush, grass, rubbish, weeds or rank growth are found, and shall constitute a lien and charge on real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected by the village treasurer in the manner provided by law for the collection of delinquent water rents.

§6. If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court operation to the part, provision or application directly involved in the controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances and the board of trustees hereby declares that it would have enacted this or application as the case may be, had the invalidity of such provision or application thereof been apparent.

§7. This local law shall take effect immediately.

Village of Ellicottville
Local Law No. 4 **of the year 2011**

A local law to amend Local Law No. 3 of the year 1982 entitled a local law to require the owner and occupants of land to cut, trim or remove brush, grass, rubbish and weeds.

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

LOCAL LAW NO. 4 OF THE YEAR 2011

A local law to amend Local Law No. 3 of the year 1982 entitled a local law to require the owner and occupants of land to cut, trim or remove brush, grass, rubbish and weeds.

SECTION 1. Local Law No. 3 of the year 1982 is hereby amended by adding Section 5A as follows:

5A. Removal of Brush and Leaves.

(1) The Village shall collect brush and leaves from curbside from the 1st day of April to the 30th day of November on the 1st Monday of each month, provided, however, that the Board of Trustees by resolution may change the dates of collection or terminate collection of leaves and brush.

(2) Brush shall consist of branches and trunk material from trees and shrubs grown on the premises but the branches and trunk material must not be longer than four feet nor wider in diameter than six inches.

(3) The Village will not collect cut grass and cut grass shall not be placed at curbside for collection.

(4) In order to be removed by the Village, brush and leaves shall be placed at curbside by 7:00 a.m. on the day designated for collection but brush and leaves shall not be placed at curbside at any time other than the day designated for collection by the Village and the 48 hour time period preceding 7:00 a.m. on the day designated for collection.

(5) Brush and leaves from the premises are the only vegetation which shall be placed at curbside.

(6) Upon conviction, violation of 5A (2), (3), (4), or (5) shall be deemed a violation and punishable by a fine not exceeding \$125.00.

SECTION 2. This local law shall take effect immediately upon filing in the office of the Secretary of State.

Village ofEllicottville

Local Law No. 1 of the year 2015

A local law to amend Local Law No. 3 of the year 1982 entitled a local law to require the owner and occupants of land to cut, trim or remove brush, grass, rubbish and weeds as amended by Local Law No. 4 of the Year 2011.

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

LOCAL LAW NO. 1 OF THE YEAR 2015

A local law to amend Local Law No. 3 of the year 1982 entitled a local law to require the owner and occupants of land to cut, trim or remove brush, grass, rubbish and weeds as amended by Local Law No. 4 of the Year 2011.

Section 1. Local Law No. 3 of the year 1982 Section 5 is hereby amended to provide as follows:

§5. If the owner of land, or if there be more than one owner of any lot, any one of them, is served with such notice the total cost of such cutting, trimming or removal by the village may be assessed upon the real property on which such brush, grass, rubbish, weeds or rank growth are found, and shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected by the village treasurer in the manner provided by law for the collection of delinquent water rents. The Village Clerk shall not accept the Village Tax on such real property affected under this section, unless the lien created pursuant to this section is paid at that time and place. In addition, upon conviction, violation of \$1 or \$2 of Local Law No. 3 of the year 1982 shall be deemed a violation and punishable by a fine not exceeding \$250.00.

Section 2. This local law shall take effect immediately upon filing in the office of the Secretary State.

Village of Ellicottville

Local Law No. 4 of the year 2018

A local law To amend 5A of Local Law No. 3 of the year 1982 and Local Law No.4 of the year 2011 To require the owner and occupants of land to out, trim or remove brush, leaves, yard debris, and other materials

Be it enacted by the *Board of Trustees* **of the**

Village of Ellicottville..... **as follows:**

LOCAL LAW NO. 4 OF THE YEAR 2018

A local law to amend §5A of Local Law No. 3 of the year 1982 and Local Law No. 4 of the year 2011 to require the owner and occupants of land to cut, trim, or remove brush, leaves, yard debris, and other materials.

Section 1. Local Law No. 4 of the year 2011 which created §5A of Local Law No. 3 of the year 1982 is hereby amended to provide as follows:

§5A. Removal of Brush, Leaves, Yard Debris, and other Materials

1. The Village Public Works division shall collect brush and leaves from the curbside of Village properties for (2) weeks in the spring and (2) weeks in the fall per calendar year as follows:

- a. Spring: Last Week of April and First Week of May
- b. Fall: Last Week of October and First Week of November

2. The Village Board of Trustees has the authority, by resolution, to change to dates of collection or terminate the collection of leaves and brush.

3. Brush and leaves are the only vegetation that shall be placed at the curb and collected by the Public Works division during the specified time frame. Brush shall consist only of tree branches and trunk materials from shrubs that are no longer than four feet in length and no wider than 6 inches in diameter

4. Any brush and leaves collected from a property within the Village and handled by a licensed landscape contractor for hire, shall be removed and disposed of by the hired contractor.

5. All other materials to include garbage, trash, and other waste materials shall be collected and disposed of in accordance with the most current waste collection contract in effect at the time.

6. Upon conviction, violation of §5A (3), (4), or (5) shall be deemed a violation and punishable by a fine not exceeding \$500.00.

§2. This local law shall take effect immediately upon filing in the office of the Secretary of State.

Village of Ellicottville

Local Law No. 7 of the year 2003

A Local Law imposing a moratorium prohibiting the Village Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals from conducting hearings and issuing approvals for any master planned development or subdivision or the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith and also prohibiting the issuance of demolition permits for a period of nine month

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

**VILLAGE OF ELLICOTTVILLE
LOCAL LAW #7 FOR 2003**

A LOCAL LAW IMPOSING A MORATORIUM PROHIBITING THE VILLAGE CODE ENFORCEMENT OFFICER, BUILDING INSPECTOR, PLANNING BOARD AND ZONING BOARD OF APPEALS FROM CONDUCTING HEARINGS AND ISSUING APPROVALS FOR ANY MASTER PLANNED DEVELOPMENT OR SUBDIVISION OR THE ISSUANCE OF ANY BUILDING PERMITS, SITE PLAN APPROVALS, CONDITIONAL USE PERMITS, OR VARIANCES IN CONNECTION THEREWITH AND ALSO PROHIBITING THE ISSUANCE OF DEMOLITION PERMITS FOR A PERIOD OF NINE MONTHS.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELLICOTTVILLE, AS FOLLOWS:

SECTION 1. TITLE: This law shall be known as the Moratorium Law of 2003-2004 of the Village of Ellicottville.

SECTION 2. LEGISLATIVE INTENT: The Village of Ellicottville is at the hub of a major ski recreation area of the Northeast. It is also a residential community with a defined business and commercial area and a rich historical and architectural background, the continuance of which is vital to the economic and social health of the Village. In 1991 the Zoning Law of the Village of Ellicottville was enacted by the Board of Trustees, and there has been no major review of Village Zoning since passage of the 1991 Zoning Law. The Mayor has appointed a committee with approval of the Village Board to prepare a comprehensive plan for the Village. The Comprehensive Plan Committee has commenced its work of formulating a comprehensive plan, and once a comprehensive plan is approved by the Village Board, the current Zoning Law will be reviewed to determine any changes needed in the Zoning Law. The Board of Trustees finds that until the aforementioned planning process is complete and any Zoning Law changes are in

place as deemed necessary by the Board of Trustees, it is necessary to impose a moratorium on the issuance of approvals for master planned developments, subdivisions and the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith. In addition, to insure preservation of the architectural and historical integrity of the Village during the foregoing process, there also needs to be a moratorium on issuance of demolition permits unless necessary to alleviate a health hazard as determined by the Board of Trustees.

SECTION 3. MORATORIUM: For a period of nine (9) months from the date of adoption of this Local Law, the Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals are prohibited from conducting hearings and issuing approvals for any master planned developments or subdivisions or the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith. In addition, during the same nine (9) month period, there shall be no demolition permits issued by the Village unless necessary to alleviate a health hazard as determined by the Board of Trustees.

SECTION 4. APPLICATION: This Local Law shall apply to all applications relating to master planned developments, subdivisions and demolition permits now pending or hereafter received by the Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals.

SECTION 5. CONFLICT WITH OTHER LAWS: This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supersedes any section of the Zoning Law of the Village of Ellicottville adopted in 1991 and of the Village Law of the State of New York, or any other law which requires that the Code Enforcement Officer, Building Inspector, Planning Board or Zoning Board of Appeals act upon applications within limited time periods including the following local laws and statutes:

1. The Zoning Law of the Village of Ellicottville adopted in 1991 Section 4, Section 6, Section 7, Section 8 (3) (B), Section 9.
2. §712-a, subdivision 8 of the Village Law of the State of New York adopted by the Laws of 1991, Chapter 692.
3. §7-725-a, subdivision 8 of the Village Law of the State of New York adopted by Laws of 1992, Chapter 694 as amended by the Laws of 1995, Chapter 423.
4. §7-725-6, subdivision 6 of the Village Law of the State of New York adopted by Laws of 1992, Chapter 694 as amended by the Laws of 1994, Chapter 486.
5. §7-728, subdivision 5 (d) (i)(ii) (iii) of the Village Law of the State of New York adopted by Laws of 1992, Chapter 727 as amended by Laws of 1994, Chapter 486, Laws of 1995, Chapter 423, Laws of 1996, Chapter 235 and Laws of 1997, Chapter 458.
6. §7-728, subdivision 5 (e) (i) (ii) (iii) of the Village Law of the State of New York adopted by Laws of 1992, Chapter 727 as amended by Laws of 1994, Chapter 486, Laws of

- 1995, Chapter 423, Laws of 1996, Chapter 235 and Laws of 1997, Chapter 458.
7. §7-728, subdivision 6 (b) and 6 (d) (i) (ii) of the Village Law of the State of New York adopted by Laws of 1992, Chapter 727 as amended by Laws of 1994, Chapter 486, Laws of 1995, Chapter 423, Laws of 1996, Chapter 235 and Laws of 1997, Chapter 458.
 8. §7-728, subdivision 8 of the Village Law of the State of New York adopted by Laws of 1994, Chapter 486 as amended by Laws of 1995, Chapter 423, Laws of 1996, Chapter 235, and Laws of 1997, Chapter 458.
 9. Village of Ellicottville Local law No. 4 of the year 1975 as amended by Local Law 5 of the year 2003.

SECTION 6. PARTIAL INVALIDITY. If any section of this Local Law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

SECTION 7. EFFECTIVE DATE: This Local law shall take effect immediately and shall remain in force and effect for a period of nine (9) months from the date of its adoption by the Board of Trustees of the Village of Ellicottville.

Village of Ellicottville

Local Law No. 1 of the year 2008

A local law imposing a moratorium prohibiting the Village Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals from conducting hearings and issuing approvals for any drive-through establishments in the Village Commercial District - One (VC-1) or the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith for a period of one year.

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

**VILLAGE OF ELLICOTTVILLE
LOCAL LAW #1 FOR 2008**

A LOCAL LAW IMPOSING A MORATORIUM PROHIBITING THE VILLAGE CODE ENFORCEMENT OFFICER, BUILDING INSPECTOR, PLANNING BOARD AND ZONING BOARD OF APPEALS FROM CONDUCTING HEARINGS AND ISSUING APPROVALS FOR ANY DRIVE THROUGH ESTABLISHMENTS IN THE VILLAGE COMMERCIAL DISTRICT - ONE (VC-1) OR THE ISSUANCE OF ANY BUILDING PERMITS, SITE PLAN APPROVALS, CONDITIONAL USE PERMITS, OR VARIANCES IN CONNECTION THEREWITH FOR A PERIOD OF ONE YEAR.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELLICOTTVILLE, AS FOLLOWS:

SECTION 1. TITLE: This law shall be known as the VC-1 Drive-Through Establishment Moratorium Law of 2008 of the Village of Ellicottville.

SECTION 2. LEGISLATIVE INTENT: The Village of Ellicottville is currently reviewing its Zoning Local Law and the Board of Trustees finds that until the foregoing review is complete and any Zoning Law changes are in place as deemed necessary by the Board of Trustees, including possible restrictions on drive-through establishments, it is necessary to impose a moratorium on the issuance of approvals for drive-through establishments in the Village Commercial District - One (VC-1) and the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith.

SECTION 3. DEFINITIONS:

1. The following words and terms wherever they occur in this Local law, shall be interpreted as herein defined:

a. Drive-Through Establishment: An establishment wherein the sale of goods or delivery of services is provided directly to patrons while seated in motor vehicles located on the premises.

SECTION 4. MORATORIUM: For a period of one year from the date of adoption of this Local Law, the Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals are prohibited from conducting hearings and issuing approvals for any drive-through

establishments in the Village Commercial District - One (VC-1) or the issuance of any building permits, site plan approvals, conditional use permits, or variances in connection therewith.

SECTION 5. EXISTING DRIVE-THROUGH ESTABLISHMENTS: Existing drive-through establishments shall not be subject to the provisions of this Local Law but the drive-through portion of such establishments shall be subject to the non-conforming use provisions of the Village of Ellicottville Zoning Local Law.

SECTION 6. APPLICATION: This Local Law shall apply to all applications relating to drive through establishments in the Village Commercial District – One (VC-1) now pending or hereafter received by the Code Enforcement Officer, Building Inspector, Planning Board and Zoning Board of Appeals.

SECTION 7. CONFLICT WITH OTHER LAWS: This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supersedes any section of the Zoning Law of the Village of Ellicottville adopted in 2005 and of the Village Law of the State of New York, or any other law which requires that the Code Enforcement Officer, Building Inspector, Planning Board or Zoning Board of Appeals act upon applications within limited time periods including the following local laws and statutes:

1. The Zoning Law of the Village of Ellicottville as amended and adopted on January 10, 2005 Section 4, Section 6, Section 18, and Section 19.
2. §712-a, subdivision 8 of the Village Law of the State of New York adopted by the Laws of 1991, Chapter 692.
3. §7-725-a, subdivision 8 of the Village Law of the State of New York adopted by Laws of 1992, Chapter 694 as amended by the Laws of 1995, Chapter 423.
4. §7-725-b, subdivision 6 of the Village Law of the State of New York adopted by Laws of 1992, Chapter 694 as amended by the Laws of 1994, Chapter 486.
5. Village of Ellicottville Local law No. 4 of the year 1975 as amended by Local Law 5 of the year 2003.

SECTION 8. PARTIAL INVALIDITY. If any section of this Local Law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

SECTION 9. EFFECTIVE DATE: This Local law shall take effect immediately and shall remain in force and effect for a period of one year from the date of its adoption by the Board of Trustees of the Village of Ellicottville.

Village of Ellicottville
Local Law No. 1 **of the year 1985**

A local law to prevent excessive, disturbing, unnecessary or unreasonable noise

Be it enacted by the board of trustees..... **of the**
Village of Ellicottville **as follows:**

Section 1. Short title.

This local law shall be known and be cited as "VILLAGE OF ELLICOTTVILLE NOISE LOCAL LAW."

Section 2. Purpose

In order to preserve, protect and promote the health, comfort, safety, welfare and peace of the Village of Ellicottville and its inhabitants, it is necessary to regulate noise within the Village and to prevent excessive, disturbing, unnecessary or unreasonable noise therein.

Section 3. Prohibition

Except as hereinafter provided, it shall be unlawful for any person to make, continue, aid, countenance, cause to be made or to assist in making any excessive, disturbing, unnecessary or unreasonable noise.

Section 4. Standards

Standards to be considered in determining whether any sound existing in a given situation constitutes excessive, disturbing, unnecessary or unreasonable noise within the prohibition of local law including:

- a. The volume of the sound
- b. The intensity of the sound
- c. Whether the sound is usual or unusual
- d. Whether the origin of the sound is natural or unnatural
- e. The volume and intensity of background sound, if any
- f. The proximity of the source of the sound to residential sleeping facilities
- g. The time of day or night the sound occurs
- h. The duration of the sound
- i. Whether the sound source is temporary
- j. Whether the sound is continuous, impulsive

Section 5. Enumeration of unnecessary and unreasonable noise

The following acts, among others, are declared to cause excessive, disturbing, unnecessary and unreasonable noise in violation of this local law, but any enumeration shall not be deemed to be exclusive;

- a) Horns, signaling devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle, other than an emergency vehicle
- b) Bands, musical instruments, radio etc. The playing of music or other production of sound by and band, orchestra, radio, television receiver, phonograph, musical instrument or other device for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of any neighboring inhabitant or at any time with louder volume than necessary for convenient hearing for the person or persons who are voluntary listeners thereto, except in special occasion for which a permit is first obtained as hereinafter provided. The playing or operating of any such band, instrument or device between the hours of 10:00p.m. and 7:00 a.m. without such a permit and in a manner as to be plainly audible on adjacent property shall be prima facie evidence of a violation of this local law.
- c) Loudspeakers and amplifiers for advertising. The use, operation or permitting to be used or operated of radio or television receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other device for the production or reproduction of sound which is cast upon the public street for the purpose of commercial advertising.
- d) Yelling, shouting etc.
 - 1. Yelling, Shouting, hooting, whistling or singing on the public streets or public place between the hours of 10:00 P.M. and 7:00 a.m.
 - 2. Shouting and crying of peddlers, hawkers and vendors.
- e) Firecrackers and gun. The firing or discharge of firecrackers or other explosive substance, except on some special celebration or occasion for which a permit is first obtained as hereinafter provided; and the firing or discharge of a gun, rifle, pistol or other firearm within five hundred (500) feet of any building.
- f) Animals. The keeping or harboring of any animal which by causing frequent, loud or continuous noise shall disturb the comfort, peace or repose of any person in the village.
- g) Exhaust of engines. The discharge into the open air of the exhaust of any steam engine, internal combustion engine, air compressor or motor vehicle engine, except through a muffler or other devices which is effective to prevent loud or excessive noise therefrom.

Section 6. Permitted noises

The following are specifically determined to be permitted noise:

- a) Sound created by persons engaged in construction or farming work during the hours of 7:30 a.m. to 8:00 p.m. weekdays, including, but not limited to building, repairing, grinding, leveling, excavating, plowing, planting, cultivating, harvesting and other farm-related noises.
- b) Sound created by any government agent or agency by the use of signaling or public warning devices,
- c) Sound created by lawn mowers or power tools in use between the hours of 7:30 a.m. and 9:00 p.m. weekdays and 10:00 a.m. and 8:00 p.m. Sundays.

- d) Sound created by public utilities or cable television franchisees in carrying out the operation of their franchises.
- e) Sound connected with sporting or other authorized events of any public or private school.
- f) Sounds necessarily connected with special events for which a permit has been obtained as hereinafter provided.

Section 7. Permits

- a) Upon written application containing such information as may be reasonably necessary to determine the propriety of granting the same the village clerk may issue any permit authorized by this local law.
- b) Such permit shall specify the date, time and place of the permitted event, and the person to whom the same is issued, and shall not be transferable to any other person. A copy of the permit, or a placard issued for that purpose, shall be conspicuously displayed on the premises issued as to which the permit is issued at all times while the permit is in effect.

Section 8. Separability

If any clause, sentence, paragraph or part of this local law shall be adjudged by any court of competent jurisdiction to be valid, such determination shall not affect, impair or invalidate the remainder of this local law.

Section 9. Penalties

Any person who shall violate any of the provisions of this local law shall, upon conviction, be subject to a fine not to exceed the sum of Two Hundred Fifty Dollars (\$250.00) or to imprisonment for a period not to exceed fifteen days or both such fine and imprisonment. The continuation of a violation of this local law shall constitute a separate and distinct offense for each separate day or part thereof that the violation is continued or renewed

Section 10. Effective date

This local law shall take effect immediately

Village ofEllicottville
Local Law No. 6 **of the year 2006**
A local law to control Noise within the Village
Be it enacted by the Board of Trustees**of the**
Village of Ellicottville..... **as follows:**

LOCAL LAW NO. 6 OF THE YEAR 2006

Section 1. Legislative Intent

The making and creating of disturbing or excessive noise within the jurisdictional limits of the Village is a condition, which has persisted, and the level and frequency of occurrences of such noises continues to increase. The noise levels are a detriment to the public health, comfort, convenience, safety, and welfare of the citizens. Every person is entitled to an environment in which disturbing, excessive, or offensive noise is not detrimental to his or her life, health, or enjoyment of property. The law is to be construed liberally, but is not intended to be construed as to discourage the enjoyment by residents of normal, reasonable and usual activities.

Section 2. Prohibited Acts

- a) No person with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof shall cause, suffer or allow or permit to be unreasonable noise. For the purposes of this law, unreasonable noise is any disturbing, excessive or offensive sound that disturbs a reasonable person of normal sensitivities.
- b) The following acts are declared to be prima facie evidence of a violation of this law. This enumeration shall not be deemed exclusive.
 - 1. Any unnecessary noise from any source between the hours of 11:00 PM and 7:00 AM the following day.
 - 2. Noise from a dog or other domestic animal that is continuous and exceeds fifteen (15) minutes.
 - 3. Noise from a burglar alarm or other alarm system of any building, motor vehicle, or boat which is continuous and exceeds fifteen (15) minutes
 - 4. Noise from any sound reproduction system, operating or playing any radio, or portable radio or tape player, television, tape deck or similar device that reproduces or amplifies sound in such a manner as to be heard sixty (60) feet from its source or over any property line.
 - 5. The erection, including excavation, demolition, alteration or repair of any building between the hours of 10:00 PM and 7 AM, except in the case of a public safety and emergency.
 - 6. The operation of gasoline or electric power equipment in residential zones outdoors between the hours of 10:00 PM and 7:00 AM the following day, and on weekends

between 10:00 PM and 8:00 AM.

7. The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary or unreasonable period.
8. The making of improper noise or disturbance or operating an automobile or motorcycle in such a manner to cause excessive squealing or other excessive noise of the tires.
9. Offering for sale anything by shouting or outcrying upon the public streets or sidewalks.

Section 3. Exceptions

The provisions of the law shall not apply to the following acts:

- a) the emission of sound for the purpose of alerting a person to the existence of an emergency;
- b) noise from municipally sponsored celebrations or events;
- c) noise from individually sponsored events where a permit for public assembly or other relevant permissions has been obtained from the Village Clerk;
- d) the operation or use does not occur between the hours of 10:00 PM and 8:00 AM; e) noise generated by the installation and maintenance of utilities.

Section 4. Penalties

Any person who violates any provision of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed two hundred fifty dollars (\$250) for each offense. The Village may also seek injunctive relief to prevent the continued violation of this law.

Section 5. Severability

If any word, phrase, or part of this local law shall be declared unconstitutional, the same shall be severed from the remainder of this local law, and said remainder shall continue in full force and effect.

Section 6. Amendment of Existing Noise Local Law

The existing noise local law of the Village of Ellicottville is hereby amended in its entirety to conform to the provisions of this local law.

Section 7. Effective Date

This law shall become effective immediately upon filing with the Secretary of State.

Village of..... Ellicottville
Local Law No.....3.....of the year 2020
A local law..... to control Noise within the Village.....
Be it enacted by the.....Board of Trustees.....of the
Village of Ellicottville.....as follows:

LOCAL LAW NO. 3 OF THE YEAR 2020

Be it enacted by the Village of Ellicottville NY as follows:

Section 1. This Local Law shall be known as “The Village of Ellicottville Noise Ordinance”

Section 2. Legislative Intent

For the purposes herein noise is any loud, discordant or disagreeable sound or sounds. In the human environmental context, noise is simply as unwanted sound. Certain activities inherently produce sound levels or sound characteristics that have the potential to create noise. The sound generated by proposed or existing facilities may become noise due to land use surrounding the facility. When lands adjoining an existing or proposed facility contain residential, commercial, institutional or recreational uses that are proximal to the facility, noise is likely to be a matter of concern to residents or users of adjacent lands. The making and creating of disturbing or excessive noise within the jurisdictional limits of the Village is a condition, which has persisted, and the level and frequency of occurrences of such noises continues to increase. The noise levels are a detriment to the public health, comfort, convenience, safety, and welfare of the citizens. Every person is entitled to an environment in which

disturbing, excessive, or offensive noise is not detrimental to his or her life, health, or enjoyment of property. For the purpose of abating noise, this law is to be construed liberally, but is not intended to be construed as to discourage the enjoyment by residents of normal, reasonable and usual activities.

Section 3. Prohibited Acts

- a) No premises shall emit, and no person with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, shall cause, suffer or allow or permit to be unreasonable noise. For the purposes of this law, unreasonable noise is any disturbing, excessive or offensive sound that disturbs a reasonable person of normal sensitivities.
- b) The following acts are declared to be prima facie evidence of a violation of this law. This enumeration shall not be deemed exclusive.
 - 1. Any unnecessary noise from any source between the hours of 10:00 PM and 7:00 AM the following day.
 - 2. Noise from a dog or other domestic animal that is continuous and exceeds fifteen (15) minutes.
 - 3. Noise from a burglar alarm or other alarm system of any building, motor vehicle, or boat which is continuous and exceeds fifteen (15) minutes
 - 4. Noise from any sound reproduction system, operating or playing any radio, or portable radio or tape player, television, tape deck or similar device that reproduces or amplifies sound in such a manner as to be heard sixty (60) feet from its source or over any property line.
 - 5. The erection, including excavation, demolition, alteration or repair of any building between the hours of 10:00 PM and 7 AM, except in the case of a public safety and emergency.

6. The operation of gasoline or electric power equipment in residential zones outdoors
between the hours of 10:00 PM and 7:00 AM the following day, and on weekends
between 10:00 PM and 8:00 AM.
7. The sounding of any horn or signaling device of an automobile, motorcycle or other vehicle for any unnecessary or unreasonable period.
8. The making of improper noise or disturbance or operating an automobile or motorcycle in such a manner to cause excessive squealing or other excessive noise of the tires.
9. Offering for sale anything by shouting or outcry upon the public streets or sidewalks.
10. The lighting of any firework, including but not limited to consumer fireworks, between the hours of 10:00 pm and 7:00 am of the following day.
11. The generation of humanly audible sound beyond the property line of the premises upon which the noise source is generated, between the hours of 10:00 p.m. and 7:00 a.m., except with regard to a lawfully operating commercial premises at which the generation of humanly audible sound beyond the property line of the premises upon which the noise source is generated, between the hours of 11:00 p.m. and 7:00 a.m shall be considered prima facie evidence of a violation of this ordinance.
12. The generation of noise pressures, between the hours of 10:00 p.m. and 7:00 a.m., at the property line hosting the emitting noise source(s), at a level of 10dBA above background, except with regard to a lawfully operating commercial premises at which the generation of humanly audible sound beyond the property line of the premises upon which the noise source is generated, between the hours of

11:00 p.m. and 7:00 a.m shall be considered prima facie evidence of a violation of this ordinance.

or

13. The generation of humanly audible sound at a distance of 50 feet from a radio, machine or other device if operated from within a motor vehicle on a public street.

Section 3. Exceptions

The provisions of the law shall not apply to the following acts:

- a) the emission of sound for the purpose of alerting a person to the existence of an emergency;
- b) noise from municipally sponsored celebrations or events;
- c) noise from individually sponsored events where a permit for public assembly or other relevant permissions has been obtained from the Village Clerk;
- d) noise generated by the installation and maintenance of utilities;
- e) noise generated by the operation of a generator providing emergency power in response to an outage not caused by the failure to pay the provider

Section 4. Penalties

The owner of any property from which noise is generated exceeding the thresholds of this Local Law, as well as any person who violates any provision of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed two hundred fifty dollars (\$250) for each offense. The Village may also seek injunctive relief to prevent the continued violation of this law.

Section 5. Severability

If any word , phrase , or part of this local law shall be declared unconstitutional, the same shall be severed from the remainder of this local law, and said remainder shall continue in full force and effect.

Section 6. Amendment of Existing Noise Local Law

The Prior existing noise local laws of the Village of Ellicottville (1-1985 as amended by 6-2006)are hereby amended in its entirety to conform to the provisions of this local law.

Section 7. Effective Date

This law shall become effective immediately upon filing with the Secretary of State.

Village of Ellicottville

Local Law No. 2 **of the year 1975**

A local law. prescribing the method of designating the official paper
of the village.

Be it enacted by the board of trustees..... **of the**
Village ofEllicottville..... **as follows:**

Section 1. The board of trustees of the village of Ellicottville may, by resolution, designate a newspaper as the official paper of the village. If but one newspaper is published in the village continuously, It shall be designated as the official paper, if any paper is so designated. If no newspaper is published in the village continuously, any other newspaper published in the county of Cattaraugus having a circulation in the village or if no newspaper is published in the county having a circulation in the village, any other newspaper published in an adjoining county and having a circulation in the village may do so designated. If no official paper has been designated, the designation of a newspaper for the publication of a notice, resolution, local law or other proceeding of the board shall be deemed a designation thereof as the *official* paper of the village, for the purposes of such publication. Additional newspapers may be designated for the publication of village notices at the option of the village board.

§2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 3of the year 1981

A local law PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

Be it enacted by theBoard of Trustees..... of the

Village of Ellicottville As follows:

ARTICLE I.

SECTION 1-1. The Board of Trustees of the village of Ellicottville, Cattaraugus County, New York recognizes that the use of alcoholic beverages within public places and areas of the Village of Ellicottville must be adequately controlled or regulated so as to prevent public disorder, littering and other acts that affect the health, safety and welfare of the residents of the Village of Ellicottville.

**ARTICLE II
DEFINITIONS**

Section 2-1, Alcoholic Beverages. Shall include beer, wine, liquor and all other alcoholic beverages as defined in Section 3 of the Alcoholic Beverage Control Law of the State of New York.

Section 2-2, Container. A container shall be any bottle, can, glass, cup or similar article containing any alcoholic beverages. For the purpose of this local law, a container shall be deemed open if the bottler's brewer's or distiller's original seal has been broken.

Section 2-3. Public Place. A place to which the public or a substantial group of persons has access, including but not limited to highways, streets, parking lots, places of amusement, parks, play grounds, parking areas, hallways lobbies, public buildings, and any other places open or used by the general public except at times when there is a sanction Village affair. Permitted public places shall be those public places wherein the use and consumption of alcoholic beverages is authorized pursuant to a permit or license issued pursuant to the Alcoholic Beverage Control Law, the Fire Hall and the Village Park,

**ARTICLE III
OPEN CONTAINER**

Section 3-1. No person shall carry, transport or have in his or her possession in any public place, other than permitted public places, any open, resealed or partly empty container containing an alcoholic beverage of any kind or description.

Section 3-2. No person shall consume any alcoholic beverage in a public place other than permitted public place as defined in this local law.

ARTICLE IV VIOLATIONS

Section 4-1. Violations of this local law shall constitute a violation as defined in Article 10 of the Penal Law of the State of New York.

ARTICLE V PENALTY

Section 5-1. The penalty for violation of this local law shall be a fine not exceeding Two Hundred Fifty (\$250.00) Dollars or by imprisonment in jail for a period not to exceed fifteen (15) days or by both such fine and imprisonment.

ARTICLE VI EFFECTIVE DATE

Section 6-1. This local law shall take effect upon its being duly filed with the Office of the Secretary of State and the Office of the State Comptroller,

Village of Ellicottville

Local Law No.4 of the year 1989

A local law PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES

Be It enacted by theBoard of Trustees..... of the Village of ELLICOTTVILLE..... as follows:

A local law Regulating Consumption of Alcohol in Public Places in the Village of Ellicottville.

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

ARTICLE I

Section 1-1. This local law shall supercede and take the place of Local Law No. 3 of the year 1981.

ARTICLE II

Section 2-1. The Board of Trustees of the Village of Ellicottville, Cattaraugus County, New York recognizes that the use of alcoholic beverages within public places and areas in the Village of Ellicottville must be adequately controlled or regulated so as to prevent public disorder, littering and other acts that affect the health, safety and welfare of the residents of the Village of Ellicottville.

**ARTICLE III
DEFINITIONS**

Section 3-1. Alcoholic Beverages. Shall include beer, wine, liquor and other alcoholic beverages as defined in Section 3 of the Alcoholic Beverage Control Law of the State of New York..

Section 3-2. Container. Any bottle, can, glass or other receptacle suitable for or used to hold any liquid.

Section 3-3. Public Place. A place to which the public or a substantial group of persons has access, including but not limited to highways, streets, parking lots, places of amuseinent, parks, play grounds, parking areas, hallways, lobbys, public buildings and any other places open or used by the general public except at times when there is a sanctioned Village affair. Permitted public places shall be those public places wherein the use and consumption of alcoholic beverages is authorized pursuant to a permit or licenses issued pursuant to the Alcoholic Beverage Control Law, the Fire Hall and the Village Park.

**ARTICLE IV
PROHIBITION**

Section 4-1. No person shall consune any alcoholic beverage in a public place in the Village other than permitted public place as defined in this local law.

Section 4-2. No person shall have in his or her possession in any public place within the Village other than permitted public places, an open, resealed or partially empty container containing an alcoholic beverage of any kind or description with the intent to consume the contents of the same.

ARTICLE V EXCEPTIONS

Section 5-1. The foregoing prohibition shall not apply in the event of a fair, picnic, or other community gathering for the conduct of which special permission has been granted by the Village.

ARTICLE VI PRESUMPTIONS

Section 6-1. Open Containers in Vehicles. Any open, resealed or partially empty container containing an alcoholic beverage found in any parked or standing vehicle shall be presumptive evidence that the same is in the possession of all occupants of said vehicle, provided; however, that the provisions of this local law shall not apply to any person drinking an alcoholic beverage while operating & motor vehicle upon a public highway in violation of Section 1227 of the Vehicle and Traffic Law of the State of New York,

Section 6-2. Possession of an open, unsealed, resealed or partially empty container of an alcoholic beverage shall be presumptive evidence of intent to consume the same.

ARTICLE VII PENALTIES

Section 7-1. Each violation of this local law shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) for each offense or by imprisonment for a period of time not the exceed fifteen days (15) or by both such fine and imprisonment.

ARTICLE VIII SEPARABILITY

Section 8-1. Should any provision of this law be judicially determined to be invalid, the remaining provisions shall continue in full force and effect.

ARTICLE IX EFFECTIVE DATE

Section 9-1. This local law shall take effect immediately.

Village of..... Ellicottville

Local Law No. 2**of the year 2006**

A local law To Regulate Hawkers, Peddlers, Solicitors, Transient Businesses, and Garage Sales in the Village of Ellicottville.

Be it enacted by theBoard of Trustees**of the Village of**Ellicottville**as follows:**

SECTION 1. DEFINITIONS.

As used in this local law, the following terms shall have the meanings indicated:

1. ESTABLISHED PLACE OF BUSINESS: Includes a building or store in which r where the person transacts business and deals in the goods, wares or merchandise he hawks, addles or solicits for during regular hours of business daily or the hor residing in the Village of Ellicottville who accepts orders for merchandise but accepts no payment until the time of delivery.

2. HAWKER OR PEDDLER: Includes any person, either principal or agent, who, in any public street or public place or by going from house to house on foot or on any vehicle, sells or barter, offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise, except milk, newspapers, periodicals and nonprocessed foods.

3. SOLICITOR: Includes any person who solicits publicly, goes from place to place or house to house, requests or accepts orders by telephone or who stands in any street, or public place taking or offering to take orders for goods, wares or merchandise, except newspapers or milk, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

4. TRANSIENT BUSINESS: Includes one conducted in a store, hotel, motel, house, building or structure, on property owned by another or one conducted house to house or one conducted by telephone communications for the sale or purchase at retail of goods, wares and merchandise, except food products, and which is intended to be conducted for a temporary period of time and not permanently

5. GARAGE SALES: Garage sales mean and include all sales entitled "garage x", "lawn sale", "rummage sale", "flea market sale", or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale, excluding bona fide estate sales.

SECTION 2. LICENSE REQUIRED.

It shall be unlawful for any reason, except as provided in Section 3 below, within the limits of the Village of Ellicottville to act as a hawker, peddler or solicitor or to conduct a

transient business as herein defined without first having obtained and paid for, and having in force and effect, a license therefor.

SECTION 3. EXEMPTIONS FROM LICENSING PROVISIONS.

Nothing in this local law shall apply to sales or purchases conducted pursuant to statute or by order of any Court or to any person selling personal property at wholesale to dealers in such articles. Except as hereinafter provided, the licensing provisions of this local law shall not apply to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of the products of their own farms or gardens; persons soliciting, collecting, or operating a sale on behalf of any bona fide charitable, educational, scientific, health, religious, patriotic or other organization of worthy causes deemed to be in the public interest; any honorably discharged member of the United States Armed Forces who has procured a license under Article 4 of the General Business Law of the State of New York; party plans; or sales or services by prior invitation; nor shall this local law be construed to prevent route salesmen or other persons having established customers to whom they made periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic deliveries. This law shall not be construed so as to unlawfully burden or interfere with interstate commerce.

SECTION 4. APPLICATION.

Every applicant for a license as set forth in Section 2 is required to file with the Village Clerk a written application, under oath, containing the following information and material:

1. Name of Applicant,
2. Federal Employee Identification Number,
3. New York State Sales Tax Number,
4. Permanent home address,
5. Name and address of firm represented, if any,
6. The length of time for which the license is required,
7. A description of the goods, wares, commodities or services to be offered for sale or to be used for the purpose of bidding for services. Included shall be the brand name, manufacturer and distributor of goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale.
8. To the application must be appended a document of authorization from the firm which the applicant purports to represent.
9. To the application must be appended the bond described at Section 5 hereof.
10. The number and kind of vehicles to be used by the applicant in carrying on the business for which the license is desired.
11. Details of any arrest or convictions for misdemeanors and crimes, including the

nature of the offense for which arrested or convicted, the date of conviction and the place where said conviction was had.

12. To the application must be appended a certificate from the Sealer of Weights and Measurers certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
13. To the application must be appended a certificate of insurance showing the applicant to have in full force and effect a liability insurance policy covering the applicants acts as a hawker, peddler, solicitor or transient business in amounts not less than Five Hundred Thousand Dollars (\$500,000) per individual and Five Hundred Thousand Dollars (\$500,000) per occurrence.
14. The application shall be accompanied by a photograph of the applicant taken within thirty days prior to such application and upon issuance of such license shall be attached thereto. The photograph shall comply with the requirements for a United States passport photograph.

SECTION 5. BONDS; CONDITIONS; AMOUNT; DURATION.

A. An application for a license as hawker, peddler, solicitor or transient business that demands, accepts or receives a payment or deposit of money in advance of final delivery or purchases items from individuals or an entity shall also be accompanied by a bond to the Village of Ellicottville approved as to form and security by the Village Attorney in the penal sum of at least One Thousand Dollars (\$1,000) with sufficient surety or sureties or sufficient collateral security conditioned for making a final delivery of goods, wares or merchandise ordered or services to be performed in accordance with the terms of such order or, failing therein, that the advance payment of such order be refunded, and further conditioned that in the event the purchaser stops payment on his payment instrument or has insufficient funds to make payments for goods purchased from individuals or entities, then, and in that event, such bond shall be used to make payment to the seller in such amount up to the limit of the bond.

B. Any person aggrieved by the action of any licensed hawkers, peddlers, solicitors or transient business shall have the right of action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force and in effect, and in case of a cash deposit, such deposit shall be retained by the Village for a period of ninety (90) days after the expiration of any such license, unless sooner released by the Village Clerk.

SECTION 6. RESTRICTIONS.

Hawker, peddler, solicitor, or transient business shall:

- A. Not falsely or fraudulently misrepresent the quantity, character or quality of any

article offered for sale or offer for sale any unwholesome, tainted or diseased provisions or merchandise.

B. Keep the vehicle and receptacles used by him in a clean and sanitary condition and the foodstuffs and edibles offered for sale well covered and protected from dirt, dust and insects. An authorized Health Officer shall have the power to inspect the vehicle and receptacles so used at any time. Food vendors shall display a valid permit from the Cattaraugus County Health Department.

C. Not blow a horn, ring a bell or use any other noise device to attract public attention to his wares, or shout or cry out his wares.

D. Not stand or permit the vehicle used by him to stand in one place in any public place or street for more than ten (10) minutes, or in front of any premises for any time if the owner of or lessee thereof objects.

E Not permit any vehicle used by him to stop or remain on any crosswalk.

F. Not create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or any public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

G. Not purchase any gold, silver or other precious metals or jewelry or antiques, objects of art, collectibles, old coins, stamps or any other artifacts without obtaining the name and address of the seller or sellers and without permitting the Town of Ellicottville Police Department to inspect the articles purchased and the names and addresses of the seller or sellers at the end of each business day.

H. Execute a hold-harmless agreement indemnifying the Village against loss, including costs and expenses, resulting from injury to person or property as a direct or indirect result of his enterprise. Said hold-harmless agreement shall be covered by a protective policy of insurance obtained by the applicant in an amount not less than Five Hundred Thousand Dollars (\$500,000) and shall be subject to the approval of the Village Attorney.

I. Not enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after the hour of 6:00 p.m. of any day except upon the invitation of the householder or occupant.

J. Not to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers", "No Solicitors", "No Agents", or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

K. Not peddle, vend, or sell his goods or wares within two hundred feet (200) of any church or place of worship or any place occupied exclusively as a public or private school or for school purposes, nor shall he permit his cart, wagon, or vehicle to stand on any public highway within said distance of such school property.

SECTION 7. ISSUANCE OF LICENSE; LICENSE NONASSIGNABLE; CONTENTS; DISPLAY.

A. Grant; refusal. Upon the filing of the application as heretofore provided, the Village Clerk shall upon the Clerk's approval of such application, issue to the applicant a license as provided in Section 2 hereof. Except as hereinafter provided, no license shall be refused except for a specific reason and for the protection of the public safety, health, morals or the general welfare.

B. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall each be guilty of a violation of this local law.

C. Contents. All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in the order in which they are issued, and shall state clearly the kind of vehicle, if any, to be used and the kind of goods, wares, or merchandise to be sold or service to be rendered, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee.

D. Every licensee, while exercising his license, shall at all times display the license conspicuously or, if engaged in telephone solicitation, shall upon the commencement of each call state his name and address and the respective number of his license.

E. Where a person makes application for himself and one (1) or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper. No license issued under this local law shall be transferable from one person to another.

SECTION 8. REVOCATION OF LICENSE.

A. The Village Clerk may at any time for a violation of this local law or any other ordinance or any law revoke the license issued pursuant to this local law. When a license shall be revoked, no refund of any unearned portion of the license fee shall be made.

B. Notice of such revocation and the reason or reasons therefore in

writing shall be served upon the person named in the application by delivering the same to him either personally or by mailing the same to the address given in the application by certified mail, return receipt requested; such revocation shall be immediately effective if served personally and shall be effective twenty-four (24) hours after mailing if served by mail.

C. Licenses obtained by fraud for misrepresentation of any material fact shall be wholly invalid and shall be surrendered upon demand; no refund of the license fee shall be made, and the violators shall be subject to the provisions of Section 11.

SECTION 9. GARAGE SALES.

A. It shall be unlawful for any person to conduct a garage sale in the Village without first filing with the Village Clerk the information specified in this Section 9 and obtaining from the Clerk a license to hold such sale, to be known as a garage sale license.

B. INFORMATION TO BE FILED. The information to be filed with the Clerk, pursuant to this Section 9, shall be as follows:

(1) Name of person, firm, group, corporation, association, or organization conducting the sale;

(2) Name of owner of the property on which the sale is to be conducted;

(3) Location at which sale is to be conducted;

(4) Number of days of sale;

(5) Dates, nature of any past sale during the prior 12-month period;

(6) Relationship or connection applicant may have had with any other person, firm, group, organization, association, or corporation conducting the sale and the dates of such sale;

(7) Whether or not applicant has been issued any other vendor's license by any local, state, or federal agency;

(8) Sworn statement or affirmation by the person signing that the information therein given is full and true and known by him to be so.

C. PERSONS AND SALES EXCEPTED. The provisions of this Section 9 shall not apply to or affect the following persons or sales:

- (1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- (2) Persons acting in accordance with their powers and duties as public official;
- (3) Any person selling or advertising for sale items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number;
- (4) Any bona fide charitable, educational, scientific, health, religious, patriotic or other organization of worthy causes deemed to be in the public interest.

D. GARAGE SALES AT RESIDENCES.

Garage sales conducted by Village residents on a Friday, Saturday, Sunday and/or legal holidays at the residence of the person owning and selling the sale items shall not be required to obtain a license under this Section 9 and there shall be no more than five garage sales at such residence within a twelve (12) month period.

E. FEE. The fee to be paid to the Village for a garage sale license shall be \$25.00 or such other fee as established by the Village Board of Trustees by resolution.

F. DURATION AND DISPLAY.

(a) Such license shall be issued to any one person only five times within a 12-month period, and no such license shall be issued for more than two consecutive calendar days.

(b) Each license issued under this division must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

SECTION 10. LICENSE FEES.

Licenses required by Section 2 shall be issued for a period of seven (7) days, and the fee for each license shall be \$25.00 or such other fee as established by the Village Board of Trustees by resolution.

SECTION 11. PENALTIES.

A. Any person violating any provision of this local law shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars (\$250) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this local law shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

B. In addition, or as an alternative to the above-provided penalties, the Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.

C. In addition, any person who violates any provision of the foregoing may be subject to a loss of license privilege herein granted.

SECTION 12. SEVERABILITY.

The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part thereof for any reason is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this local law.

SECTION 13. REPEALER.

All local laws or parts of local laws inconsistent or in conflict with this local law are hereby repealed to the extent of such conflict or inconsistency.

SECTION 14. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State.

Village of Ellicottville

Local Law No.4 of the year 1991

A local law Regulating Unlawful. Deposits of Human Excrement on Public or Private Property in the Village of Ellicottville

Be it enacted by the Board of Trustees.....**of the Village of**Ellicottville..... **as follows:**

ARTICLE I

Section 1-1. This Local Law shall be known as Local Law No. - 1991 of the Village of Ellicottville, County of Cattaraugus and State of New York,

ARTICLE II

Section 2-1. The Board of Trustees of the Village of Ellicottville, Cattaraugus County, New York recognize that the unlawful deposit of human excrement on public or private property within the Village of Ellicottville adversely affects the health, safety and welfare of the residents of the Village of Ellicottville.

**ARTICLE III
DEFINITIONS**

Sections 3-1. Public Property. A place to which the public or a substantial group of persons has access, including but not limited to highways, streets, sidewalks, parking lots, places of amusement, parks, playgrounds, parking areas, hallways, lobbies, public buildings and any other places open to or used by the general public.

Section 3-2. Private Property. Property, both real and personal, owned by any individual, firm, company, association, society, person or group having title to real property or personal property.

Section 3-3. Excrement. Shall mean waste matter, including but not limited to urine and feces, discharged from the body.

**ARTICLE IV
PROHIBITION**

Section 4-1.No person shall deposit, in any manner, upon public or private property within the Village of Ellicottville, or in any area under the jurisdiction of the Village, any human

excrement unless such deposit is made in a public or private restroom or bathroom facility connected to a private or municipal sewer system.

ARTICLE V PENALTIES

Section 5-1. Each violation of this Local Law shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) for each offense or by imprisonment for a period of time not to exceed Fifteen (15) days or by both such fine and imprisonment.

ARTICLE VI SEPARABILITY

Section 6-1. Should any provision of this Law be judicially determined to be invalid, the remaining provisions shall continue in full force and effect.

ARTICLE VII EFFECTIVE DATE

Section 7-1. This Local Law shall take effect immediately.

Village of Ellicottville.....

Local Law No. 1 **of the year 2012**

A local law authorizing a property tax levy in excess of the limit established in General Municipal Law Section 3 - c

Be it enacted by the Board of Trustees**of the Village of** Ellicottville..... **as follows:**

Section 1. Legislative Intent

It is the intent of this local law to allow the Village of Ellicottville to adopt a budget for the fiscal year commencing June 1, 2012 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law 83-C.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy

Limit Override The Board of Trustees of the Village of Ellicottville, County of Cattaraugus, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

Village of..... Ellicottville

Local Law No.1..... of the year 2020

A local law No. 1- 2020 entitled "A Local Law Override the Tax Levy Limit Fiscal Year 2020

To Be it enacted bythe Board of Trustees..... of the

Village of..... Ellicottvilleas follows:

LOCAL LAW No. 1 -2020 entitled "A Local Law to Override the Tax Levy Limit for Fiscal Year 2020"

SECTION 1. LEGISLATIVE INTENT.

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Village of Ellicottville pursuant to General Municipal Law 3-C, and to allow the Village of Ellicottville to adopt a budget for the fiscal year 2020 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal law 3-0

SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to General Municipal Law Sec. 3-c (the "Property Tax Cap Law"), which expressly authorizes the Village Board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the Village Board.

SECTION 3. TAX LEVY LIMIT OVERRIDE.

The Village Board of the Village of Ellicottville, County of Cattaraugus is hereby authorized to adopt a budget for the fiscal year 2020 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law 3-C.

SECTION 4. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to said clause, sentence, paragraph, section or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such order of judgment shall be rendered.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately upon its filing with the Secretary of State as provided in section twenty-seven of the Municipal home Rule.

Village of Ellicottville
Local Law No. 1 **of the year 1975**
A local law prescribing the notice to be given of A public hearing upon the adoption of a local law.
Be it enacted by the Board of trustees.....**of the**
Village of Ellicottville**as follows:**

Section 1. The village clerk shall give notice of a public hearing upon the adoption of a local law by the board of trustees by the publication of a notice in the official newspaper of the village, or if there is no official newspaper in at least one newspaper circulating in the village, specifying the time when and the place where such hearing will be held, and in general terms describing the proposed local law. Such notice shall be published once at least five days prior to the day specified

for such hearing.

\$2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No.4 of the year 1991

A local law Regulating Unlawful. Deposits of Human Excrement on Public or Private Property in the Village of Ellicottville

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

ARTICLE I

Section 1-1. This Local Law shall be known as Local Law No. - 1991 of the Village of Ellicottville, County of Cattaraugus and State of New York,

ARTICLE II

Section 2-1. The Board of Trustees of the Village of Ellicottville, Cattaraugus County, New York recognize that the unlawful deposit of human excrement on public or private property within the Village of Ellicottville adversely affects the health, safety and welfare of the residents of the Village of Ellicottville.

**ARTICLE III
DEFINITIONS**

Sections 3-1. Public Property. A place to which the public or a substantial group of persons has access, including but not limited to highways, streets, sidewalks, parking lots, places of amusement, parks, playgrounds, parking areas, hallways, lobbies, public buildings and any other places open to or used by the general public.

Section 3-2. Private Property. Property, both real and personal, owned by any individual, firm, company, association, society, person or group having title to real property or personal property.

Section 3-3. Excrement. Shall mean waste matter, including but not limited to urine and feces, discharged from the body.

**ARTICLE IV
PROHIBITION**

Section 4-1.No person shall deposit, in any manner, upon public or private property within the Village of Ellicottville, or in any area under the jurisdiction of the Village, any human

excrement unless such deposit is made in a public or private restroom or bathroom facility connected to a private or municipal sewer system.

ARTICLE V PENALTIES

Section 5-1. Each violation of this Local Law shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not exceeding Two Hundred Fifty Dollars (\$250.00) for each offense or by imprisonment for a period of time not to exceed Fifteen (15) days or by both such fine and imprisonment.

ARTICLE VI SEPARABILITY

Section 6-1. Should any provision of this Law be judicially determined to be invalid, the remaining provisions shall continue in full force and effect.

ARTICLE VII EFFECTIVE DATE

Section 7-1. This Local Law shall take effect immediately.

Village of..... Ellicottville

Local Law No..... 5 **of the year 2006**

A local law to provide that the provisions of Real. Property Tax Law §581 1, (a) and Real Property Law §339-y 1. (b) shall not apply to a converted condominium within the Village.

Be it enacted by the Board of Trustees**of the Village of** Ellicottville..... **as follows:**

LOCAL LAW 5 THE YEAR 2006

1. Title.

This Local Law shall be known as the "Village of Ellicottville Local Law to provide that the provisions of Real Property Tax Law §581 1.(a) and Real Property Law §339-y 1.(b) shall not apply to a converted condominium within the Village".

2. Purpose.

The purpose of this law is to exclude converted condominium units within the Village from the provisions of Real Property Tax Law §581 1.(a) and Real Property Law §339-y 1.(b).

3. Statutory authority; applicability.

A. This Local Law is subject and subordinate to all the conditions and provisions contained in Article 9-B of the Real Property Law, §339-y 1.(f) and Article 5 of the Real Property Tax Law §581 1.(c), and amendments thereto, and any and all rules and regulations and opinions adopted or to be adopted by the State of New York.

B. This Local Law shall apply to Real Property situate within the bounds of the Village of Ellicottville.

4. Definitions.

The words and terms used in this Local Law shall have the same meaning as in Article 9-B of the Real Property Law and Article 5 of the Real Property Tax Law.

5. Exclusion of Converted Condominium Units from the Provisions of Real Property Tax Law §581 1.(a) and Real Property Law §339-y 1.(b).

The provisions of Real Property Tax Law §581 1.(a) and Real Property Law §339-y 1.(b) shall not apply to converted condominium units within the Village of Ellicottville.

6. Effective Date.

This Local Law shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such effective date.

7. Inconsistency.

All resolutions or local laws or portions thereof of the Village of Ellicottville not consistent with this Local Law in whole or in part shall be repealed.

8. Severability.

If any provisions of this Local Law or the applications thereof to any person or circumstances shall be adjudged invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Local Law or the application thereof to other persons and circumstances shall not be affected thereby, and the Village Board of Trustees hereby declares that it would have enacted this Local Law without the invalid provision or application, as the case may be, had such invalidity been apparent.

Village of Ellicottville
Local Law No. 1 **of the year 1987**
A local law Residency of the Village clerk
Be it enacted by the Village Board **of the**
Village Ellicottville **as follows:**

Section 1. That pursuant to the authority conferred upon it by

Village Law Section 3-300(2), the Village Board hereby provides that in lieu of any other residency requirements imposed by law, the Village Clerk of the Village of Ellicottville may reside within the County of Cattaraugus, State of New York, the county in which the Village of Ellicottville is always situate, and need not any longer be a resident of the Village of Ellicottville, New York.

Section 2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No...... 3 **of the year 1975**

A local law regulating the use of public and private sewers and drains private sewage disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system; and providing penalties for violations thereof; in the village of Ellicottville, County of Cattaraugus, State of New York.

Be it enacted by theboard of trustees.....**of the Ellicottville.**..... Ellicottville **as follows:**

ARTICLE I

SHORT TITLE : DEFINITIONS

Section 101. This local law shall be known and may be cited as the "Village of Ellicottville Sewer Local Law.

Section 102. Unless the context specifically indicates otherwise, the meaning of terms used law shall be as follow:

- (a) "A.S.T.M." shall mean American Society of Testing Materials.
- (b) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) Centigrade. Expressed in milligrams per liter.
- (c) "Building Drain" shall mean that part of the lowest horizontal piping of drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, and shall be deemed to extend to a point five (5) feet (1.5 meters) outside the outer face of the building wall.
- (d) " Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- (e) "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
- (f) "Garbage" shall mean solid waste from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
- (g) "Health Officer" shall men a duly constituted officer of the Cattaraugus County Department of Health or the New York State Department of Health.
- (h) "Industrial Waste shall mean the liquid waste from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- (i) "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface water.
- (j) "Owner" shall mean person owning premises being sewered.
- (k) "Person" shall mean any natural person firm, company, co-partnership association, society, corporation, or group.

(l) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(m) "Properly Shredded Garbage" shall mean (the garbage wastes from the preparation, cooking, and dispensing of food) that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1) inch (1.27 centimeters) in any dimension.

(n) "Public "Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(o) "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwater are not intentionally admitted.

(p) "Scavenger Waters" shall mean a sewer which carries sewage and to which storm, garbage, or miscellaneous organic material that will decompose.

(q) "Sewage" shall mean a combination of the water-carried waste from residences, business building institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

(r) "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

(s) "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(t) "Sewer" shall mean a pipe or conduit for carrying sewage.

(u) "Shall" is mandatory: "May" is permissive.

(v) "Storm Drain" (sometimes termed "Storm Sewer") shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(w) "Superintendent" shall mean the person in charge of sewage works of the village, or his authorized deputy, agent, or representative.

(x) "Suspended "Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(y) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(z) "W.P.C.F" shall mean Water Pollution Control Federation.

(aa) "Village" shall mean Village of Ellicottville

ARTICLE II

USE OF PUBLIC SEWERS REQUIRED

Section 201. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village, or in any area under the jurisdiction of said Village, any human or animal excrement, garbage, or other objectionable waste.

Section 202. It shall be unlawful to discharge to any natural outlet within the village, or in any area under jurisdiction of said village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of local law.

Section 203. Except as hereinafter provided, it shall be unlawful to constructor maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Section 204. The owner of each house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the village and abutting on any street, alley, right-of-way in which there is now located or may hereafter be located a public sanitary or combined sewer of the village, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this local law, within ninety (90) days after date of official notice to do so.

ARTICLE III

PRIVATE SEWAGE DISPOSAL

Section 301. Where a public sanitary or combined sewer is not available under the provisions of Section 204. The building sewer shall be connected to a private sewer disposal system complying with the provisions of this Article.

Section 302. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the Superintendent. The application for such permit shall be made on a form furnished by the village, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$50.00 dollars shall be paid to the village at the time the application is filed.

Section 303. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection. And before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Superintendent

Section 304. The type capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of New York. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities Where the area of the lot is less than 15,000 square feet(1,395 square meters). No septic tank or cesspool shall be permitted to discharge to any natural outlet. .

Section 305. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 304. A direct connection shall be made to the public sewer in compliance with this local law, and any septictank, cesspools, and similar private sewage disposal facilitation, shall be abandoned and filled with suitable material.

Section 306. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the village.

Section 307. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

ARTICLE IV

BUILDING SEWER AND CONNECTIONS

Section 401. No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Section 402. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial waste. In either case, the owner or his agent shall make application on a special form furnished by the Village. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$50.00 (fifty dollars) for residential or commercial building sewer permit and \$50.00 (fifty dollars) for an industrial building sewer permit shall be paid to the village at the time the application is filed.

Section 403. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by installation of the building sewer.

Section 404. A separate and independent building sewer shall be provided for every building: except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building though an adjoining alley, cort yard or driveway as recommended by the Superintendent, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Section 405. Old building sewer may be used in connection with new building only when they are found, on examination and test by the Superintendent, to meet all requirements to this local law.

Section 406. The size, slope, alignment, materials of construction of a building sewer and the

methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village. In the absence of code provisions the specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply, Pipe used for house connections shall be six inches (6"). Fifteen centimeters (15) extra strength vitrified clay pipe (A.S.T.M. designation 200-59T) and shall be in accordance with Section 6.0 of the specifications for the construction of sewer for the village (see appendix hereto).

If wyes are not installed for house connections when the sewer is constructed, a clean opening shall be cut into the existing sewer with proper equipment and a tee saddle attached. In no event should pipe from a house connection extend through the inside diameter of the existing sewer. Any men under close supervision of the Superintendent.

All vitrified clay pipe and fitting shall be equipped with factory made polyvinyl joints equal to "Wedge-Lock" joints and designated as Type III in A.S.T.M. C-45 specifications for joint material. Slope for six inches (6") sewer shall not be less than one-eighth inch (1/8") per foot.

Four-inch (4") cast iron pipe may be used in special cases upon receiving approval of the Superintendent. Pipe shall be first quality soil pipe meeting A.S.T.M. specifications and equipped with compression type joints or with lead caulked joints.

Section 407. Whenever practical, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewer carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Section 408. No person shall make connection of roof downspouts, exterior foundation drains, areaway, drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

Section 409. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village. Or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual or Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

Section 410. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

Section 411. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard, Street, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in the manner satisfactory to the village.

ARTICLE V

USE OF PUBLIC SEWER

Section 501. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process water to any sanitary sewer.

Section 502. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process water may be discharged in approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

Section 503. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids, greases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with a sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in wastes as discharged to the public sewer.

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, meal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

Section 504. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewer, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited

are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit, (sixty five degrees, 65°, Centigrade).

(b) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32°) and one hundred fifty degrees (150°) Fahrenheit (0° and 65°) centigrade

(c) Any garbage that has not been properly shredded, The installation and operation of any garbage grinder equipped with a motor of three-fourths (14) horsepower(0.76 HP metric) or greater shall be subject to the review and approval of the Superintendent.

(d) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances: or wastes exerting an excessive chlorine requirement, to such degree that (any such material received in the composite sewage at the sewage treatment works) exceeds the limits established by the Superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste-or-odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any waters or wastes having a pH in excess of 9.5.

(h) Materials which exert cause:

1. Unused concentrations of inert suspended solids (such as, but not limited to Fuller earth, lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate.)
2. Excessive discoloration, (such as, but not limited to dye wastes and vegetable tanning solutions)
3. Unusual BOD chemical oxygen demand, or chlorine requirements in such quantities as to constitute A significant load on the sewage treatment works.
4. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow excess for any period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(i) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to receiving waters.

Section 505. If any waters or wastes are discharged, or are proposed to be discharged to the public sewer, which water contain the substances or possess the characteristics enumerated in Section 504. And which in the judgement of the Superintendent, any having a deleterious effect upon the sewage works, processes, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (a) Reject the wastes
- (b) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (c) Require control over the quantities and rates of discharge, and or wastes not covered by existing taxes or sewer charges under the provision of Section 510. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes. Ordinances, and laws.

Section 506. Grease, oil, and sand interceptors shall be provided by the owner when, in the opinion of the Superintendent, they are necessary for any handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients: except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. The Superintendent shall require grease interceptors (traps) on all restaurants and food processing establishments. A periodic inspection of these interceptors shall be made by the Superintendent at least four times a year.

Section 507. There preliminary treatment of flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner of property at his expense.

Section 508. The Superintendent shall require the owner of any property serviced by a building sewer carrying industrial wastes to install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 509. All measurements, tests, and analyses of characteristics of waters and wastes to which reference is made in this law shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater", published by American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the

public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken). Normally but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls whereas PH's are determined from periodic grab samples.

Section 510. Nothing contained in this article shall be construed as preventing any special agreement or arrangement between the Village and any person hereby an industrial waste of unusual strength or character may be accepted by the village for treatment, subject to payment therefore by the concern.

ARTICLE VI

PROTECTION FROM DAMAGE

Section 601. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structures, appurtenance or equipment which is a part of the sewage works.

ARTICLE VII

SCAVENGER WASTE DISPOSAL PROCEDURE

Section 701. No scavenger operators shall be discharged into any sewers of the village except as hereinafter provided. Scavenger wastes will be accepted at the treatment plant from New York State licensed scavenger operators only. Wastes shall be discharged only at such location as the Superintendent may designate.

Section 702. Scavenger operators shall prior to discharging wastes to the treatment plant register with the Village Clerk of the village giving their state permit number and providing a statement that they desire to discharge wastes to the treatment plant.

Section 703. In addition, each operator shall prior to the discharge of any wastes, make written application to the Superintendent stating the approximate volume of wastes to be discharged and the approximate time of arrival at treatment plant.

Section 704. All discharges of wastes shall be made in the presence of the Superintendent. Discharge will only be accepted during the hours of 8:00 A.M. to 4:30 P.M. or Monday thru Friday unless special arrangements are made with the Superintendent 24 hours prior to the discharge.

Section 705. A charge of \$1.00 per one hundred gallons, or fraction thereof, will be made for

receiving scavenger wastes with a minimum charge of \$5.00 for each occurrence.

Section 706. The Superintendent shall remain a permanent record showing the operator discharging scavenger waste, the quantities of wastes discharged and the amounts received for such discharges, Such records shall be kept for a period of three years.

ARTICLE VIII

POWERS AND AUTHORITY OF INSPECTORS

Section 801. The Superintendent and other duly authorized officers and employees of the village shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of the local law. The Superintendent or his representatives shall have not authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Section 802. The Superintendent and other duly authorized officers and employees of the village shall be permitted to enter all private properties through which the village holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the easement pertaining to the private property involved.

ARTICLE IX

ENFORCEMENT

Section 901. Any person violating and provision of this local law, except Article VI, shall be served with a written notice stating the nature of the violation and providing a reasonable time limit of not less than seven days for the satisfactory correction thereof. Service of notice may be personal or by certified mail addresses to such person at his last known place of residence or of business.

Section 902. Any person who shall continue any violation beyond the time limit provided in the precoding section, or who shall violate any provision of Article VI, shall:

- (a) be guilty of an offense against this local law, and on conviction thereof shall be

punishable by a fine of not more than five hundred dollars, or by imprisonment of not more than sixty days, or both such fine and imprisonment.

(b) be punishable by civil penalty of not more than five hundred dollars for each violation. Each day that a violation continues shall be deemed a separate offense.

Section 903. Any person violating any of the provisions of this local law shall be liable to the village for any expense, loss, or damage suffered by the village by reason of such violation.

ARTICLE X

LOCAL LAWS AND REGULATIONS

Section 1001. Any ordinances, local laws, rules or regulations or any part thereof in conflict herewith is hereby repealed.

Section 1002. The invalidity of any section, clause, sentence, or provision of this law shall not affect the validity of any other of this local law which can be given effect without such invalid part or parts.

ARTICLE XI

EFFECTIVE DATE

Section 1101. This local law shall take effect immediately.

APPENDIX

6. METHOD OF CONSTRUCTION SEWERS AND LAYING SEWER PIPE

6.1 Scope of Work

Under this heading the Contractor shall provide all the necessary labor, materials and equipment to install complete and ready for use the sewer pipes as called for on the plans and included in these specifications, including all excavation, trenching, backfilling, pipe, laying of pipe, service connections and other miscellaneous items usually included in such work.

6.2 Excavation, Trenching and Backfilling

All excavation, trenching, and backfilling shall conform to applicable portions of specifications for "Excavation, Trenching, and Backfilling for Utility Systems"

6.3 Pipe

The pipe used for sewer shall be asbestos cement or vitrified tile. All pipe shall conform with

the specifications therefore "Materials".

6.4 Specials

All specials necessary to construct the sewer as shown on plans shall be supplied and no extra payment will be made for them.

6.5 Vitrified Tile Pipe

Vitrified clay pipe shall meet the requirements herein specified and shown on the plans. Sizes shall be as shown, specified in the Detailed Specifications or as directed by the Engineer.

6.5.1 Materials

All vitrified clay pipe shall be Extra Strength (EX. ST.) A.S.T.M. Des-C-200. All pipe shall be free from fractures, large or deep cracks and blisters, laminations and surface roughness. The pipe shall be bell and spigot pattern. Laying length shall not be less than 5 feet long, except where 3-foot lengths are called for by the Standard Details.

Vitrified Clay Sewer Pipe for Sanitary Sewer shall be:

- a. In cuts from 0' to 10', Extra Strength (EX. ST. - C-200) for all pipe sizes
- b. In cuts more than 10.0', Extra Strength (EX. ST. - C-200) with or without concrete cradle or encasement as specified in these specifications and/or directed by the Engineer.

Vitrified Clay Pipe for House Connections:

- a. In cuts of all depths, Extra Strength (EX. ST. - C-200) with or without concrete cradle or encasement as specified in these specifications and/or as directed by the Engineer.

The depth of cut, mentioned above, is the depth of sewer invert.

6.5.2 Laying

Sewer pipe shall be laid true in accordance with the "Recommended Practice for Installing Vitrified Clay Sewer Pipe" A.S.T.M. C12.

Pipe shall be laid true to line and grade as shown on the Plans or given by Engineer.

When the pipe is to be laid without a cradle, or encasement, the bottom of the trench shall be excavated to a flat surface six (6) inches below the invert grade. Select material for bedding, (pea gravel or No. 1 stone) shall then be placed to the depth of six inches and compacted. The sewer pipe shall then be bedded and laid to grade. Before backfill starts, additional select

material for bedding shall be placed on either side of the pipe to the spring line of the pipe and tamped. Backfilling as described elsewhere shall then proceed. No blocking under pipes will be permitted, except as permitted by the Engineer for pipe to be laid in cradle. When the sewer is to be laid in a concrete cradle, each length shall be laid to grade and supported at each end by suitable concrete blocks. Concrete shall then be poured on one side only until it has risen above the invert on the other side, after which the remainder of concrete shall be deposited on both sides.

All pipes and specials shall be carefully inspected before being laid and no cracked, broken or defective pipe or special shall be used in the work. All pipe shall be laid with bells upstream. The spigot shall be carefully inserted in the bell in such a manner that there will be no unevenness along the bottom half of the pipes and so that there is a uniform joint space all around the pipe.

The interior of the sewer shall be kept clean as the work progresses and the open end shall be bulk headed when pipe laying is not in progress. During the progress of laying, care shall be taken to protect both pipe and joints from disturbance, and the trench shall be kept free from water until the joints have set.

6.5.3 Joint Material

Unless otherwise specified or permitted, all vitrified clay sewer pipe joints shall be made with an approved plastic type material.

Plastic type, premolded joints shall be of flexible material, attached to the bell and spigot ends of the pipe, and shall be of quality and design equal to type III joint as specified in ASTM C425 specifications for "Compression Joints of Vitrified Clay Bell and Spigot Pipe".

All joints materials and designs shall be submitted to the Engineer, and their approval secured in writing, prior to ordering or using pipe and joints.

6.5.4 Alternate Joints

Other types of joints and joint compound will be considered but shall not be used until approved in writing by the Engineer.

If the Contractor proposes to use in alternate joint or joint compound, he shall supply evidence which will justify the use of this alternative joint, demonstrate its efficiency by field tests on job location and submit any data requested by Engineer, and shall use the alternate joint only with the written approval of the Engineer.

The Engineer reserves the right to require the Contractor to change the type of joint or joint compound initially used in case the initial installation of piping with any given joint or joint compound does not meet the specified leakage test requirements.

6.5.5 Change in Pipe Strength

Where the specifications require a change in pipe strength due to change in cuts, no change shall be made between two adjacent manhole.

6.5.6 Test Specimens

The Contractor shall furnish test specimens of each size and strength of pipe from any shipment, when so requested by the Engineer. These specimens shall be selected from the shipment by Engineer for the purpose of determining the crushing strength and amount of absorption.

No more than one (1) 5-foot length, of each size, per 50 feet of pipe of each size and strength will be required for test specimens except, should any specimen fail to meet the required crushing strength or absorption, three additional test specimens shall be selected from the lot represented by the specimen that failed, and tested. Should one of these three test specimens fail to meet the requirements, the entire lot represented by these samples shall be rejected.

The tests shall be made by a testing laboratory engaged by the Contractor, in accordance with A.S.T.M. and Des: C200.

6.6 Cement Asbestos Pipe

6.6.1 General

The terms "Cement Asbestos" and "Asbestos Cement" are used interchangeable in the Specifications and they refer to the same material, namely the products of Johns Manville Company, and Keasbey & Mattison Company.

Asbestos cement sewer pipe shall meet the requirements herein specified and shown on the plans. The size shall be shown on the plans, stated in the specifications, or as directed by the Engineer.

Asbestos Cement pipe shall conform, insofar as appropriate, to the standard specifications of "Asbestos - Cement Nonpressure Sewer Pipe" A.S.T.M. 428.

6.6.2 Materials

Pipe shall be composed of an intimate mixture of portland cement or portland-pozzolana cement, silica and asbestos fiber-and shall be free from organic substances-shall be autoclave - cured to produce 1% or less uncombined calcium hydroxide (free lime content) in the finished product.

6.6.3 Lengths

Standard length shall be 10 feet in size 8 inches in classes 1500 and 2400; 13 feet also in 8 inch class 2400 and 8 inch class 3300 and in all other sizes and classes. Up to 15% of the total footage of any one size and class may be furnished in random lengths 7 feet or more.

Short Lengths- quarter of half lengths, machined each end, available all sizes, classes 8" and 16" for use in making rigid connections to manholes and structures.

6.6.4 Joints

One Ring-Tite Coupling and two solid rubber rings shall be furnished with each length of pipe. Coupling shall be factory applied to one end of each standard length of pipe in size 8 inches.

6.6.5 Fittings

Sewer Pipe tees, and elbows shall be furnished in classes suitable for the class of pipe with which they will be used.

6.6.6 Soundness Tests

- a. Flexural Test shall be applied to each standard length of 8-inch pipe; all classes
- b. Crushing Test shall be applied to pipe sample taken from each lot of 200 length of each size and class of pipe.

6.6.7 Laying

The pipe shall be laid true to line and grade. Select material for bedding consisting of six-inch layer of pea gravel or No. 1 stone, compacted shall be used. After pipe has been placed select material for bedding shall be placed and compacted to the spring line of the pipe. Backfill shall be thoroughly tamped around the pipe to secure proper bedding.

6.6.8. Joints

Bell and spigot asbestos cement pipe shall be coupled by placing a rubber ring on the spigot end and inserting the rubber ring and spigot end into the bell of the adjoining pipe. The rubber ring shall be of the correct size and properly placed so as to make a watertight joint when the spigot is inserted in the bell of the next pipe, The rubber rings shall be supplied by the pipe manufacturer.

Plain end asbestos cement pipe joints shall be made with a coupling sleeve of asbestos cement and two (2) or more rubber rings supplied by the manufacturer. The rubber rings shall be placed so as to create a watertight joint when the pipe ends are inserted in the sleeve.

Where asbestos cement pipe connects to vitrified clay or cast iron pipe or saddle, the joint shall be made with an approved type of plastic joint. Other type of joints and joint compound will be considered if sufficient evidence of their durability and watertightness is supplied. They shall not be use, however, unless approved in writing by the Engineer,

6.6.9. Pipe Class Limits and Pipe Installation

The following table gives the limits of trench depth for the various sizes and class of asbestos cement sewer pipe. The Contractor shall be responsible for furnishing the correct size and class of pipe to be used in the various trench depths encountered in the contract. No change in the class of pipe shall be made between adjacent manholes and the greatest depth of trench between two (2) adjacent manholes and shall govern the class of pipe used for that particular section of sewer.

Pipe Size	Trench Depth		
Dia. Ins,	Ft, To Invert	Pipe Class	*Other Requirements
6	0 - 12	2400	No encasement
8	0 - 12	2400	No encasement or cradle
8	12-16	3300	No encasement or cradle
10	0-12	2400	No encasement or cradle
10	12-16	3300	No encasement or cradle
10	16-20	3300	With concrete cradle
12	0-8	2400	No encasement or cradle
12	8 -14	3300	No encasement or cradle
12	14-18	4000	No concrete cradle or Encasement
12	18-20	4000	With concrete cradle
16	0-8	2400	No encasement or cradle
16	8-14	3300	No encasement or cradle
16	14-15	4000	No encasement or cradle
16	18-20	4000	With concrete cradle

* All pipe unless provided with cradle or encasement shall have a selected fill material bedding to the spring line of the pipe. Pipe specified above for depths in excess of 16ft. Shall be used for depths in excess of 14ft.

6.7 Selected Bedding and Backfill Material

Select material for bedding shall be pea gravel or No, 1 stone, with all coarse aggregate exceeding one inch diameter removed. No coarse material shall be placed adjacent to the pipe.

Where selected bedding is specified such material shall be placed around the pipe to the same extent as concrete cradle, unless otherwise specified.

Select Material for backfilling shall be bank run gravel or sand, free from stone larger than one and one half (1½) inches in any dimension.

Select Material for backfilling will be used as directed by the Engineer across all drives, pavement crossing and such other area as the Engineer may direct.

6.8 Surface Risers

Where sewers are over 8 feet in depth, and where otherwise specified, surface risers shall be built at each required wye connection, to bring the connection to a depth of 8 feet.

The risers shall be built according to the detail shown on the plans; plastic joints shall be used.

6.9 Manholes

Manholes shall be built at such points in the sewer lines as shown on the plans or as designated by the Engineer.

6.9.1 Concrete Manholes

All manholes shall be precast concrete manholes meeting the specifications for concrete manholes, A.S.T.M. Dec. C478-64T.

Manholes shall be made of reinforced concrete pipe selections. Class III wall B, in 2 feet, 3 feet, 4 feet lengths as required, as shown on the detail drawing on the plans. The pipe shall be of the tongue and groove design. Unless otherwise specified, the pipe diameter shall be 48 inches. Joints shall be of neat cement or approved mastic, as specified for pipe joints, to secure a watertight joint.

The concrete base shall be designed as shown on the Plans, to receive the concrete pipe, and shall be Class "C" concrete, 3,500 lbs. Test.

The uppercone section shall be as shown on the plans, or of similar design made by the pipe manufacturer,

The contractor shall submit a shop design of the concrete pipe and special shapes to be supplied which shall be approved by the Engineer in writing, before ordering any material.

The manhole frame shall be of cast iron conforming to specifications therefore, and of the same dimensions as those shown on the plans or other approved design. The frame and cover in any case shall be properly designed and reinforced, provided with lifting devices and shall in no case weigh less than 450 lbs., complete, or 140 lbs. For the cover alone. All metal part shall be painted with two (2) coats of black asphaltum paint after erection. The design, if varying from that shown on the plans, shall be approved by the Engineer. Bearing surface of frame and cover shall be machined or ground to prevent rocking.

Invert in manholes shall be constructed by using channel pipe where possible on straight runs and by properly shaped concrete channel where there are intersections or changes in elevation or direction. The channel through the manhole and the connections with the pipe shall leave only smooth surface free from irregularities.

6.9.2 Drop Manholes

Drop manholes shall be built as shown on the plans, with drop pipe, fitting and connections. Each section of vertical pipe shall be fastened to the manhole with iron straps and extra precautions shall be taken to well caulked all joints with lead or plastic compound. Drop pipe shall be encased in concrete.

6.9.3 Manhole Steps

Manhole steps shall be forged aluminum as shown on the plans, unless otherwise specified. Cast iron steps shall weigh the minimum of 11 pounds, and conform with the design shown on the plans.

Aluminum steps shall be the drop front design as made by the Aluminum Company of America, Part No. 12653, or approved equal, as shown on plans.

6.10 Tunnels

All points where the sewer passes under rigid pavements, as noted or shown on the Plans, or at other points where directed by the Engineer, the Contractor shall lay the sewer by means of tunneling, and not by open cut, unless permitted in writing by the Engineer. The tunnel or cut shall be backfilled and rammed to the satisfaction of the Engineer, to prevent any settlement of the pavement. Concrete Class 1.80lbs. May be required as backfill which will either be specified on the Plans, or paid as an extra if later required.

6.11 Wye Connections

Wye connections or house connections shall be placed in the main sewer where shown on the Plans, directed by the Engineer in the field, or otherwise indicated. If there are no directions, they shall be spaced to provide service for each building along the sewer line. When a separate sewer is built for each side of the street, the wye shall consist of the wye connection in the proper size pipe with 6-inch branch, and a cap placed in the bell of each branch, which can easily be removed when service is desired. This branch shall be faced away from the center of the street, and set at an angle of 60 degrees to the horizontal. If only one sewer is being built for both sides of the street, the wye shall be installed as above, except that they shall be spaced one (1) for each 75 feet of frontage on each side of the street, with alternate wye facing opposite sides of the street. Records at stations foreach wye shall be maintained and the location of each buried wye marked by a timber protruding above ground level.

The connection may be used in place of wye connections, similarly installed with the approval of the Engineer, in writing.

6.12 Tests

The Contractor shall, at his own expense, furnish all labor and material necessary to make

proper test of the sewer and appurtenances, and also to clean the sewer or any portion thereof as the Engineer may direct.

6.12.1 Joint Test and Leakage Infiltration or Exfiltration Requirement

Before any sewer are constructed, the contractor shall demonstrate by lying several joints, using the pipe and type of joint material that he will use on the job, that the methods he will employ will conform with the Specifications, and will secure a watertight joint. The workmen whom he intends to use for pipe laying shall be familiar with these requirements, and skilled in the art.

Upon completion of all the work, or sections which can be tested, the Contractor shall perform a leakage or infiltration and/or exfiltration test which will show that for sewer of diameters indicated, the leakage outward in a dry trench, or infiltration inward in a wet trench will not exceed the amount shown per mile of sewer per 24 hours,

Diameter Pipe	Infiltration or Leakage in Gallons
Inches	Per Mile Per 24 hours
8	1,600
10	2,000
12	2,400
15	3,000
24	4,800

For the pipe of large diameter, infiltration or leakage shall not exceed 200 gallons per inch diameter per mile of sewer per 24 hours, unless otherwise specified in the Detailed Specifications.

The above figures are for average ground condition. Any unusual conditions or short sections will be recognized and considered, but in no case shall any amount of leakage or infiltration in excess of double the above be acceptable.

No house connection or other connections shall be permitted until the work has been tested and approved.

6.12.2 Joint Test and Leakage (Low Pressure Air)

The Contractor will be required to carry out air testing of all sewer lines from manhole to manhole. At the Engineer's direction he may be required to run infiltration or exfiltration tests on certain sections of the completed sewers.

Low Pressure air testing shall be done in the following manner and an acceptable sewer line shall meet the criteria shown below:

Air Test Procedures

1. Test is conducted between (2) two consecutive manholes, as directed by the Engineer.
2. The test section of the sewer line is plugged at each end. One of the plugs used at the manhole must be tapped and equipped for the air inlet connection for filling the line from the air compressor.
3. The test section of the sewer line is plugged at each end. One of the plugs used at the manhole must be tapped and equipped for the air inlet connection for filling the line from the air compressor.
4. All Service laterals, stubs and fitting into the sewer test section should be properly capped or plugged, and carefully braced against the internal pressure to prevent air leakage by slippage and blowouts Connect air hose to tapped plug Selected for air inlets. Then connect the other end of the air hose to the portable air control equipment which consists or valves and pressure gauges used to control:
 - a. the air entry rate to the sewer test section, and
 - b. to monitor the air pressure in the pipeline.

More specifically, the air control equipment includes a shut-off valve, pressure regulating valve reduction valve and a monitoring pressure gauge having a pressure range from 0 to 5 psi. The gauge should have the minimum divisions of .10 psi and accuracy of +.04 psi Figure No. 110 illustrates diagrammatically a typical control equipment apparatus.

5. Connect another air hose between the air compressor (or other source of compressed air) and the air control equipment. This completes the test equipment set up. Test operations my commence.
6. Supply air to test section slowly, filling the pipeline until a constant pressure of 3.5 psi is maintained. The air pressure must be regulated to prevent the pressure inside the pipe from exceeding 5.0 psi.
7. When the constant pressure of 3.5 psi is reached, throttle the air supply to maintain the internal pressure above 3.0 psi for at least 5 minutes. This time permits the temperature of the entering air to equalize with the temperature of the pipe wall. During this stabilization period it is advisable to check all capped and plugged fittings with a soap solution to detect any leakage at these connections.

If leakage is detected at any cap or plug, release the pressure in the line and tighten all leaky caps and plugs. Then start the test operation again by supplying air. When it is necessary to bleed off the air to tighten or repair a faulty plug, a new five minute interval must be allowed after the pipeline has been refilled.

8. After the stabilization period, adjust the air pressure to 3.5 psi and shut off or disconnect the air supply. Observe the gauge until the air pressure reaches 3.0 psi. At 3.0 psi, commence timing with a stopwatch which is allowed to run until the line pressure drops to 2.5 psi at which time the stopwatch is stopped. The time required, as shown on the stopwatch, for a pressure

loss of 0.5 psi is used to compute the air loss. Most authorities consider it unnecessary to determine the air temperature inside the pipe line and the barometric pressure at the time of the test.

9. If the time in minutes and seconds, for the air pressure to drop from 3.0 to 2.5 psi is greater than that shown in Table y for the designated pipe size, the section undergoing test shall have passed and shall be presumed to be free of defects. The test may be discontinued at that time.

10. If the time in minutes and seconds, for the 0.5 psi drop is less that shown in Table y for the designated pipe size, the section of pipe shall not have passed the test; therefore, adequate repairs must be made and the line retested.

a. Pipe Size with Their Respective Recommended Minimum Times, in Minutes and Seconds, for Acceptance by the Air Test Method:

TIME REQUIREMENTS FOR AIR TESTING

Pipe Size (In Inches)	Time	
	Min.	Sec.
4	2	32
6	3	50
8	5	6
10	6	22
12	7	39
14	8	56
15	9	35
16	10	12
18	11	34
20	12	45
21	13	30

b. For eight (8) inches and smaller pipe, only: if, during the five minute saturation period, pressure drops less than 0.5 psi after the initial pressurization and air is not added, the pipe section undergoing test shall have passed.

c. Muti Pipe Sizes: When the sewer line undergoing test is 8" or larger diameter pipe and includes 4" and 6" literals, the figures in Table y for uniform sewer main sizes will not give reliable or accurate criteria for the test. Where muti-pipe size are under go the air test, the Engineer can compute the "average" size in inches which is then multiplied by 38.2 seconds. The results will give the minimum time in seconds acceptable for a pressure drop of 0.5 psi for the "averaged" diameter pipe.

6.13 Unfaithful Work

Wherever unfaithful work or defective material is discovered, it shall at once be replaced, and reconstructed at the expense of the Contractor. No work of any kind shall be permanently

buried or covered until examined and approved by the Engineer. Upon violation of this provision, the Engineer will not certify to any estimate of work done until the uninspected portion shall have been uncovered, inspected, and found to comply with Specifications.

6.14 Final Inspection

Upon completion of the work and prior to final estimate, the Engineer or his authorized representative will carefully inspect all portions of the work, to see that it is constructed according to Plan and Specifications, and that it is in proper working order. To ascertain that the sewers are open and free from obstructions, the Contractor shall Flush the sewer and run rubber balls slightly smaller than the pipes through them, from sizes up to 24 inch in diameter, to flash light from manhole to manhole. All parts of the work which require operation to demonstrate their proper construction, shall be operated. When the work is satisfactory to Owner, he shall make the final payment as herein specified. Where the size of the sewer permits, personal inspection by the Engineer, or his representative shall be made.

Village of Ellicottville

Local Law No...... 3 **of the year 1977**

A local law to amend the Village of Ellicottville Sewer Local Law being. local law number three of the year nineteen hundred seventy five of the village of Ellicottville, to permit the use of polyvinyl chloride (PVC) plastic pipe for building sewers.

Be it enacted by the Board of trustees..... **of the**

Village of Ellicottville**as follows:**

Section 1, Section 102 of the village of Ellicottville Sewer Local Law, being local law number three of the year nineteen hundred seventy-five of the village of Ellicottville, is hereby amended by adding thereto a new subdivision, to be subdivision (bb), to road as follows:

(bb) "PVC pipe" shall mean polyvinyl chloride plastic gravity sewer pipe with integral well bell spigot joints.

\$2. Section 406 of said local law is hereby amended to read as follows:

Section 406. The size, slope, alignment, materials of construction of a building gewor and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the village. In the absence of code provisions the specifications of the A.S.T.M. and W.B.C.F. Manual of Practice No. 9 shall apply. Pipe used for house connections shall be six inches (6"), fifteen centimeters (15) extra strength vitrified clay pipe (1.3.1.H. desletion 200-591), or six inch (6"), Pirteen centimeters (15) SDR35 PVC pipe (1.5,1.M. dosignation D-3034-73), and shall be in accordance with Section coc of the specifications for the construction of sewers for the village, as supplemented for PVC pipe, (son appendix hereto). A standard transition joint shall be used in the transition from vitrified clay pipe to PVC pipe and shall be supported with concrete for 2 feet each side of transition point, .

If wyes are not installed for bouso connections when the sewer is constructed, a clean opening shall be cut into the existing sewer with proper equipment and a tee saddle attached. In no event should pipe from a house connection extend through the inside diameter of the existing sewer. Any connection other then to existing fittings must be made by experienced workmen under close supervision of the Superintendent.

All pipe shall be equipped with approved watertight joints. A11 vitrified clay pipe and fittings shall be equipped with factory made poly vinyl joints equal to "Wedge-Look" joints and designated as Typo HI in A.S.T.M. C-45 specifications for joint material. Slope for six inch (6") sawer shall not be less than one-eighth inch (1/8") per foot.

Four inch (4") cast iron pipe may be used in special case3 upon receiving approval of the Superintendent. Pipe shall be first quality soft pipe meeting A.3..1. specifications and equipped with compression type joints or with lead caulked joints.

\$3. The Appendix to said local law, referred to in Section 406 thereof, is hereby amended to read as follows:

Appendix

In Part I of this Appendix is reproduced Section 6 of Specifications for Construction of Sewers for the village of Ellicottville, and in Part II supplemental material for the use of polyvinyl chloride (PVC) plastic pipe. These specifications are reproduced as a guide for installing building sewers. Nothing in either part of this Appendix shall be deemed to authorize the use of any type of pipe not specifically authorized in the foregoing local law.

Part I

6. METHOD OF CONSTRUCTING SEWERS

AND LAYING SEWER PIPE

6.1 Scope of Work

Under this heading the Contractor shall provide all of the necessary labor, materials and equipment to install complete and ready for use the sewer pipes as called for on the plans and included in these specifications, including all excavation, trenching, backfilling, pipe, laying of pipe, service connections and other miscellaneous items usually included in such work.

6.2 Excavation, Trenching and Backfilling

All excavation, trenching, and backfilling shall conform to applicable portions of specifications for "Excavation, Trenching, and Backfilling for Utility Systems."

6.3 Pipe

The pipe used for sewers shall be asbestos cement or vitrified tile. All pipe shall conform with the specifications therefore "Materials."

6.4 Specials

All specials necessary to construct the sewers shown on the plans shall be supplied and no extra payment will be made for them.

6.5 Vitrified Tile Pipe

Vitrified clay pipe shall meet the requirements herein specified and shown on the Plans. The sizes shall be shown, specified in the Detailed Specifications or as directed by the Engineer.

6.5.1 Materials

All vitrified clay pipe shall be Extra Strength (EX.ST.) A.S.T.M. Dos: - C-200. All pipe shall be free from fractures, large or deep cracks blisters, laminations and surface roughness. The pipe shall be bell and spigot pattern. Laying lengths shall be not less than 5 feet long, except where 3 foot lengths are called for by the Standard Details:

Vitrified Clay Sewer Pipe for Sanitary Sewers shall be:

- a. In cuts from or to 10', Extra Strength (EX. ST. - C-200) for all pipe sizes.
- b. In cuts more than 10.0', Extra Strength (EX. ST. - C-200) with or without concrete cradle or encasement as specified in those specifications and/or directed by the Engineer.

The depth of cut, mentioned above, is the depth of sewer invert.

6.5.2 Laying

Sewer pipe shall be laid in accordance with the "Recommended Practice for Installing Vitrified Clay Sewer Pipe" A.S.T.M. C12.

Pipe shall be laid true to line and grade as shown on the Plans or given by the Engineer.

When the pipe is to be laid without cradle, or encasement, the bottom of the trench shall be excavated to a flat surface six (6) inches below the invert grade. Select material for bedding, (pea gravel or No. 1 Stone) shall then be placed to a depth of six inches and compacted. The sewer pipe shall then be bedded and laid to grade. Before backfill starts additional select material for bedding shall be placed on either side of the pipe to the spring line of the pipe and tamped. Backfilling as described elsewhere shall then proceed. No blocking under pipes will be permitted, except as permitted by the Engineer for pipe to be laid in cradle. When the sewer is to be laid in a concrete cradle, each length shall be laid to grade and supported at each end by suitable concrete blocks. Concrete shall then be poured on one side only until it has risen above the invert on the other side, after which the remainder of the concrete shall be deposited on both sides.

All pipes and specials shall be carefully inspected before being laid and no cracked, broken or defective pipe or special shall be used in the work. All pipe shall be laid with bells upstream. The spigot shall be carefully inserted in the bell in such a manner that there will be no unevenness along the bottom half of the pipes and so that there is a uniform joint space all around the pipe.

The interior of the sewer shall be kept clean as the work progresses and the open end shall be bulkheaded when pipe laying is not in progress. During this process of the laying, care shall be taken to protect both pipe and joints from disturbances, and the trench shall be kept from water until the joints have set.

6.5.3 Joint Material

Unless otherwise specified or permitted, all vitrified clay or sewer pipe joints shall be made with an approved plastic type material. Plastic type, premolded joints shall be of flexible material, attached to the bell and spigot ends of the pipe, and shall be of quality and design equal to type III joint as specified in ASTM C425 specifications for "Compression Joints for Vitrified clay Bell and Spigot Pipe"

All joint materials and designs shall be submitted to the Engineer, and their approval secured in

writing, prior to Ordering or using pipe and joints.'

6.5.4 Alternato Joints

Other types of joints and joint compounds will be considered but shall not be used until approved in writing by the Engineer.

If the Contractor proposes to use an alternate joint or joint compound, he shall supply evidence which will justify the use of this alternative joint, demonstrate its efficiency by field tests on job location and submit any data requested by the Engineer, and shall use the alternate joint only with the written approval of the Engineer.

The Engineer reserves thc right to require the Contractor to change the type of joint or joint compound initially used in case the initial installation of piping with any given joint or joint compound does not meet the specified leakage test requirements.

6.5.5 Changes in Pipe Strength

Where the specifications require a change in pipe strength due to change in cut, no change shall be made between two adjacent manholes.

6.5.6 Test Specimens

The Contractor shall furnish test specimens of each size and strength of pipe from any shipment, when so requested by the Engineer. These specimens shall be selected from the shipment by the Engineer for the purpose of determining the crushing strength and amount of absorption.

No more than one (1) 5-foot length, of each size, per 500 feet of pipe of each size and strength will be required for test specimens except, should any specimen fail to meet the required crushing strength or absorptions three additional test specimens shall be selected from the lot represented by the specimen that failed, and tested. Should one of those three test specimens fail to meet the requirements, the entire lot represented by these samples shall be rejected.

The tests shall be made by a testing laboratory engaged by the Contractor, in accordance with A.S.T.M. and Dos: C.200.

6.6 Cement Asbestos Pipe

Sections: 6.6.1 through 6.6.9 where deleted.

Those sections relate to cement asbestos, also known as asbestos cement pipe which is not authorized for use for building sewers in the village.

6.7 Selected Building and Backfill Material

Select material for bedding shall be pea gravel or No. 1 stone, with all coarse aggregate exceeding one inch diameter removed. No coarse - . material shall be placed adjacent to the pipe.

Where selected building is specified such material shall be placed around the pipe to the same extent as concrete cradle, unless otherwise specified.

Select Material for backfilling shall be bank run gravel or sand, free from stones larger than one and one-half (1½) inches in any dimension.

Select Material for backfilling will be used as directed by the Engineer across all drives, pavement crossings and such other areas as the Engineer may direct.

6.8 Surface Risers

Where sewers are over 8 feet in depth, and where otherwise specified, surface risers shall be built at each required wye connection, to bring the connection to a depth of 8 foot.

The risers shall be built according to the detail shown on the Plans. Plastic joints shall be used.

6.9 Manholes

Manholes shall be built at such points in the sewer lines as shown on the plans or as designated by the engineer.

6.9.1 Concrete Manholes

All Manholes shall be precast Concrete Manholes meeting the specifications for Concrete Manholes. ASTM Des. C478-64T.

Manholes shall be made of reinforced concrete pipe sections, Class III, Wall B, in 2 feet, 3 feet or 4 feet lengths as required, as shown on the detail drawing on the plans. The pipe shall be of the tongue and groove design. Unless otherwise specified, the pipe diameter shall be 48 inches. Joints shall be of neat cement or approved mastic, as specified for pipe joints, to secure a watertight joint.

The concrete base shall be designed as shown on the Plans, to receive the concrete pipe, and shall be Class "C" concrete, 3,500 lbs, test.

The upper cone section shall be as shown on the plans, or of similar design made by the pipe manufacturer.

The Contractor shall submit a shop design of the concrete pipe and special shapes to be supplied which shall be approved by the Engineer in writing, before ordering any material.

The manhole frame shall be of cast iron conforming to specifications therefore, and of the same

dimensions as those shown on the plans or other approved design. The frame and cover in any case shall be properly designed and reinforced, provided with lifting devices and shall in no case weigh less than 450 lbs., complete, or 140 lbs. for the cover alone. All metal parts shall be painted with two (2) coats of black asphaltum paint after erection. The design, if varying from that shown on the plans, shall be approved by the Engineer. Bearing surface of the frame and cover shall be machined or ground to prevent rocking.

Inverts in manholes shall be constructed by using channel pipe where possible on straight runs and by properly shaped concrete channels where there are intersections or changes in elevation or direction. The channel through the manhole and the connections with the pipe shall leave only smooth surface free from irregularities.

6.9.2 Drop Manholes

Drop manholes shall be built as shown on the Plans, with drop pipe, fittings and connections. Each section of vertical pipe shall be fastened to the manhole with iron straps and extra precautions shall be taken to well caulk all joints with lead or plastic compound. Drop pipe shall be encased in concrete.

6.9.3 Manhole Steps

Manhole steps shall be forged aluminum as shown on the plans, unless otherwise specified.

Cast iron steps shall weigh a minimum of 11 pounds, and conform with the sign shown on the Plans.

Aluminum steps shall be of the drop front design as made by the Aluminum Company of America, Part No. 12653, or approved equal, as shown on the plans.

6.10 Tunnels

All points where the sewer passes under rigid pavements, as noted, or shown on the Plans, or at other points where directed by the Engineer, the Contractor shall lay the sewer by means of tunneling, and not by open cut, unless permitted in writing, by the Engineer. The tunnel or cut shall be backfilled and rammed to the satisfaction of the Engineer, to prevent any settlement of the pavement. Concrete Class 1,300 lbs. may be required as backfill which will either be specified on the Plans, or paid as an extra if later required.

6.11 Wye Connections

Wye connections or house connections shall be placed in the main sewer where shown on the Plans, directed by the Engineer in the field, or otherwise indicated. If there are no directions, they shall be spaced to provide service for each building along the sewer line. When a separate sewer is built for each side of the street, the wye shall consist of the wye connection in the proper size pipe with 6-inch branch, and a cap placed in the bell of each branch, which can easily be removed when service is desired. This branch shall be faced away from the center of

the street, and set at an angle of 60 degrees to the horizontal. If only one sewer is being built for both sides of the street, the wye shall be installed as above, except that they shall be spaced one (1) for each 75 feet of frontage on each side of the street, with alternate wyes facing opposite sides of the street. Records of stations for each wye shall be maintained and the location of each buried wye marked by timber protruding above ground level.

The connections may be used in place of wye connections, similarly installed with the approval of the Engineer or, in writing.

6.12 Tests

The Contractor shall, at his own expense, furnish all labor and material necessary to take proper tests of the sewer and appurtenances, and also to clean the sewer or any portion thereof as the Engineer may direct.

6.12.1 Joint Tests and Leakage Infiltration or Exfiltration Requirements

Before any sewers are constructed, the Contractor shall demonstrate by laying several joints, using the pipe and type of joint material that he will use on the job, that the methods he will employ will conform with the Specifications, and will secure a watertight joint. The workmen whom he intends to use for pipe laying shall be familiar with those requirements, and skilled in the art.

Upon completion of all the work, or sections which can be tested, the Contractor shall perform a leakage or infiltration and/or exfiltration test which will show that for sewers of diameter indicated, the leakage outward in a dry trench, or infiltration inward in a wet trench will not exceed the amount shown per mile of sewer per 24 hours.

Diameter Pipe	Infiltration or Leakage in
<u>Inches</u>	<u>Gallons For Mile For 24 Hrs.</u>
8	1,600
10	2,000
12	2,400
15	3,000
24	4,800

^w
For the pipe of larger diameter, infiltration or leakage shall not exceed 200 gallons per inch diameter per mile of sewer per 24 hours, unless otherwise specified in the Detailed Specifications.

The above figures are for average ground conditions, any unusual conditions or short sections will be recognized and considered, but in no case shall any amount of leakage or infiltration in excess of double the above be acceptable.

No house connection or other connections shall be permitted until the work has been tested and approved.

6,12,2 Joint Tests in Leakage (Low Pressure Air)

The Contractor will be required to carry out air testing of all sewer lines from manhole to manhole. At the Engineer's direction he may be required to run infiltration or exfiltration tests on certain sections of the completed sewers.

LOW Pressure air testing shall be done in the following manner and to acceptable sewer line shall meet the criteria shown below:

Air Test Procedures.

1. Test is conducted between two (2) consecutive manholes, as directed by the Engineer.
2. The test section of the sewer line is plugged at each end. One of the plugs used at the manhole must be tapped and equipped for the air inlet connection for filling the line from the air compressor.
3. All service laterals, stubs and fittings into the sewer test suction should be properly capped or plugged, and carefully braced against the internal pressure to prevent air leakage by slippage and blowouts.
4. Connect air hose to tapped plug selected for the air inlet. Then connect the other end of the air hose to the portable air control equipment which consists of valves and pressure gages used to control:
 - a. the air entry rate to the sewer test section, and
 - b. to monitor the air pressure in the pipe line.More specifically, the air control equipment includes a shut-off valve, pressure regulating valve, pressure reduction valve and a monitoring pressure gage having a pressure range from 0 to 5 psi. The gage should have minimum divisions of .10 psi and an accuracy of +.04 psi. Figur No. 110 illustrates diagrammatically a typical control equipment apparatus.
5. Connect another air hose between the air compressor (or other source of compressor air) and the air control equipment. This completes the test equipment set-up. Test operations may commence.
6. Supply air to the test section slowly, filling the pipe line until a constant pressure of 3.5 psig is maintained. The air pressure must be regulated to prevent the pressure inside the pipe from exceeding 5.0 psig.
7. When constant pressure of 3.5 psig is reached throttle thi air supply to maintain the internal pressure above 3.0 psig for at last 5 minutes. This time permits the temperature of the entering air to equalize with the temperature of the pipe will. During this stabilization period it is advisable to check all capped and plugged fittings with a soap solution to detect any leakage at those connections.

If leakage is detected at any cap or plug, release the pressure in the line and tighten all leaky caps and plugs. Then start the test operation again by supplying air when it is necessary to bleed off the air to tighten or repair a faulty plug, a new five-minute interval must be allowed for the pipe line has been refilled.

8. After the stabilization period, adjust the air pressure to 3.5 psig and shut off or disconnect the air supply. Observe the gage until the air pressure reaches 3.0 psig. At 3.0 psig commence timing with a stop watch which is allowed to run until the line pressure drops to 2.5 psig at which time the stop watch is stopped. The time required, as shown on the stop watch, for a pressure loss of 0.5 psig is used to compute the air loss. Most authorities consider it necessary to determine the air temperature inside the pipe line and the barometric pressure at the time of the test.

9. If the time in minutes and seconds, for the air pressure to drop from 3.0 to 2.5 psig is greater than that shown in Table Y for the designated pipe size, the section undergoing test shall have passed and shall be presumed to be free of defects. The test may be discontinued at that time.

10. If the time in minutes and seconds, for the 0.5 psig drop is less than that shown in Table Y for the designated pipe size, the section of pipe shall not have passed the test; therefore, adequate repairs must be made and the line retested.

a. Pipe Sizes with their respective Recommended Minimum Times, in Minutes and Seconds, for acceptance by the Air Test Method

Time Requirements for Air Testing

Pipe Size (In Inches)	Time	
	Min.	Sec.
4	2	32
6	3	50
8	5	6
10	6	22
12	7	39
14	8	56
15	9	35
16	10	12
18	11	34
20	12	45
21	13	30

b. For eight (8) inch and smaller pipe, only: if, during the five minute saturation period, pressure drops less than 0.5 psig after the initial pressurization and air is not added, the pipe section undergoing test shall have passed.

c. Multi Pipe Sizes: When the sewer line undergoing test is 8" or larger diameter pipe and includes 4" or 6" laterals, the figures in Table Y for uniform sewer main sizes will not give reliable or accurate criteria for the test. Where multi-pipe sizes are to undergo the air test, the

engineer can compute the average size in inches which is then multiplied by 38.2 seconds. The results will give the minimum time in seconds acceptable for a pressure drop of 0.5 psig for the averaged diameter pipe.

6.13 Unfaithful Work

Wherever unfaithful work or defective material is discovered it shall at once be replaced, and reconstructed at the expense of the Contractor. No work of any kind shall be permanently buried or covered until examined and approved by the Engineer. Upon violation of this provision, the Engineer will not certify to any estimate of work done until the uninspected portion shall have been uncovered, inspected, and found to comply with the Specifications.

6.14 Final Inspection

Upon completion of the work and prior to the final estimate, the Engineer or his authorized representative will carefully inspect all portions of the works to see that it is constructed according to the Plans and Specifications, and that it is in proper working order. To ascertain that the sewers are open and free from obstructions, the Contractor shall flush the sewers and run rubber balls slightly smaller than the pipes through them, from sizes up to 24 inches in diameter, or flash lights from manhole to manhole. All parts of the work which require operation to demonstrate their proper construction, shall be so operated. When the work is satisfactory to the Owner, he shall make the final payment as herein specified. Where the size of the sewer permits, personal inspection by the Engineer or his representative shall be made.

Part II

Supplement for PVC Pipe

1. Scope of Work

This specification designates general requirements for unplasticized Polyvinyl chloride (PVC) Plastic Gravity Sewer Pipe with integral wall bell and spigot joints for the conveyance of domestic sewage.

2. Materials.

Pipe and fitting shall meet extra strength minimum of SDR-35 of the requirements of ASTM Specifications D3034-73.

3. Pipe

A11 pipe shall be suitable for use as a gravity sewer conduit. Provision must be made for contraction and expansion of each joint with a rubber ring. The bell shall consist of an integral wall section with a solid cross section rubber ring factory assembled, securely locked in place to prevent displacement. Sizes and dimensions shall be as shown in this specification, Standard length shall be 12.5 Ft. \pm 1 inch.

4. Fittings

All fittings and accessories shall be as manufactured and furnished by the pipe supplier or approved and have bell and/or spigot configurations identical to that of the pipe.

5. Pipe Stiffness

Minimum pipe stiffness (F/y) at 5% deflection shall be 46 for all sizes when tested in accordance with ASTM Designation D2412, External Loading Properties of Plastic Pipe by Parallel-Plate Loading.

6. Joint Tightness

Assemble two sections of pipe in accordance with the manufacturer's recommendation. Subject the joint to an internal hydrostatic pressure of psi for one hour. Consider any leakage a failure of the test requirements.

7. Flattening

There shall be no evidence of splitting, cracking or breaking when the pipe is tested as follows:

Flatten specimen of pipe, six inches long between parallel plates in a suitable press until the distance between the plates is forty percent of the outside diameter of the pipe. The rate of loading shall be uniform and such that the compression is completed within two to five minutes.

8. Drop Impact Test

Pipe (5." long section) shall be subjected to impact from a free falling tup (20 lb. Tup A.) in accordance with ASTM method D2444. No shattering or splitting (denting is not a failure) shall be evident when the following

energy is impacted:

Nominal Size	4"	6"	8"	10"	12"
FF. - Lbs.	140	210	210	220	220

2. Acetone Immersion Test

After two hours immersion in a sealed container of anhydrous (99.5% per acetone, a 1" long sample ring shall show no sign of flaking on exterior or interior surfaces when tested in accordance with ASTM 2152.

1. Sizes, Dimensions and Tolerances

Nom. Size	Outside Diameter		Min Wall Thickness	Wgt./Lbs. 20' Length
	Average	Tolerance		
4	4.215	± 0.007	0.125	20.4
6	6.275	± 0.009	0.180	43.9
8	8.400	± 0.010	0.240	78.8
10	10.500	± 0.013	0.300	123.4
12	12.500	± 0.016	0.300	176.4

11. Laying

The pipe shall be laid true to line and grade. Select material for bedding consisting of a six-inch layer of pea gravel or No. 1 stone, compacted shall be used. After pipe has been placed, select material for bedding shall be placed and compacted to the spring-line of the pipe. Compaction shall be achieved by working the bedding with a shovel along the entire length of the pipe on both sides. Backfill above the spring line the pipe shall consist of a 6" layer of select material (pea gravel or No. 1 stone) above the top of the pipe. This material shall be compacted by working it with a shovel along the entire pipe length. The Contractor may as an alternate use excavated trench material for backfill above the spring line. The material shall be free from any material larger than 2" in any direction, 1" adjacent to the pipe. This material shall be placed in 6" layers and hand tamped to a point 12" above the top of the pipe or as otherwise specified.

\$4. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 2 of the year 1979

A local law to amend the Village of Ellicottville Sewer Local LAW being local law number three of the year nineteen hundred seventy-five of the village of Ellicottville, in relation to certain toxic substances being discharged to public sewers.

Be it enacted by the board of trustees. of the

Village of Ellicottville as follows:

Section 1. Section 102 of the village of Ellicottville sewer local law, being local law number three of the year nineteen hundred seventy five of the village of Ellicottville, is hereby amended by adding a new subdivision (bb) to read as follows:

(bb) "mg/l" shall mean milligram per liter.

\$2. Such local law is hereby amended by adding thereto a new section 503- a to read as follows:

Section 503-2. No person operating an industrial establishment shall discharge or cause to be discharged to any public sewer any of the following substances having a 30 day average concentration in excess of the following limits, expressed in terms of mg/l of effluent, measured at the point of discharge to the public sewer

Cadmium.....	0.2	Cyanide- complex.....	0.8
Hex. Chromium.....	0.1	Selenium.....	0.1
Total Chromium.....	2.0	Sulfide.....	3.0
Copper.....	0.4	Barium.....	2.0
Lead	0.1	Manganese	2.0
Mercury	0.1	Gold	0.1
Nickel	2.0	Silver	0.1
Zinc	0.6	Florides-if village water supply:	
Argenic	0.1	is fluoridated.....	2.0
AvailableChlorine	50.0	is not fluoridated.....	3.0
Cyanide-free.....	0.2	Phenol.....	2.0

\$3. The introductory paragraph and subdivisions (e) nd (f) of section 504 of such local law are hereby amended to read as follows:

Section 504. No person shall discharge or cause to be discharged to any public sewer the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm the sewers, sewage treatment process, or equipment, can have an adverse effect on the receiving stream, or can otherwise endanger life,

limb, or public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(e) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable toxic substances; or waters exerting a chlorine requirement that exceeds the limits established by the Superintendent for such materials.

(f) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary to meet the requirement of the State, Federal or other public agencies of jurisdiction for discharge to the receiving waters.

\$4. Section 507 of such local law 1s hereby amended to read as follows:

Section 507. Preliminary treatment, also called pretreatment, and flow-equalization of waters and wastes shall be provided as follows:

(a) Any non-domestic sewage discharged to or introduced into the public sewers shall receive such pretreatment as may be required by the provisions of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, (33 U.S.C. 1251 et seq.) and the regulations promulgated thereunder; and the Superintendent shall take all appropriate steps to enforce compliance with such act and regulations, to the extent that it is the responsibility of the village to do so.

(b) Where preliminary treatment or flow-equalizing facilities are either required or provided for any waters or wastes, they shall be installed, and shall be maintained continuously in satisfactory and effective operation by the owner of property at his expense.

\$5.Section 801 of such local law is hereby amended to read as follows:

Section 801. To the extent the village has authority to require the same, the employees of the United States Environmental Protection Agency and the New York State Department of Environmental Conservation, the Superintendent and other duly authorized officers and employees of the village shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this local law. None of such persons shall have authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharges to the sewers or waterways or facilities for waste treatment. Nothing here in contained shall be deemed to authorize or require any injury to private property, any invasion of private rights, or any unlawful or unconstitutional act.

\$6. This local law shall take effect immediately on filing with the Secretary of state.

Village ofEllicottville.....

Local Law No. 2of the year 1996

A local law Establishing Sewer Rents

Be it enactedBoard of Trustees..... by the of the

Village of Ellicottville as follows:

Section 1. Sewer rents for the Village of Ellicottville shall be billed quarterly to users on the basis of quarterly water usage as follows:

A. Residential Users:

<u>Quarterly Water Usage</u>	<u>Quarterly Sewer Rent</u>
Less than or equal to 15,000 gallons	\$40.20
Greater than 15,000 gallons	\$40.20 plus \$2.90 for each 1,000 Gallons in excess of 15,000 gallons Of quarterly water usage,

B. Commercial Users:

<u>Quarterly Water Usage</u>	<u>Quarterly Sewer Rent:</u>
Less than or equal to 75,000 gallons	\$201.00
Greater than 75,000 gallons	\$201.00 plus \$5.58 for each 1,000 Gallons in excess of 75,000 gallons Of quarterly water usage.

C. Industrial Users:

<u>Quarterly Water Usage</u>	<u>Quarterly Sewer Rent</u>
Less than or equal to 75,000 Gallons	\$201.00
Greater than 75,000 gallons	\$201.00 plus \$3.70 for each 1,000 Gallons in excess of 75,000 gallons Of quarterly water usage.

Section 2. This local law shall take effect on July first, Nineteen Hundred Ninety Six.

Village ofEllicottville

Local Law No..... 4 of the year 1996

A local law Establishing Sewer Rents

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

LOCAL LAW #4 FOR 1996

Section 1. Classification of Users. For the purpose of fixing and imposing the collection of sewer rentals, all users using that part of the sewer system of the Village located within its boundaries are divided into two groups as follows:

- a. Group I shall consist of residence dwellings; all churches within the village; commercial, industrial, and retail establishments whose principal use of water is for lavatory facilities for the sole use of the staff of the said establishment.
- b. Group II shall consist of all other commercial, industrial, and retail establishments not included in Group I.

Section 2. Minimum Quarterly Water Volume. For purposes of calculating sewer rents pursuant to Section 4, minimum quarterly water volume shall be 15,000 gallons for Group I users, and 75,000 gallons for Group II users.

Section 3. Quarterly Water volume. Quarterly water volume as hereinafter applied shall be the user's metered quarterly water volume in gallons or minimum quarterly water volume as set forth in Section 2, whichever is higher.

Section 4. Sewer Rents. Sewer rents for the village of Ellicottville shall be calculated and billed quarterly to users as follows:

A. First Calendar Quarter (In Season):

1. Quarterly water volume for the first calendar quarter divided by 1,000 gallons, then multiplied by the appropriate in season demand rate per thousand gallons calculated pursuant to subparagraph a.

a. In season demand rates will be calculated as follows:

A ratio (R) shall be calculated for each user, the numerator of which shall be the user's quarterly

water volume for the first calendar quarter and the denominator of which shall be the user's average quarterly water volume for the second, third, and fourth calendar quarters of the preceding calendar year.

The following in season demand rates shall apply to a user based on the size of the user's ratio (R):

Applicable Demand Rate	Ratio	\$ Amount of Demand Rate per 1000 Gallons
Demand Rate 1	R is less than or Equal to 1.00	\$2.78
Demand Rate 2	R is greater than 1.00 But less than or Equal to 2.50	\$3.20
Demand Rate 3	R is greater than 2.50 But less than or equal 5.00	\$3.61
Demand Rate 4	R is greater than 5.00 But less than or equal To 7.50	\$4.03
Demand Rate 5	R is greater than 7.50 But less than or equal To 10.00	\$4.45
Demand Rate 6	R is greater than 10.00	\$4.87

B. Second, Third, and Fourth Calendar Quarters:

Quarterly Water Volume

1. Minimum quarterly water volume

2. Greater than the Minimum quarterly Water volume

Quarterly Sewer Rent

Minimum quarterly water volume divided by 1,000 gallons, then multiplied by \$2.78

The amount calculated for the minimum quarterly water volume in B.1 plus \$3.20 for for each 1,000 gallons in excess of the user's minimum quarterly water volume

Section 5. Senior Discount Quarterly sewer rents for users age seventy years and above who own and occupy a primary residence in the Village shall be discounted by fifty percent (50%) for each quarter.

Section 6. Local Law Number 2 of the year 1996 entitled a local law Establishing Sewer Rents is hereby repealed.

Section 7. Effective Date. This local law shall take effect on January 1, 1997

Village ofEllicottville.....

Local Law No..... 3..... of the year 2006

A local law to establish minimum requirements and standards for sewer pump stations

Be it enacted by the Board of Trustees.....of the

Village of Ellicottville as follows:

LOCAL LAW NO. 3 OF THE YEAR 2006

A local law to establish minimum requirements and standards for sewer pump stations.

SECTION 1. Purpose. Pursuant to joint sewage project agreement between the Village of Ellicottville and Town of Ellicottville Sewer District No. 1 effective January 1, 1996 the Village of Ellicottville maintains the sewer system in both the Village and Town of Ellicottville Sewer District No. 1 and pursuant to the said agreement the Village is solely responsible for the administration, management, operation, and maintenance of the said sewer system. In view of the foregoing responsibilities, the Village Board of Trustees has determined that it is in the best interest of all users of the said sewer system in both the Village and Town of Ellicottville Sewer District No. 1 to create minimum requirements for any sewage pump station which is to be connected to the said sewer system.

SECTION 2. A sewer pump station shall not be connected to the sewer system in the Village of Ellicottville and Town of Ellicottville Sewer District No. 1 unless such pump station is determined to be necessary by the Village of Ellicottville Engineer.

SECTION 3. Any sewer pump station to be connected to the said sewer system must meet the minimum requirements of the 10 New York State Standards as well as the following minimum requirements and standards:

A. GENERAL

Sewage pump stations for subdivision plans are discouraged. Gravity sanitary sewer service is to be provided wherever possible.

Sewage pump station is only permitted where there is no alternative available and there are sufficient units to justify the associated operational expense. The additional operating expense shall be borne by the benefiting parties through special agreements.

The Design Engineer shall demonstrate, (with topographical information for the area

surrounding the subdivision plan along with existing sewer facilities information) that there is no alternative to a pump station, and that a proposed pump station location can serve the entire area tributary. Unavailability of easements is not sufficient justification for a pump station.

Any pump station proposed shall be designed such that all tributary areas in the District will be able to utilize the pump station in the future. This may mean that the wet well force main and electrical service have to be sized larger than what is immediately needed for the subdivision plan. Access easements for future sewer lines from outside the subdivision plan shall also be provided under such circumstances.

Pump stations are to meet the minimum requirements of the 10 State Standards as well as these requirements. References to NYSDOT means the New York State Department of Transportation Standard Specifications Construction and Materials. Deviations, if requested shall be accompanied by written justification and will be considered on a case by case basis.

Pump stations (sometimes called lift stations) for subdivisions are to be all new construction, and of submersible design with two identical pumps and (1) spare. Three phase power is required. A dedicated site sufficient to allow a vehicle to turn around must be provided. Standby power generation is necessary.

Construction standards have been developed to insure reliability and serviceability. These include a maintenance free exterior, and standardization of components. Phone line dialer is included.

These pump stations requirements are not intended to constrain pleasing designs which will blend into aesthetic subdivisions. Site designs other than rectangular may be submitted. Building exteriors of various materials will be considered and decorative durable fences may best serve to enhance new neighborhoods.

B. SITE LAYOUT

1. Area and Title

If it has been determined that a sewage pumping station is required for a subdivision plan, the following minimum site shall be provided with fee simple title:

- From 10 to 249 equivalent dwelling units connected: 2200 square feet
- From 250 to 500 equivalent dwelling units connected: 2600 square feet

In all cases, the minimum dimension of the site shall be 40 feet. The layout shall allow a maintenance vehicle to turn around within the site.

The pump station site shall be deeded fee simple to the Town (if located in the Town) upon completion and acceptance, and prior to tributary sewer connection permits being issued.

Typical site layouts showing the minimum requirements for sewage pump stations are included.

2. Approach Apron

Concrete to match adjacent aprons. Minimum 6" 4000 lb. concrete depth with 6x6x10 ga. wire mesh.

3. Asphalt Access Drive

Installation is to conform to NYSDOT specification.

a. Sub-Base

12" depth granular with the following gradation:

Sieve Size	Percent Passing
2"	100
1/4"	25-60
No. 200	5-10

b. Binder Course

3" depth asphalt, type 3 binder course, NYSDOT item 403.13

c. Top Course

1 1/2" depth asphalt, type 7 top course, NYSDOT item 403.19

d. Seal Coat

Slurry type as identified in Manual No.4, The Asphalt Institute (MS-4).

The asphalt drive shall be sloped to drain without depressions exceeding 1/4 inch in 10 feet.

4. Unpaved Areas in Pump Station Site

Woven landscape fabric, Exxon landscape fabric or equal to provide 95 lbs. grab tensile strength (ASTM D-1682), UV stability of 90% strength retained after 500 hours carbon arc testing (FED TM 191), permeability greater than 0.01 cm/sec (ASTM D4491-85) and sufficient sunlight blocking characteristics to effectively retard weed

growth. Overlay with 4 inches of stone with the following gradation:

Sieve Size	Percent Passing
1 1/2"	100
1"	90-100
1/2"	15-45
1/4"	0-10
No. 200	0-1.0

Decorative stone may be used. Extend under perimeter fence. Entire area may also be paved for ease of maintenance.

5. Sidewalk

To match adjacent properties, 4000 lb. concrete, 4" depth. Thicken to 6" depth in access driveway, with 6x6x10 ga. wire mesh throughout.

6. Water Service

Water service shall be run to building with a hose bib and approved backflow preventer.

7. Perimeter Fence

Minimum six feet height. Chain link fence materials shall conform to NYSDOT Specifications, section 710.01 thru 710.12. Installation shall conform to NYSDOT Specifications Section 607. Decorative fences or alternate materials may be submitted for consideration.

8. Drainage

If surface drainage facilities are required on the site, they shall be located and designed to prevent ponding so as not to interfere with the use of the site, and shall conform to the requirements for drainage structures within the subdivision.

9. Building

A precast concrete (or block and brick) building shall be provided on the site as shown on Attachment A. The building design shall be subject to approval of the Village and/or Town and shall meet all applicable code requirements. Generally, the building shall be placed on a reinforced concrete slab on grade, insulated to NYS Energy Code standards and shall be clad in a no-maintenance exterior finish. The sloped roof shall carry a 20 year warranty. Gas heat (radiant) heat with thermostatic control shall be

provided. The doors and windows shall be vandal resistant. The interior finish shall be suitable for mounting electrical motor controls and for installing a standby power unit.

The building shall have a mounted exterior light(s) illuminating the pump station and building entrance area (270° coverage) operated by a manual switch located inside the building.

One exterior window (minimum) facing the pump station and adjacent to the control panel shall be provided with maintenance free exterior, bullet resistant laminated glass glazing and vandal resistant stainless steel insert screen. If the window is non-opening, a louvered vent with exhaust fan and thermostatic control shall be provided. The building shall have an interior dividing wall to separate the generator from the controls. A non-opening fire rated view window, 4 square feet in area, is to be provided on the interior wall.

Doors shall be 36 inch insulated steel with bullet resistant laminated glass view window; except that doors for buildings with in-place generator sets shall be double, if necessary to remove equipment from the building. Double 36 inch doors shall be provided for pump stations with portable generators. The entrance is to be inclined to allow a trailer to be wheeled in and out of the building. Lock sets shall be keyed to Village requirements. Two double electrical power ground fault type plugs shall be provided inside the building, along with a ceiling light with wall switch in each room.

Specifications for all building components shall be subject to prior approval by the Village.

10. Work Lights

One portable explosion proof work light with cords of sufficient length to reach from a power plug to the wet well and valve chamber shall be supplied.

C. FORCE MAIN

Materials for force main shall be ductile iron meeting ANSI/AWWA C151 or PVC Plastic meeting ANSI/AWWA D1784, AWWA-C-900, SDR-18. Joints shall be plain end and bell meeting the requirements of ASTM F477. Restrained joints or thrust blocks shall be provided as needed.

Force mains shall be pressure tested at 150 psi or 20% above maximum operating pressure, whichever is greater.

Fittings shall match or be equivalent for the service rating of the pipe materials.

Detectable tape is required, buried directly above all PVC pressure pipe, (Griffolyn Company of Houston, Texas, Brady Company of Milwaukee, Wisconsin or equal).

Tape shall be 5 mil, 3 inches wide, red for sewer lines, blue for waterlines, with one and one half inch lettering: "Caution - Sewer (or Water) Line Buried Below." The tape installation shall be tested using pipe location equipment for the entire distance. Tape not detectable shall be removed and relaid until detectable prior to acceptance.

D: PUMP CHAMBERS

The wet well shall be designed for 12 inches nominal vertical distance between lead pump on and off at ultimate peak flow design. Exceptions shall be subject to approval of the Village. Wet wells, where greater than the minimum size shall be sized for ten pump starts per hour at ultimate peak flow design. Each pump shall be designed for two times the peak design flow into the station. (Pumps or pump impellers for less than ultimate peak flow design capacity may be permitted where part of the pump station's tributary area is located outside of the subdivision plan. However, this shall not result in a smaller wet well.) The method of sizing the wet well shall generally follow the recommendations of the Submersible Wastewater Pump Association in their Handbook:

Wet well volume (minimum effective pump cycle volume in gallons) equals the minimum cycle time in minutes (defined as the amount of time it takes to raise the liquid to the start level and then to draw it back down to the stop level) times ultimate pump capacity in gallons per minute divided by four, i.e.:

$$\text{Volume} = \frac{\text{Cycle Time} \times \text{Ultimate Pump Capacity}}{4}$$

4

Wet well and valve chamber construction shall be of reinforced concrete with a base, concrete pipe barrel (minimum 6 feet internal diameter) and concrete cover. The design shall prevent floatation. Exterior surfaces of the wet well are to be coated with Koppers bitumastic material.

The duplex aluminum hinged access cover shall provide a minimum of 30 inches by 60 inches clear opening or larger if necessary for pump removal. The hinges shall be flush type with bronze pins. A safety bar shall be integral with the cover. Each cover shall be equipped with a locking device keyed alike to Village requirements.

Concrete hopper is to be provided in the wet well bottom. The influent pipe is to contain a cross, tee or baffle for turbulence reduction. Tees shall be cut to provide access to the sewer as well as allowing viewing of the influent.

All operating and control levels shall be noted on the plans.

A vent pipe, 4 inch metal U-type with bird screen is required. If steel pipe is used it shall be galvanized.

All sewage piping within the pump station is to be ductile iron flanged.

E. POWER

Where available, three (3) phase electric power shall be supplied to all proposed pump stations. Four hundred and eighty (480) volt power is preferred. "Roto phase", "add a phase" or other devices to simulate three (3) phase electric power is not acceptable.

One hundred twenty (120) volt electric power shall be provided for lighting and instrumentation. Outlet plugs shall be ground fault type.

F. ELECTRICAL NOTES

As a minimum, all equipment is to be suitable for 10,000 AIC. Current limiting devices for areas having higher available fault currents shall be provided.

All work is to be completed in accordance with the current addition of the National Electric Code (NEC) and NFPA-70E, provide inspection, pay all fees and provide copy of underwriters certificate to engineer prior to final approval.

Provide a common ground system for installation. Ensure that 5 OHMS is measured with biddle ground test. Grounds shall be provided for all panels. Provide additional grounds if necessary.

All outside conduit shall be 20 mil PVC coated RGS. All inside conduit shall be rigid galvanized steel. Minimum conduit size is 3/4".

All outside enclosures shall be NEMA 4, 316 stainless steel painted with epoxy paint. Use watertight construction methods (Meyer hubs and caps).

Install green ground conductor in all raceways, size shall be as required by N.E.C.

All conductors shall be stranded copper, THWN or THHN. Control circuits, minimum 14 ga. motor circuits minimum of 12 ga. All terminations shall be staked.

All disconnect switches, enclosures, boxes, equipment enclosures, etc. shall be connected throughout to ground wire, one end to terminate at grounding system.

All devices shall be lockable and tamper proof.

Conductors shall be color-coded as follows:

Black: Line, load and control circuits at line voltage, 120V, 208V, 240V, 480V

Red: AC Control circuits (24V or 120V)

Blue: DC Control Circuits

Yellow: Interlock control circuit wired from an external power source.

Green: Equipment grounding conductors

White: Grounded circuit conductor

11. Sewage pumps and controls. in wet wells shall conform to National Electrical Code Class 1. Division 1, Group D Location requirements.

12. The manufacturer shall provide four copies of an operation and maintenance manual including complete parts lists for the owner prior to start-up and testing of the station.

Four as-built electrical connection diagram are to be provided.

Four as-built electrical diagram of the pump station are to be provided.

G. PUMPS

1. General

Two identical submersible UL explosive proof pumps as manufactured by ABS Company or approved equal are required to be installed. One complete spare pump and motor shall also be supplied to the District. The pumps shall be supplied as one factory built automatic duplex pumping unit. The principle items of the pumping unit shall include two submersible centrifugal sewage pumps; guide rails, wet well access cover, discharge seal and elbow, and all hardware; motor control center with thermal magnetic circuit breakers, magnetic motor starters and float switch system to make a complete working system.

Pump selection shall provide for the most efficient pump through the projected range of flows and total dynamic heads, except that standard sizes may be required by the Village in some circumstances. The minimum capacity of one pump shall be 90 gpm for 4 inch diameter force mains and 200 gpm for 6 inch diameter force mains.

The pump shall have a minimum 3 1/2" discharge with 125 lb. standard cast iron flange fitting. Volute casing shall provide for a removable clean out access, on the outside wall, opposite the cutwater.

All pump openings and passages shall be of adequate size to pass spheres 3.15 inches in diameter and any trash or stringy material which can pass through an average house collection system.

The impeller shall be of the three vane enclosed non-clog type with channels of circular cross section. Impeller shall be of ductile iron and dynamically balanced to 0.5 in. oz.

Impeller wear ring shall be a cast polymer material with a molybdenum disulfide additive selected for corrosion and wear resistant qualities.

All other pump components must be cast iron - Class 30. All exposed fasteners and lock washers shall be of 316 stainless steel.

The pump shaft shall be sealed against leakage by a mechanical seal.

The mechanical seal must be warranted for a minimum of four (4) years from date of shipment. Should the seal fail within the first year, the manufacturer is obligated, upon notification, to furnish a new seal, no charge, to owner, F.O.B., factory. The cost of replacement seals thereafter will be on a pro rata basis as follows:

<u>Failure within</u>	<u>Percentage of New Seal Price</u>
2 Years	25%
3 Years	50%
4 Years	75%

2. Pump Motor

The submersible pump motor shall be of such horsepower and voltage (three phase) as required, with motor and pump furnished as an integral unit. Motor shall be suitable for Class 1, Division 1, Group D, hazardous locations. Motor shall be of air filled type with Class B insulation system and Class F materials rated for continuous duty in 40 degree C liquids.

Submersible pump motor cables shall be rated for submersible duty heavy duty cord with MSHA approvals: (Royal Electric Powerflex 90 Submersible Pump Cable or Approved Equal). Cable lengths shall be supplied to allow installation and removal of pumps while still terminated at above ground wet well junction box.

Motor frame and end shields shall be a corrosion-resistant cast iron with stainless steel hardware and shaft.

All static seals for moisture exclusion shall be of "O" ring type.

Motor shall be furnished with a threaded extension in top end bell, to permit installation of armored covering or conduit if required to meet local codes. Electrical leads must be primarily sealed with a molded neoprene compression grommet and a secondary moisture seal shall be provided by a cast epoxy material, encapsulating splice connectors in the motor end bell.

Motor bearings shall be prelubricated at the factory and have a minimum B-10 life of 15,000 hours.

The motor must be rated thermally to NEMA MG1-12.42 and thermally protected by means of a thermostatic switch in stator windings. Moisture protection on shaft extension end shall consist of a separate oil filled chamber sealed at both ends by mechanical seals. The upper seal shall have carbon/ceramic seal faces with stainless steel and Buna N components for corrosion resistance. The lower seal shall be tungsten titanium carbide to tungsten titanium carbide faces with stainless steel and Viton components. The oil filled seal chamber shall contain a moisture sensing probe through which signs of impending seal failure may be signaled to the motor control center.

Motor shall have an internal pressure capability of 200 PSI,

Each pump shall be furnished with a discharge connection system which will permit removal and installation of pump without the necessity of an operator entering the wet well.

3. Discharge Elbow

The pump discharge elbow shall be furnished in gray cast iron, Class No. 30. The vertical or discharge leg shall be provided with a 4" (or 6") inch 125 lb. cast iron pipe flange for mating to discharge piping. The horizontal or inlet leg shall be provided with a flat machined face for forming an effective seal with the lip seal on pump. Elbow shall be provided with an integral base for anchoring and support of piping and pump to the wet well floor.

The discharge elbow shall be provided with a 303 stainless steel pivot pin for engagement of discharge flange hooks on pump.

4. Guide Rails

The guide rail package shall include two lengths of stainless steel pipe with pilots per Engineering drawing. Guide rail pipes shall be 2" schedule 40, teflon coated stainless steel (304). Bottom pilots shall be Class 30 cast iron with flake glass/polyester or coal tar epoxy coating. Upper pilots shall be non-sparking bronze.

5. Pump Guides

The guides attached to pump which position pump between the guide rails, shall be completely encapsulated by fluidized bed coating with a hard nylon plastic or coal-tar epoxy coating. The guides are to be attached to the pump volute with 316 stainless steel hex head cap screws. A 1/4" diameter stainless steel braided wire lift cable shall be

permanently attached to the pump. Hangers for lifting cable and pump cable shall be fabricated from 3/8" flat stock of 316 stainless steel. Cables shall be supported by stainless steel, split mesh rod closing 'Kellums' grips.

6. Hardware

All bolts, machine screws, nuts, washers, and lockwashers for complete assembly of access cover, guide rails, and discharge elbow shall be furnished by manufacturer in high strength corrosion resistant low alloy steel and have a fluorocarbon coating.

7. Controls

Appropriate electrical power is to be furnished to the site. Three phase power is required. Three phase systems derived from single phase power sources are not allowed.

The control circuitry shall be designed to operate on 115 +/-10% volts, 60 Hertz, single phase current, and control a minimum of two (2) pumps. The control panel shall consist of circuit breaker and magnetic starter for each pump motor actuate by a liquid level control system with all components mounted in one common enclosure. The control assembly shall provide means to operate each pump manually or automatically. When operated in the automatic mode, the control assembly shall provide means to automatically alternate the position to the "lead" and "lag" pumps after each pumping cycle.

The complete control assembly shall be mounted in one electrical enclosure which is large enough to readily permit installation of any or all standard options without re arrangement of existing components.

The control shall be equipped with high temperature shutdown for each motor and shall utilize the temperature switches embedded in the motor windings. In a high motor temperature condition, the switch shall open, de-energize and lockout the motor starter. The high motor temperature shutdown device shall be manually reset.

The control panel shall be equipped with a moisture detector control for each pump which senses moisture in the oil cavity should the lower seal fail. Sensor probes located in the oil cavity will detect the influx of moisture and light an indicator marked "seal failure pump #". Should this condition occur, the pump motor shall remain operative until the problem is corrected and the control circuit has been manually reset. When a seal failure occurs, a normally open, dry contact will close to signal the dialer system that a seal failure has occurred in that pump.

A voltage sensing relay to monitor all incoming legs to ground shall be supplied. The relay shall sense low power or power failure on any leg. An interlock control circuit to prevent motor damage and a normally open dry contact output to the dialer shall indicate power

failure. The relay is to be model SLA by diversified or equal.

Supply an incoming power terminal block with lightning/surge protection. All power leads incoming power and alarm outputs shall be terminated in the control panel. A separate terminal strip for power, power output and alarm output shall be provided. All terminal points are to be marked.

8. Level Control System

The level control system shall start and stop the pump motors in response to changes in wet well level.

The level control system shall be float switch type.

9. Sequence of Operation

The level control system shall continuously monitor the wet well level. The system shall start the motor for one pump when the liquid level in the wet well rises to the "lead pump start level". When the liquid is lowered to the "lead pump stop level", the system shall stop this pump. Additionally a low level redundant cut off with alarm indicator on the control panel with normally open dry contact output for telemetry, alarm to reset automatically with rising wet well level shall be supplied. Also, a high level alarm with indicator on the control panel with normally open dry contacts for telemetry output and alarm to reset automatically with decreasing wet well level shall be supplied. These actions shall constitute one pumping cycle. Should the wet well level rise to the "ag pump start level", the system shall start the second pump so that both pumps are operating to pump down the well. Pumps shall stop at their respective "stop" levels. The levels shall be adjustable as described below.

10. Automatic Pump Alteration

The level control system shall utilize the alternator relay to select first one pump, then the second pump, to run as lead pump for a pumping cycle. Alteration shall occur at the end of a pumping cycle.

11. Run Lights

Include in the motor control center a pilot light for each pump motor which shall illuminate when the motor is running. Additional light are to indicate high wet well, low wet well, individual pump seal failures, individual motor overloads, individual motor overtemp.

12. Elapsed Time Meters

Separate elapsed time meters shall be mounted in the motor control center and wired to each motor starter to indicate total running time of each pump motor in hours and tenths of hours. Elapsed time meter shall be 6-digit non-resettable.

13. Motor Overload Reset Pushbutton

An overload reset pushbutton shall be mounted through the door of the motor control center and permit resetting of the motor overload relays without opening the control panel door.

14. Pump Sequence Selector Switch

A 3-position toggle switch shall be provided which shall override the automatic alternator and provide manual selection of either pump No. 1 or No. 2 as the lead pump.

15. Lifting Crane and Cable

A lifting crane (removable) and cable shall be installed to allow for the removal of the pumps from the wet well.

16. Installation and Operating Instructions

Installation of pumping unit and appurtenances shall be done in accordance with written instructions provided by the manufacturer.

17. Experience and Workmanship

The pumping unit shall be the product of a manufacturer with a minimum of ten (10) years experience in the design and manufacture of centrifugal pumps handling sewage. Workmanship and materials throughout shall be of highest quality.

18. Warranty

The manufacturer of the pumping unit shall warrant it to be of quality construction, free from defects in material and workmanship.

The equipment, apparatus and parts furnished shall be guaranteed for a period of one (1) year, excepting only those items that are normally consumed in service, such as light bulbs, oil, grease, packing, o-rings, etc. The pumping unit manufacturer shall be solely responsible for the guarantee of the unit and all components.

The warranty will become effective upon the acceptance of the facility by the Village.

Major components, such as pumps, pump motors, etc., failing to perform as specified, or as represented by the manufacturer; or proven defective in service during the guarantee period, shall be replaced, repaired or satisfactorily modified by the manufacturer without cost of parts or labor to the Village. After start-up service has been performed, labor to replace accessory items, such as electrical components or other accessible and easily serviced parts, shall be the responsibility of the Developers. Such components, parts or repairs determined by the manufacturer to have failed because of defective workmanship or materials will be replaced or repaired, F.O.B., factory or other designated location.

H. CONTROL PANEL

All controls are to be built into a NEMA 12 lockable cabinet mounted inside the control building.

Control panel designed for use in Class 1. Division 1 areas.

Generator receptacle to be Hubbell.

All devices to be lockable and tamper proof. Locks per Village keying requirements.

All disconnects, indicators controls and valves shall be clearly marked using engraved plastic labels.

I. STANDBY GENERATOR

A natural gas standby generator set (by Kohler) shall be supplied with each pump station. Standby generators shall be installed inside the control building.

The standby generator shall be sized for one motor across the line starting while the other pump is running plus other pump station loads (lights, etc.); except that standard sizes may be required in some instances.

The fixed mounted natural gas standby generator set shall be powered by a radiator cooled engine, and include an integral generator, controls, batteries, chargers meters and all components necessary for a complete unit. All duct work, louvers, etc. shall be supplied for an in place unit to provide a complete installation. The exhaust muffler shall be designed for residential application. All exhaust piping shall be heat shielded to prevent heat damage within the building. Exhaust shall be ducted away from adjacent residences.

An automatic transfer switch shall be supplied to meet electric utility requirements.

Standby generators shall also be supplied with a block heater.

The specifications for all standby generators and related equipment shall be submitted to the Village for prior approval.

J. VALVE CHAMBER

Reinforced precast concrete construction with aluminum hinged double leaf access cover (see pump chamber for requirements) providing clear access to access ladder and valve stand pipe.

Cast iron drain line with sloped floor to wet well will incorporate a cast iron trap and check valve.

Aluminum access ladder.

Valve stand pipe with 4" Evertite male adapter.

Valve handles to be supplied.

A single pressure gauge reading in feet of head shall be mounted on the common discharge force main. The gauge shall be a 4 inch minimum dial size, diaphragm isolated and pulsation dampened type mounted on schedule 80 pipe with a similar rated ball valve between the force main tap and the gauge. The face of the gauge shall be aligned to be visible from outside of the valve pit access hatch. The gauge scale shall be the lowest full scale available over the expected pump pressure range.

K. ODOR CONTROL

Carbon filter systems shall be supplied as dictated by the location of the pump station. Necessity will be determined by the Village.

L. GENERAL NOTES

Complete shop drawings plus operation and maintenance manuals required prior to pump station acceptance.

Manufacturer's representative to be present for start-up and testing of station.

Complete shop drawings of equipment to be provided.

M. DIALER SYSTEM

Dialer system to be Sensiphone 2000.

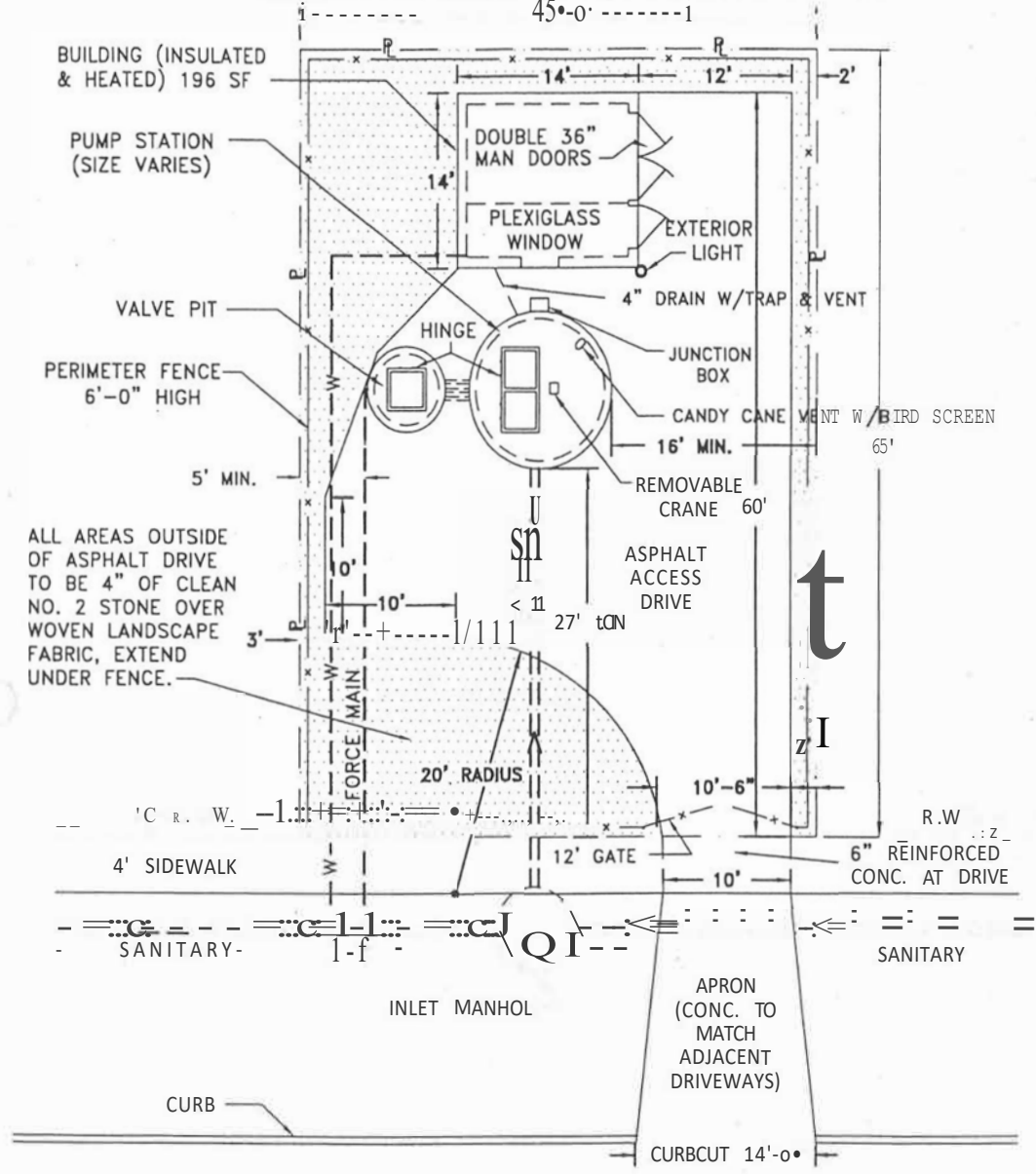
SECTION 4. All sewer pump station designs and site plans must be approved by the Village of Ellicottville Engineer prior to construction.

SECTION 5. This local law shall take effect immediately upon filing with the Secretary of State.

APPENDIX A

ELLICOTTVILLE STANDARD PUMP STATION SITE PLAN

NOTE: RIGHT HAND LAYOUT SHOWN, LEFT HAND LAYOUT ACCEPTABLE.
ALTERNATIVE SITE LAYOUTS MAY BE SUBMITTED FOR APPROVAL.



SANITARY SEWER PUMP STATION
LAYOUT-MINIMUM STANDARDS FOR
250 ULTIMATE EQUIVALENT
DWELLING UNITS CONNECTED.*

* STATIONS REQUIRING MORE THAN 15 K.W. STANDBY POWER,
(I.E., HIGH HEADS) ARE TO USE A LARGER BUILDING.

STREET (TYP.)
-q-

ATTACHMENT A



DATE: MARCH 9, 2006
JOB No. 05J1-0060

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Village of Ellicottville

Local Sewer Use Law

A Local Law regulating the use of Public and Private sewers and Drains, Private Sewage Disposal, the installation and connection of building sewers and the discharge of waters and wastes into the Public Sewer System: and providing penalties for violations thereof: In the Village of Ellicottville and within the Sewer District Boundaries, in the County of Cattaraugus, State of New York.

Be it enacted by the board of trustees of the Village of Ellicottville, as follows:

Article 1

Short Title and Purpose

Section 101 - Short Title

Section 102 - General Purpose

Section 103 - Specific Purposes

Section 104 - Replacement of Previous Sewer Use Law

Section 101 - Short Title For brevity and ease of communication, this Law may be cited as the Village Sewer Use Law.

Section 102 - General Purpose The general purpose of this Law is the following:

To provide for efficient, economic, environmentally safe, and legal operation of the Village Publicly Owned Treatment Works (POTW).

Section 103 - Specific Purposes The specific purposes of this Law are the following:

(1) To prevent the introduction of substances into the POTW that will:

1. interfere with the POTW in any way, including inordinate flow rates introduction of industrial wastes or other wastes of a flammable nature or that may cause in any way a poisonous or hazardous environment for the POTW.
2. may cause operating difficulties at POTW as it now exists or maybe constructed, modified or improved in the future.

3. pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation of the POTW's SPDES permit,
4. increase the cost or otherwise hamper the proper disposal and/or recycling and/or reclaiming of POTW sludge and/or residuals,
5. endanger municipal employees,
6. cause air pollution, or surface or groundwater pollution, directly or indirectly,
7. cause, directly or indirectly, any public nuisance condition.

(2) To prevent new sources of infiltration and inflow and, as much as possible, eliminate existing sources of infiltration and inflow.

(3) To assure that new sewers and connections are properly constructed.

(4) To provide for equitable distribution to all users of the POTW of all costs, associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.

(5) To provide authority to impose pretreatment standards and requirements on all non-domestic users of the POTW.

Section 104 - Replacement of Previous Sewer Use Law The provisions in the existing Village Code entitled "Local Sewer Law" are hereby repealed and said provisions are replaced by the herein set forth Articles 1 through 14 inclusive and shall apply to all users or persons that discharge to the Village of Ellicottville POTW.

Article 2

Definitions

Section 201 - Defined Terms

Section 202 - Abbreviations

Section 203 - Undefined Terms

Section 201 - Defined Terms Unless otherwise stated in the section where the term is used in this Law, the meaning of terms used in this Law shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; "may" is permissive.

Abnormal Sewage - Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See normal sewage.

Act or "THE ACT" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., as may be amended.

Administrator - The Regional Administrator of the U. S. Environmental Protection Agency (USEPA), Region 2.

Ammonia - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

Applicant - That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

Approval Authority - The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

Approved Laboratory and Sampling Procedure – Techniques prescribed in Standard Methods and the amendments thereto. Where 40 CFR does not contain sampling or analytical techniques for the pollutant in question, or where the Superintendent determines that the Part 136 techniques are inappropriate, sampling and analysis shall be performed using validated analytical methods or any other applicable procedures, including procedures suggested by the Superintendent or other parties.

ASTM, denoting American Society for Testing and Materials - The latest edition of any ASTM specification, when stipulated in this Law.

Authorized Representative of the Industrial User - An authorized representative of the industrial user may be: a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (b) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively; and (c) A duly authorized

representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD, denoting Biochemical Oxygen Demand - The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

Builder - Any person who undertakes to construct a building or any part of a building, either under contract or for resale.

Building Drain - That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the building walls, and conveys it to the building lateral, which begins five (5) feet outside the inner face of the building wall.

Chlorine Demand - The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD, denoting Chemical Oxygen Demand - The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligrams per liter.

Color - The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Composite Sample - The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

Connection - Attachment of one user to a sewer. (See Extension)

Connection Charge (Tap Fee) - The two (2) part application fee to offset Village expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, and inspection costs. The fee may be scaled to the amount of work involved, or to the size of the public sewer involved.

Control Authority - The term shall refer to "Approval Authority", or to the superintendent when Village has an approved pretreatment program under the provisions of 40 CFR 403.11.

Control Manhole - A manhole accessible to the Village in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

Conventional Pollutant - A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.

Cooling Water - The water discharged from any system of condensation, air conditioning, refrigeration, or other sources. It shall contain no polluting substances which would

produce COD or suspended solids in excess of five (5) milligrams per liter, or toxic substances, as limited elsewhere in this Law.

County - the County in which the Village is located.

Developer - Any person who subdivides land for the purpose of constructing, or causing to be constructed, buildings for which wastewater disposal facilities are required.

Direct, or Indirect Discharge – The contribution, introduction, spilling, leaking, pumping, pouring, emitting, emptying or dumping of pollutant(s) or wastewater from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act, (33 USC 1317), into the POTW, including scavenger wastes discharged into the system, with ultimate discharge into the waters of the State of New York.

Domestic Wastes - see Sewage, Domestic.

Dry Sewers - The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in the meantime, for transport of storm or sanitary sewage.

End of Pipe - For the purpose of determining compliance with limitations prescribed by Article 9, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

End of Pipe Concentration - The concentration of a substance in a sample of wastewater at end of pipe.

End of Process Concentration - see National Categorical Pretreatment Standard.

Easement - An acquired legal right for the specific use of land owned by others.

EPA, USEPA, or U.S. Environmental Protection Agency - The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations. Also may be used as a designation for the Administrator or other duly authorized official of this Agency.

Extension - Attachment of a sewer line, with more than one user, to an existing sewer line.

Facility - All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

Floatable Oil - Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

Flow Rate - The quantity of liquid or waste that flows in a certain period of time.

Garbage - The solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, and sale of produce, and from the packaging and canning of food.

Grab Sample - A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

ICS (Industrial Chemical Survey Form) - The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

Indirect Discharge - The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the State's Waters. (For reference, see Direct Discharge).

Industrial - Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

Industrial Chemical Survey (ICS) - The survey of industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries.

Industrial User - See User, Industrial.

Industrial Wastes - The liquid or liquid-carried solid, liquid and/or gaseous wastes from industrial manufacturing processes, trade, service, utility, or business, as distinct from sanitary sewage.

Industrial Waste Survey, or IWS - A survey of industrial users of the County POTW, performed by the County at least every five (5) years, or as necessary, to determine discharge characteristics of the user.

Infiltration - Water, other than wastewater, that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

Inflow - Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

Interference - A discharge which, alone or in conjunction with discharges by other sources,

(a) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) therefore is a cause of a violation of any requirement of the Village POTW's SPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

i - Section 405 of the Clean Water Act,

ii - the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act - RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA),

iii - Clean Air Act,

iv - Toxic Substance Control Act, and

v - Marine Protection Research and Sanctuaries Act.

Lateral, Building - The sewer extension from the building drain to the Street Lateral or other place of wastewater disposal.

Lateral, Street - The sewer extension from the public sewer to the property line.

Local Limits - The term "Local Limits" shall mean any effluent limits that are established by the Commissioner. This term includes, but is not limited to, limits that are more stringent than applicable categorical pretreatment standards.

Monitoring Event - One, 24-hour composite sample of a user's discharge, or, in the case of a batch discharge, one grab sample.

National Categorical Pretreatment Standard, or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

National Pollutant Discharge Elimination System (NPDES) Permit - A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

National Prohibitive Discharge Standard, or Prohibitive Discharge Standard - Any regulation developed under the authority of Section 307 (B) of the Act, and 40 CFR, Section 403.5.

Natural Outlet - Any outlet, including storm sewers and combined sewer overflows, to State's Waters.

New Owner - That individual or entity who purchased property within the Service Area of the Village after the effective date of this law.

New Source - Any source, the construction of which is commenced after the publication of the proposed regulation prescribing a Section 307 (C) (33 U.S.C 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated.

New User - A discharger to the POTW who commences discharge after the effective date of this Law.

Noncompliance – Failure to meet the requirements of this Law and other applicable County, State and Federal pretreatment standards and requirements. Also, failure to adhere to any order, fine or penalty administered by the Commissioner, County, State or Approval Authority.

Normal Sewage - see Sewage, Normal.

Nuisance - The use or lack of use of the POTW in such a manner so as to endanger life or health, give offense to the senses, or obstruct or otherwise interfere with the reasonable use or maintenance of the POTW.

Oil and Grease - The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil, in a sample, expressed in milligrams per liter. Includes portion of waste water derived from mineral/petroleum and from animal or vegetable lipids.

Old Owner - That individual or entity who owns or owned a property, within the Service Area of the POTW, purchased prior to the effective date of this Law, who or inherited the property at any time and intends to sell the property, or has sold the property to a new owner, also the agent of the old owner.

Other Wastes - Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

Pass Through - The discharge which exits the Village POTW into waters of the State in quantities, which, alone or in conjunction with Discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

Permit - A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Law.

Person - Any individual, public or private corporation, political subdivision, Federal, State, or local agency or entity, association, trust, estate or any other legal entity whatsoever.

pH - The logarithm (base 10) of the reciprocal of the weight of hydrogenions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality. Values above 7.0 represent alkaline conditions. Values below 7.0 represent acid conditions.

Phosphorus, total - See total phosphorus.

Pollutant - Any material placed into or onto the State's waters, lands and/or airs, which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

Pollution - The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the State's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

Pretreatment (Treatment) - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR, Section 403.6 (D).

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment Standard or National Pretreatment Standard -Any Categorical Standard or Prohibitive Discharge Standard.

Priority Pollutants - The most recently revised or updated list, developed by the EPA, in accordance with the Act.

Prohibitive Discharge Standard - see National Prohibitive Discharge Standard.

Properly Shredded Garbage - The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and with no particle having a dimension greater than one-half (1/2) inch in any dimension.

POTW Treatment Plant - That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals derived from such treatment.

Publicly Owned Treatment Works (POTW) - A treatment works, as defined by Section 212 of the Act, (33 U.S.C 1292), which is owned, in this instance, by Village . This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

Receiving Waters - A natural water course or body of water (usually Waters of the State) into which treated or untreated sewage is discharged.

Records - Shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For the purposes of this law, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

Roof Drain - A drain installed to receive water collecting on the surface of a roof for disposal.

Scavenger Waste - All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved types of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries that are hauled to the POTW treatment plant. Scavenger waste also includes sludge from small sewage treatment plants, and leachate from landfills. Scavenger waste shall not have been contaminated with Substance of Concern, Priority Pollutants, or be a RCRA Listed or Characteristic Hazardous Waste.

Septage – All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries. Also sludge from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

Septic Tank – A private domestic sewage treatment system consisting of an underground tank (with suitable baffling), constructed in accordance with any and/or all local and State requirements.

Service Area of the POTW - The legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the Village Board.

Sewage - A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such ground, surface, and storm water as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage", within the meaning of this definition.

Sewage, Domestic (Domestic Wastes) - Liquid wastes from the non-commercial preparation, cooking, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. Therefore, domestic sewage includes both black water and grey water. (See Sewage, Sanitary.)

Sewage, Normal - Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- B.O.D. (Five Day) - 2090 lbs. per million gallons (250 milligrams per liter), or less.
- Suspended Solids - 2500 lbs. per million gallons (300 milligrams per liter), or less.
- Phosphorus - 125 lbs. per million gallons (15 milligrams per liter), or less
- Ammonia - 250 lbs. per million gallons (30 milligrams per liter), or less.
- Total Kjeldahl Nitrogen - 417 lbs. per million (50 milligrams per liter), or less.
- Chlorine Demand - 209 lbs. per million gallons (25 milligrams per liter), or less.
- Chemical Oxygen Demand - 2920 lbs. per million gallons (350 milligrams per liter), or less.
- Oil and Grease - 830 lbs. per million gallons (100 milligrams per liter), or less

In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

Sewage, Sanitary - Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, industrial, and other wastes. (See Domestic Wastes.)

Sewage Sludge – Any solid, semi-solid or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced wastewater treatment, scum, septage, portable toilet pumpings, Type III Marine Sanitation device pumpings, and sewage sludge products. Sewage sludge does not include grit, screenings or ash generated during the incineration of sewage sludge.

Sewage Treatment Plant (Water Pollution Control Plant) - see POTW Treatment Plant.

Sewage, Unusual Strength or Character - Sewage which has characteristics greater than those of Normal Sewage and /or which contains Substances of Concern.

Sewer - A pipe or conduit for carrying or transporting sewage.

Sewer, Public - A sewer in which all abutting property owners have equal rights, and the use of which is controlled by the Village.

Sewer, Sanitary - A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

Sewer, Storm (Storm Drain) - A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

Sewerage System (also POTW) - All facilities for collecting, regulating, pumping, and transporting, treating, and disposal of sludge and wastewater to and away from the POTW treatment plant.

Sewerage Surcharge - The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage. (See Volume Charge.)

Significant Industrial User - see User, Significant Industrial.

Significant Non-Compliance (SNC) - A User is in significant non-compliance if its violation(s) meet(s) one or more of the following criteria:

- Chronic violations of wastewater discharge limits, defined here as those, in sixty-six (66) percent or more of all of the measurements taken during a six-month period, which exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter;
- Technical Review Criteria (TRC) violations, defined here as those, in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period, which equal or exceed the product of the daily maximum limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; TRC = 1.2 for all other pollutants);
- Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Superintendent's exercise of its emergency authority under Article 11 of this Law;
- Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- Failure to report accurately any non-compliance;

- Any other violation which the Superintendent determines will adversely affect the implementation or operation of the local pretreatment program.

Slug - A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, that exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal user operations, shall constitute a slug.

Standard Industrial Classification (SIC) - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

Standard Methods - Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304 (G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.), any other procedure approved by the Administrator, or any other procedure approved by the Superintendent, whichever is the most conservative.

State - State of New York.

State Pollutant Discharge Elimination System Permit, or SPDES Permit - A permit issued pursuant to Section 402 of the Act (33 USC 1342).

State's Waters - See Waters of the State.

Storm Water - Any flow occurring during or following any form of natural precipitation; also the flow resulting therefrom.

Substances of Concern - Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

Sump Pump - A mechanism used for removing water from a sump or wet well.

Superintendent - That individual nominated by the Village Mayor and confirmed by the Village Board as the Department of Public Works Superintendent. Such an individual shall be qualified to oversee POTW operations. This definition shall also include his authorized deputy, agent, or representative.

Suspended Solids - The result obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of, or are in suspension, or are settleable, and can be removed from the sample by filtration, expressed in milligrams per liter.

Total Kjeldahl Nitrogen (TKN) - The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

Total Phosphorus - The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate, in a sample of wastewater, following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

Town - The Town of Ellicottville.

Toxic Substances - Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307 (A), or other Acts.

Treatment, or Pretreatment - The elimination of pollutants, reduction of the amount of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to our in lieu of discharging or otherwise introducing such pollutants into the POTW or waters of the State. The reduction or alteration can be obtained by physical, chemical and/or biological processes, process changes, or by other means, except by dilution as prohibited by 40 CFR 403.6(d).

User - Any person who contributes, causes, or permits the contribution of wastewater into the POTW.

User, Existing - A discharger to the POTW who is discharging on or before the effective date of this Law.

User, New - A discharger to the POTW who initiates discharge after the effective date of this Law.

User, Significant Industrial, or SIU - An industrial user of the County POTW who meets any of the following criteria as defined in 40 CFR 403.3(t):

(a) All industrial users subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;

(b) Any industrial user discharging an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW, excluding sanitary, non-contact cooling and boiler blowdown wastewater;

(c) Any industrial user discharging a wastestream that makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

(d) Any industrial user designated as a Significant Industrial User by the Commissioner, on the basis that the industrial user has a reasonable potential, alone or in combination with other discharger(s), for adversely affecting the POTW's operation, sludge quality, POTW treatment plant effluent discharge quality, POTW air emissions, or for violating any pretreatment standard.

Upon a finding that an industrial user meeting the criteria listed above has no reasonable potential for adversely affecting the POTW or for violating any pretreatment standard or requirement, the Commissioner may, at any time, on his own initiative or in response to a

petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a Significant Industrial User.

*Note: A user discharging a measurable quantity of a pollutant may be classified as non-significant if, at the influent to the POTW treatment plant, the pollutant is not detectable.

Village - The Village of Ellicottville.

Volume Charge (User Charge) - The demand sewer use charge which is based, in part or wholly, on the volume of normal sewage discharged into the POTW (there may be surcharges, as provided for in Article 12). The volume charge shall be based on a specific cost per 100 cubic feet or per 1,000 gallons. The specific charge shall be subject to approval by the Village Board. The moneys so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness, and for funding of capital projects, of the POTW. The basis of volume charge calculations shall be made available to the public, on demand, as provided in Article 13. The volume charge shall be recalculated annually, as well as the surcharge rates.

Wastewater - The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater Discharge Permit - A permit as set forth in Article 10 of this Law.

Wastewater, Unusual Strength or Character - see Sewage, Unusual Strength or Character.

Waters of the State (State's Waters) - All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

Section 202 - Abbreviations

The following abbreviations shall have the designated meanings:

ANSI - American National Standards Institute

ASTM - American Society for Testing and Materials

AWWA - American Water Works Association

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

CPLR - Code of Public Law and Rules

COD - Chemical Oxygen Demand

CWA - Clean Water Act
EPA - Environmental Protection Agency
GPD - Gallons per Day
l - Liter
lb/d - Pounds per Day
LEL - Lower Explosive Limit
mg - Milligram
mg/l - Milligrams per liter
NCPI - National Clay Pipe Institute
NPDES - National Pollutant Discharge Elimination System
NYSDEC - New York State Department of Environmental Conservation
NYSDOH - New York State Department of Health
NYSDOT - New York State Department of Transportation
P - Total Phosphorus
PSI - Pounds per Square Inch
POTW - Publicly Owned Treatment Works
ppm - Parts per Million, weight basis
SIC - Standard Industrial Classification
SPDES - State Pollutant Discharge Elimination System
SWDA - Solid Waste Disposal Act, 42 U.S.C. 690 L, et seq.
U.S.C. - United State Code of Laws
USEPA - United State Environmental Protection Agency
TSS - Total Suspended Solids

Section 203 - Undefined Terms Terms not defined in this article, or terms found to be ambiguous or improperly defined in this article, shall be defined by the Act, or Regulations, pursuant thereto.

Article 3

Use of Public Sewers Required

Section 301 - Waste Disposal Unlawful

Section 302 - Connecting Private Sewage System to Storm Sewer Unlawful

Section 303 - Discharge of Sewage into Well Prohibited

Section 304 - Wastewater Discharge Unlawful

Section 305 - Building Permit Allowed Only When Approved Wastewater Disposal Available

Section 306 - Private Wastewater Disposal Unlawful

Section 307 - Connection to Public Sewer Required

Section 308 - Limitation on Use of Public Sewers

Section 309 - Wastewater from Outside the POTW Service Area - Inter-municipal Agreements

Section 310 - Moratorium

Section 311 - Basis of Sewer Use Requirement

Section 301 - Waste Disposal Unlawful It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property, within the Village or in any area under the jurisdiction of this Sewer Use Law, any human or animal excrement, garbage, or objectionable waste. Also, no person shall discharge domestic sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground.

Section 302 - Connecting Private Sewage system to Storm Sewer Unlawful

No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for storm water.

Section 303 - Discharge of Sewage into Well Prohibited

No person shall discharge sewage into a well.

Section 304 - Wastewater Discharge Unlawful It shall be unlawful to discharge to any natural outlet, within Village, or in any area under the jurisdiction of this Sewer Use Law, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Law.

Section 305 - Building Permit Allowed Only When Approved Wastewater Disposal Available No property owner, builder, or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Law, is available. All housing construction or building development which takes place after this Law is enacted shall

provide for an approved system of sanitary sewers to be approved by the Village for sewer use.

Section 306 - Private Wastewater Disposal Unlawful Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, septic tank, or other facility intended or used for disposal of wastewater.

Section 307 - Connection to Public Sewer Required The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Village, and abutting on any street, alley, or right-of-way in which there is now located or may, in the future, be located a public sewer, is hereby required, at the owner's expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this law, within 30 day period after official notice by the Village to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line.

Section 308 - Limitation on Use of Public Sewers The use of the Village public sewers shall be strictly limited and restricted, except as provided in Section 307, to receive and accept the discharge of sewage and other wastes, including industrial wastes generated on or discharged from real property within the bounds of the Service Area of the POTW.

Section 309 - Wastewater from Outside the POTW Service Area - Inter-municipal Agreements The Village Board, on the recommendation of the Superintendent, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

If the person is a municipality, that municipality shall have enacted or adopt this Sewer Use Law as restrictive on the discharge of sewage and other wastes as the restrictions contained in this Law. The municipality shall grant access to all information that the contributing municipality obtains with respect to sewage discharges to the Village.

If the person is not a municipality the acceptance shall be made only with the expressed written consent of the Superintendent (the issuance of a permit) setting forth the terms and conditions of such a acceptance.

Section 310 - Moratorium At the recommendation of the Superintendent and/or Village Engineer, who determines that:

- one or more segments of the POTW is exceeding its hydraulic capacity at any time
- any specific purpose of this Law is being violated

The Village Board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by:

- construction of new facilities
- enlarging existing facilities
- correction of inflow and infiltration
- cleaning and repairing of existing facilities

Section 311 - Basis of Sewer Use Requirement All requirements, directives, and orders calling for mandatory use of the sewers, within the Service Area of the POTW, for the proper discharge of sewage and other wastes, including industrial wastes, shall be established and given by the Village Board, NYSDEC, USEPA, and/or other such State or Federal agencies, which have enforcement powers.

Article 4

Private Wastewater Disposal

Section 401 - Public Sewer Unavailable - Private Wastewater Disposal Required

Section 402 - Connection of Two Buildings to the Same Septic Tank Prohibited

Section 403 - Construction Permit Application

Section 404 - Construction Permit

Section 405 - Preventing Nuisances - Rehabilitation Required

Section 406 - Sanitary Operation Required

Section 407 - Septage Removal

Section 408 - Direct Connection to New Public Sewers Required

Section 409 - Additional Requirements

Section 401 - Public Sewer Unavailable - Private Wastewater Disposal Required

Where a public sewer is not available, under the provisions of Section 304, the building lateral shall be connected to a private wastewater disposal system complying with the provisions of the Rules and Regulations of the NYSDOH, to be enforced by the Superintendent, and/or the County Health Department.

Section 402 - Connection of Two Buildings to the Same Septic Tank Prohibited No two separate permanent buildings, where the intended use for either is for a distinct and separate business or a dwelling place for a private family or families, shall be connected to the same individual septic tank and tile absorption field.

Section 403 - Construction Permit Application A completed application form, containing results of percolation tests, computations, and a plot plan, including the design and cross-section of the wastewater disposal system, in relation to lot lines, adjacent and on-site well or water supply, and buildings, shall be submitted to the Village. A \$50 fee, established by Article 12, shall accompany the application. The wastewater disposal system shall be designed by a professional engineer, licensed surveyor, or architect, and shall be in accordance with the NYSDOH - "Standards for Waste Treatment Works", or NYSDEC "Standards for Commercial and Institutional Facilities", as appropriate.

Section 404 - Construction Permit A written construction permit shall be obtained from the Superintendent before construction commencement. The Superintendent, or his designated representative, shall be permitted to inspect the construction work at any stage, without prior notice.

Section 405 - Preventing Nuisances - Rehabilitation Required When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer, or water supply system, located in the Village, in such a manner, volume, and concentration so as to create a hazardous, offensive, or objectionable condition, in the opinion of the Superintendent, the County Health Department, or the NYSDOH, the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Superintendent, to do so, shall, within

ninety (90) days, after receipt of such notice, repair, rebuild, or relocate such wastewater disposal system for the purpose of eliminating such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH and the County Health Department, at the owner's expense.

Section 406 - Sanitary Operation Required The owner shall operate and maintain the private wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

Section 407 - Septage Removal Where a private wastewater disposal system utilizes a cesspool or a septic tank, septage shall be removed from the cesspool or septic tank, by a licensed hauler of trucked and hauled wastes, at three year intervals or more frequently.

Section 408 - Direct Connection to New Public Sewers Required At such time that a public sewer becomes available to a property, a direct connection shall be made to the public sewer, in compliance with this Law, and any cesspool, septic tank, and similar wastewater disposal facilities shall be cleaned of septage, by a licensed septage hauler, and finally either filled with clean sand, bank-run gravel, or dirt, or removed and properly disposed. When the connection is made to the public sewer, the connection to the private wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate. Alternatively, the septic tank effluent may be piped or pumped to the sewer; the owner shall provide an easement to the septic tank for septage removal.

Section 409 - Additional Requirements No statement in this Article shall be construed to prevent, or interfere with, any additional requirements that may be deemed necessary by the Superintendent, to protect public health and public welfare.

Article 5

New Sewers or Sewer Extensions

Section 501 - Proper Design

Section 502A - New Sewers Subject to Approval, Fees, Inspection, Testing, and Reporting

Section 502B - Plans, Specification, and Pipe Test Results Required

Section 503A - Sewer Pipe

Section 503B - Safety and Load Factors

Section 503C - Sewer Pipe installation

Section 503D - Cleanout Installation

Section 504 - Manholes and Manhole Installation

Section 505A - Infiltration/Exfiltration Testing

Section 505B - Test Section

Section 505C - Test Period

Section 505D - Pipe Lamping

Section 505E - Deflection Testing

Section 505F - Air Testing Alternative

Section 505G - Vacuum Testing Alternative

Section 506A - Force Mains

Section 506B - Force Main Testing

Section 507 - Final Acceptance and Warranty/Surety

Section 508 - Liability Insurance Coverage During Construction Period

Section 501 - Proper Design New sanitary sewers and all extensions to sanitary sewers owned and operated by the Village shall be designed, by a professional licensed to practice sewer design in the State, in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards"), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from the Superintendent, the County Health Department, and the NYSDEC, before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

If, however, there is inadequate capacity in any sewer which would convey the wastewater or if there is insufficient capacity in the POTW treatment plant to treat the wastewater properly, the application shall be denied. Sewer line and POTW treatment plant current use shall be defined as the present use and the unutilized use which has been committed, by resolution, to other users by the Village Board.

Section 502 A - New Sewers Subject to Approval, Fees, Inspection, Testing, and Reporting

When a property owner, builder, or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area proposed for subdivision, the plans, specifications, and method of installation shall be subject to the approval of the Superintendent, and the County Health Department, in accordance with Section 501. Said property owner, builder, or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains, and all other Village expenses incidental thereto. Each street lateral shall be installed and inspected pursuant to Article 6, and inspection fees shall be paid by the applicant prior to initiating construction. Design and installation of sewers shall be as specified in Section 503, and in conformance with Paragraphs 3 through 6 of ASTM Specification C-12. The installation of the sewer shall be subject to periodic inspection by the Superintendent, without prior notice. The Superintendent shall determine whether the work is proceeding in accordance with the approved plans and specifications, and whether the completed work will conform with the approved plans and specifications. The sewer, as constructed, must pass the infiltration test (or the exfiltration test, with prior approval), required in Section 505, before any building lateral is connected thereto. The Superintendent shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required, may be established. No new sanitary sewers will be accepted by the Village Board until such construction inspections have been made so as to assure the Village Board of compliance with this Law and any amendments or additions thereto. The Superintendent has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise backfilled before they were inspected so as to permit inspection of the construction. The Superintendent shall report all findings of inspections and tests to the Village Board.

Section 502 B - Plans, Specification, and Pipe Test Results Required

Plans, specifications, and methods of installation shall conform to the requirements of this Article. Components and materials of wastewater facilities not covered in this Law, such as pumping stations, lift stations, or force mains shall be designed in accordance with Section 501, and shall be clearly shown and detailed on the plans and specifications submitted for approval. Force main details are covered in Section 506. When requested, the applicant shall submit, to the Superintendent and to the County Health Department, all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

Section 503 A - Sewer Pipe 1) Sewer pipe material shall be:

- Reinforced Concrete Pipe (Note that non-reinforced concrete pipe shall not be used.)
 - Portland cement shall conform to ASTM C-150 Type II.

- The pipe and specials shall conform to ASTM Specification C-76.
- The reinforcing wire cage shall conform to ASTM Specification A 15, A 82, or A 185, as appropriate.
- Entrained air shall be 5.0% to 9.0% by ASTM C-890.
- Water absorption and three-edge bearing tests shall conform to ASTM Specification C-497.
- Gaskets shall conform to Sections 3.3 and 3.4 of AWWA Specification C-302.
- Cast Iron Pipe - Extra Heavy
 - Pipe, fittings, and specials shall conform to the requirements of ASTM Specification A-74 or ANSI A-21.11.
 - Gaskets shall conform to ASTM Specification C-564.
- Polyvinyl Chloride (PVC) Pipe - Heavy Wall
 - Pipe shall be made from Class 12454-B materials or better in accordance with ANSI/ASTM Specification D-1784.
 - Pipe and accessories shall conform to the requirements of the following, with a minimum pipe stiffness of 46.
 - PSI at a maximum deflection of five percent (5%).
 - ANSI/ASTM D 3034 (4" - 15")
 - ASTM F 679 Type I (18" - 27")
- Ductile Iron Pipe
 - Pipe, fittings, and specials shall be manufactured in accordance with ASTM Specification A-746.
 - Pipe shall have a minimum thickness of Class 50.
 - Fittings shall conform to ANSI Specification A-21.11 and have a minimum pressure class rating of 150 PSI.
 - All pipe and fittings shall be cement mortar lined in accordance with ANSI Specification A-21.4 at twice the specified thickness, and have an internal and external bituminous seal coating.
 - Closure pieces shall be jointed by means of a mechanical coupling of the cast sleeve type.
- Other pipe materials
 - Other pipe materials require prior written approval of the Superintendent before being installed.
 - the minimum internal pipe diameter shall be eight (8) inches for gravity sewers and three (3) inches for low pressure sewers.

- Joints for the selected pipe shall be designed and manufactured such that "O" ring gaskets of the "snap-on" type are used.
- Gaskets shall be continuous, solid, natural or synthetic rubber, and shall provide a positive compression seal in the assembled joint, such that the requirements of section 505 are met.
- Joint preparation and assembly shall be in accordance with the manufacturer's recommendations.
- Wye branch fittings, as approved by the Superintendent, shall be installed, for connection of street laterals, in accordance with Section 606.

Section 503 B - Safety and Load Factors

Selection of pipe class shall be predicated on the following criteria:

Safety factor - 1.5

Load factor - 1.7

Weight of soil - 120 lbs/cu. ft.

Wheel loading - 16,000 lbs.

Utilizing the foregoing information, design shall be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, latest edition, "Design and Construction of Sanitary and Storm Sewers", and the pipe shall have sufficient structural strength to support all loads to be placed on the pipe, with a safety factor as specified above.

PVC pipe shall not be encased in concrete due to their different coefficients of linear thermal expansion.

Section 503 C - Sewer Pipe Installation

(1) Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.

(2) The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts. Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.

(3) The public shall be protected from personal and property damage as a result of the construction work.

(4) Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.

(5) Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control can be effected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding, and filtration of drainage.

(6) The trench shall be excavated only wide enough for proper installation of the sewer pipe, manhole, and appurtenances. Allowances may be made for sheeting, de-watering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by sawing or by other methods as approved by the Superintendent, before trench excavation is initiated.

(7) Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.

(8) Open trenches shall be protected at all hours of the day with barricades, as required.

(9) Trenches shall not be open for more than 30 feet in advance of pipe installation nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the Superintendent. When work is not in progress, including over night, weekends, and holidays, the trench shall be backfilled to ground surface.

(10) The trench shall be excavated approximately six (6) inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated to a maximum depth of 2-1/2 feet below the final pipe invert grade and replaced with select materials.

(11) Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.

(12) Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods.

(13) No structure shall be undercut unless specifically approved by the Superintendent.

(14) Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.

(15) To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade, and left in the trench, during backfill operations.

(16) The pipe barrel shall be supported, along its entire length, on a minimum of six (6) inches of crusher run max. 1/2 inch stone free of organic material. This foundation shall be firmly tamped in the excavation.

(17) Bell holes shall be hand excavated, as appropriate.

(18) Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.

(19) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.

(20) The grade and alignment shall be checked and made correct. The pipe shall be in straight alignment. Any negotiation of curves shall be at manholes, except when site conditions require alternative pipe laying procedures. These alternative procedures, including bending the pipe barrel, deflecting the joint, and using special fittings, shall require prior written approval of the plans and also written confirmation approval of need by the Superintendent after examination of the site conditions.

(21) When a smaller sewer joins a larger one the invert of the larger sewer shall be lowered sufficiently to maintain the same hydraulic gradient. An approximate method which may be used for securing this result is to place the 0.8 depth of both sewers at the same elevation.

(22) Crushed stone shall be placed over the laid pipe to a depth of at least six (6) inches. The embedment of thermoplastic pipe shall be in accordance with ASTM D2321 using class 1A or 1B backfill materials. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.

(23) The migration of fines from surrounding backfill or native soils shall be restricted by gradation of embedment materials or by use of suitable filter fabric.

(24) The remaining portion of the trench above the pipe embedment shall be backfilled in foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks, and other structures shall be to 95 % of the maximum moisture-density relationship, as determined by ASTM Specification D 698, Method D. Ice, snow, or frozen material shall not be used for backfill.

Section 503 D - Cleanout Installation

(1) Cleanouts for low pressure sewers shall be placed at intervals of approximately 400 to 500 feet, at major changes of direction, where one collection main joins another main and at the upstream end of each main branch.

(2) The design of the cleanouts shall be as approved by the Superintendent.

Section 504 - Manholes and Manhole Installation

(1) Design of all manholes shall be submitted to the Superintendent and shall receive approval prior to placement.

(2) Manholes shall be placed where there is a change in slope or alignment, and at intervals not exceeding 400 linear feet except as authorized by the Superintendent.

(3) Manhole bases shall be constructed or placed on a minimum of six (6) inches of crusher run max. 1/2 inch stone free of organic materials.

(4) Manhole bases shall be constructed of 4,000 psi (28 day) concrete 8 inches thick, or shall be precast bases properly bedded in the excavation. Field constructed bases shall be monolithic, properly reinforced, and extend at least 6 inches beyond the outside walls of lower manhole sections. Precast manhole bases shall extend at least 6 inches beyond the outside walls of lower manhole sections.

(5) Manholes shall be constructed using precast minimum 4 foot diameter concrete manhole barrel sections, and an eccentric top section, conforming to ASTM Specification C-478, with the following exceptions on wall thickness:

Manhole Diameter (Feet)	Wall Thickness (Inches)
4	5
5	6
6	7
6 1/2	7 1/2
7	8
8	9

All sections shall be cast solid, without lifting holes.

Flat top slabs shall be a minimum of 8 inches thick and shall be capable of supporting a H-20 loading.

(6) All joints between sections shall be sealed with an "O" ring rubber gasket, meeting the same specifications as pipe joint gaskets, or butyl joint sealant completely filling the joint.

(7) All joints shall be sealed against infiltration. All metal parts shall be thickly coated with bitumastic or elastomeric compound to prevent corrosion.

(8) Polypropylene steps shall be installed in the inside of manhole walls.

(9) No holes shall be cut into the manhole sections closer than 6 inches from joint surfaces.

10) Manholes which extend above grade shall not have an eccentric top section. The top plate shall be large enough to accommodate the cover lifting device and the cover.

(11) The elevation of the top section shall be such that the cover frame top elevation is 0.5 foot above the 100-year flood elevation (in a field), 0.5 foot above a lawn elevation, or at finished road or sidewalk grade.

(12) When located in a travelled area (road or sidewalk), the manhole frame and cover shall be heavy duty cast iron. When located in a lawn or in a field, the manhole frame and cover may be light duty cast iron. The cover shall be 36 inches, minimum, in diameter. The minimum combined weight of the heavy duty frame and 36 inch cover shall be 735 +/- 5% lbs. The minimum combined weight of the light duty frame and 36 inch cover shall be 420 +/- 5% lbs. The mating surfaces shall be machined, and painted with tar pitch varnish. The

cover shall not rock in the frame. Infiltration between the cover and frame shall be prevented by proper design and painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.

(13) A drop of at least 0.1 foot shall be provided between incoming and outgoing sewers on all junction manholes and on manholes with bends greater than 45 degrees.

(14) Inverts and shelves/benches shall be placed after testing the manholes and sewers.

(15) Benches shall be level and slope to the flow channel at about 1 inch per foot.

(16) The minimum depth of the flow channel shall be the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.

(17) Manhole frames, installed at grade, shall be set in a full bed of mortar with no less than two nor more than four courses of brick underneath to allow for later elevation adjustment. In lieu of brick, grade rings may be used for elevation adjustment. Grade rings shall not exceed 6 inches in depth. The total number of grade rings shall not exceed 12 inches in height, however, in no event shall more than 3 grade rings be used.

(18) Manholes which extend above grade, shall have the frames cast into the manhole top plate. The top plate shall be securely anchored to the manhole barrel, by a minimum of six 1/2 inch corrosion resistant anchor bolts, to prevent overturning when the cover is removed. The anchor bolts shall be electrically isolated from the manhole frame and cover.

(19) Internal drop pipes and fittings shall be PVC plastic sewer pipe in compliance with ASTM D2241. Corrosion resistant anchors shall be used to attach the drop pipe to the inside surface of the manhole barrel.

Section 505 A - Infiltration/Exfiltration Testing

All sanitary sewers or extensions to sanitary sewers, including manholes, shall satisfy requirements of a final infiltration test before they will be approved and wastewater flow permitted by the Village. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. An exfiltration test may be substituted for the infiltration test; the same rate shall not be exceeded. The exfiltration test shall be performed by the applicant, under the supervision of the Superintendent, who shall have the responsibility for making proper and accurate measurements required. The exfiltration test consists of filling the pipe with water to provide a head of at least 5 feet above the top of the pipe or 5 feet above groundwater, whichever is higher, at the highest point under test, and then measuring the loss of water, from the pipe section under test, by the amount of water which must be added to maintain the original level. However, under no circumstances shall the head at the downstream manhole exceed ten (10) feet or fill to within six (6) inches of the top of the downstream manhole. Should this condition prevail, the testing methods in Sections 504 F and/or 504 G shall be utilized. In this test, the test section must remain filled with water for at least 24 hours prior to taking any measurements. Exfiltration shall be measured by the drop of water level in a standpipe with a closed bottom end, or in one of the sewer manholes serving the test section. When a standpipe and plug arrangement is used in the upper manhole in the test section, there shall be some positive method for releasing entrapped air prior to taking any measurements.

Section 505 B - Test Section

The test section shall be as ordered or as approved, but in no event longer than 1,000 feet. In the case of sewers laid on steep grades, the test length may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the test section. For purposes of determining the leakage rate of the test section, manholes shall be considered as sections of 48-inch diameter pipe, 5 feet long. The maximum allowable leakage rate for such a section is 1.1 gallons per 24 hours. If leakage exceeds the allowable rate, then necessary repairs or replacements shall be made, and the section retested.

Section 505 C - Test Period

The test period, during which the test measurements are taken, shall not be less than two (2) hours.

Section 505 D - Pipe Lamping

Prior to testing, the section shall be lamped. Any length of pipe out of straight alignment shall be realigned.

Section 505 E - Deflection Testing

Also prior to testing, all plastic pipe, in the test section, shall be tested for deflection. Deflection testing shall involve the pulling of a rigid ball or mandrel, whose diameter is 95 percent of the pipe inside diameter, through the pipe. Any length of pipe with a deflection greater than 5 percent shall be replaced. The test section shall be flushed just prior to deflection testing. The test shall not be performed with a mechanical pulling device.

Section 505 F - Low Pressure Air Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), low pressure air testing may be employed. Low pressure air tests shall conform to ASTM Specification C 828. All sections to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. Air shall be added until the internal pressure of the test section is raised to approximately 4.0 PSIG. The air pressure test shall be based on the time, measured in seconds, for the air pressure to drop from 3.5 PSIG to 2.5 PSIG.

Acceptance is based on limits tabulated in the "Specification Time Required for a 1.0 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

Before pressure is applied to the line all connections shall be firmly plugged. Before the test period starts, the air shall be given sufficient time to cool to ambient temperature in the test section.

If the test section is below groundwater, the test pressure shall be increased by an amount sufficient to compensate for groundwater hydrostatic pressure, however, the test pressure shall not exceed 10 PSI, or a lower pressure as required by the Superintendent.

The pressure test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

Section 505 G - Vacuum Testing Alternative

In lieu of hydrostatic testing (exfiltration or infiltration), vacuum testing may be employed for testing of sewer lines and manholes. Sewer lines and manholes shall be tested separately. All sewer lines to be tested shall be cleaned and flushed, and shall have been backfilled, prior to testing. The vacuum test shall be based on the time, measured in seconds, for the vacuum to decrease from 10 inches of mercury to 9 inches of mercury for manholes, and from 7 inches of mercury to 6 inches of mercury for sewers.

Acceptance of manholes is based on the following:

Manhole Depth	Manhole Diameter	Time to Drop 1 inch Hg (10"to9")
10 ft or less	4 ft	120 seconds
10 ft to 15 ft	4 ft	150 seconds
15 ft to 25 ft	4 ft	180 seconds

For 5 ft diameter manholes, add 30 seconds to the times above.

For 6 ft diameter manholes, add 60 seconds to the times above.

If the test on the manhole fails (the time is less than that tabulated above), necessary repairs shall be made and the vacuum test repeated, until the manhole passes the test.

Acceptance of sewers (7" Hg to 6" Hg) is based on the time tabulated in the "Specification Time Required for a 0.5 PSIG Pressure Drop" in the Uni-Bell PVC Pipe Association "Recommended Practice For Low-Pressure Air Testing of Installed Sewer Pipe".

The vacuum test gauge shall have been recently calibrated, and a copy of the calibration results shall be made available to the Superintendent prior to testing.

Section 506A - Force Mains

Force mains serving sewage lifting devices, such as grinder pumps and pump stations, shall be designed in accordance with Section 501. Additional design requirements are:

(1) Force main pipe material shall be:

(a) Ductile Iron Pipe

Pipe shall conform to ANSI A21.51. The minimum wall thickness shall be Class 52 (ANSI A21.50). The pipe shall be clearly marked with either "D" or "DUCTILE". Fittings shall conform to ANSI A21.10.

Pipe and fittings shall be furnished with push-on joints conforming to ANSI A21.11.

Pipe and fittings shall be cement mortar lined and have an internal and external bituminous seal coating.

(b) Polyvinyl Chloride (PVC) Plastic Pipe

Pipe shall conform to ASTM D2241. Materials used in the manufacture of PVC pipe shall meet ASTM C1784. The minimum wall thickness shall be SDR-21. Fittings shall conform to ASTM D2241. Joints and gaskets shall conform to ASTM D2241, D1869, and F477.

(c) Other pipe materials

Other pipe materials require prior written approval of the Superintendent before being installed.

(2) Trenching, bedding, and backfilling shall be in accordance with Section 503 C.

(3) Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.

(4) Anchorages, concrete blocking, and/or mechanical restraint shall be provided when there is a change of direction of 7-1/2 degrees or greater.

(5) Drain valves shall be placed at low points.

(6) Automatic air relief valves shall be placed at high points and at 400 ft intervals, on level force main runs.

(7) Air relief and drain valves shall be suitably protected from freezing.

(8) When the daily average design detention time, in the force main, exceeds 20 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting line are prevented. The corrosion is caused by sulfuric acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.

(9) The force main shall terminate, in the receiving manhole, at a PVC plastic sewer pipe "T". The vertical arms of the "T" shall be twice the diameter of the force main. The upper arm shall be at least 4 feet long; the lower arm shall terminate in a PVC plastic sewer pipe 90 degree elbow in a flow channel directed to the manhole exit pipe. The "T" and its arms shall be securely fastened to the inside surface of the manhole wall using corrosion resistant anchors.

Section 506B - Force Main Testing

All force mains shall be subjected to hydrostatic pressure of 150 percent of the normal operating pressure. The duration of the test, at pressure, shall be at least 2 hours. Before conducting the test, the pipe shall be filled with water and all air shall be expelled. During the test, water shall be added, as needed, to maintain the test pressure. The amount of water added shall be recorded so as to calculate leakage. Leakage shall not exceed 25 gallons per day per mile per inch nominal pipe diameter. During the test, the owner and the Superintendent shall walk the route of the force main and examine the exposed pipe and the ground covering any backfilled pipe to discover leaks. Leakage in excess of that specified above shall be corrected with new material at the owner's expense and the test repeated. Any observed leaks shall be repaired at the owner's expense. Each test section length shall be as approved by the Superintendent, but in no event longer than one thousand (1,000) feet.

Section 507 - Final Acceptance and Warranty/Surety

All sanitary sewers and extensions to sanitary sewers constructed at the applicant's expense, after final approval and acceptance by the Superintendent, and concurrence by the Village Board, shall become the property of the Village, and shall thereafter be operated and maintained by the Village. No sanitary sewer shall be accepted by the Village until four (4) copies of as-built drawings have been so filed with the Superintendent and the Superintendent has approved the submitted drawings. Said sewers, after their acceptance by the Village, shall be guaranteed against defects in materials or workmanship for one (1) year, by the applicant. The guarantee shall be in such form and contain such provision as deemed necessary by the Village Board, secured by a surety bond or such other security as the Village Board may approve.

Section 508 - Liability Insurance Coverage During Construction Period

(1) All contractors engaged in connecting house laterals with sanitary sewers, who perform any work within the Right of Way of any highway, shall file a bond in the amount of Five Thousand Dollars (\$5,000.00) with the Village Clerk to indemnify the Village against loss, cost, damage or expense sustained or recovered on account of any negligence, omission or act of the applicant for such a permit, or any of his, or their agents arising or resulting directly or indirectly by reason of such permit or consent, or of any act, construction or excavation done, made or permitted under authority of such permit or consent. All bonds shall contain a clause that permits given by the Village (Board) may be revoked at any time for just cause.

(2) Before commencing work, the above contractor shall file insurance certificates with the Village Clerk for the following:

(a) Workman's Compensation and Employer's Liability Insurance as required by the laws of the State covering the contractor;

(b) Personal Injury Liability having limits of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate (completed operations/products, personal injury);

(c) Property Damage Liability having limits of not less than \$1,000,000 for all damages arising during the life of the contract; and shall include, but not be limited to, the following designated hazards:

i - Premises and Operations;

ii - Independent Contractors;

iii - Completed operations and products;

iv - Property Damage; and

v - Explosions, collapse and underground;

(d) Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than:

i - Bodily injury - each person, \$1,000,000

each occurrence, \$1,000,000

ii - Property damage - each occurrence, \$500,000

(e) Business Excess Liability Insurance in the amount of \$2,000,000.

(f) All insurance policies must provide for five (5) business days notice to the Village before cancellation and must cover all liabilities of the Village and be in a form approved by the Village Board and be in a satisfactory form approved by the Board.

(g) The minimum insurance limits stated above shall be subject to periodic review by the Village Board and adjustments made, by resolution, as appropriate.

(3) Where it is necessary to enter upon or excavate any highway or cut any pavement, sidewalk or curbing, permission must be obtained from the Superintendent of Public Works if a Village Street is involved, from the County Department of Public Works if a County Highway is involved, and/or the New York State Department of Transportation if a State Highway is involved.

(4) The minimum insurance limits above shall be as established by the Village Board and shall be subject to periodic review and adjustment, as appropriate, by the Village Board.

Article 6

Building Laterals, Street Laterals Connections, and Fees

Section 601A - Permit Required for Sewer Connections

Section 601B - Inflow/Infiltration Prohibited

Section 602 - Sewer Lateral Permits

Section 603A - New Building Laterals

Section 603B - Laterals Serving Several Buildings

Section 603C - Laterals Serving Complexes

Section 603D - Dry Sewers

Section 604 - Using Existing Building Laterals

Section 605 - Lateral Pipe Materials

Section 606A - Street Lateral to Public Sewer Connection

Section 606B - Future Connection Locations; As-Built Drawings

Section 606C - Special Manhole Requirements

Section 607 - Laterals At and Near Buildings

Section 608 - Sewage Lifting

Section 609 - Lateral Pipe Installation

Section 610A - Watertight Joints

Section 610B - Cast Iron Pipe Poured Joints

Section 610C - Cast Iron Push Joints

Section 610D - PVC Push Joints

Section 611A - Building Lateral/Street Lateral Connection

Section 611B - Cleanout Repair/Replacement

Section 611C - Street Lateral Replacement; Ownership

Section 612 - Testing

Section 613A - Connection Inspection

Section 613B - Trench Inspections

Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas

Section 615 - Interior Clean-Out

Section 616 - Costs Borne by Owner

Section 617 - Fixtures and Area Drains Subject to Backwater

Section 618 - Design of Backwater Valves

Section 601 A - Permit Required for Sewer Connections

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

Section 601 B – Inflow / Infiltration Prohibited

No person shall discharge or cause to be discharged any storm cooling water or unpolluted industrial waters to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

Section 602 - Sewer Lateral Permits

There shall be two classes of sewer lateral permits:

- (1) For residential, commercial, and institutional service,
- (2) For service to establishments producing industrial wastes.

In either case, a permit application shall be submitted to the Superintendent. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the Superintendent. A fee, for residential, commercial, institutional and industrial users, as established by the Village Board, shall accompany the application.

Connections to existing manholes shall be made as directed by the Superintendent.

Section 603 A - New Building Laterals

A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, the second building may use the front building's building lateral, if there is no other way to provide sanitary service to the back building.

New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Superintendent has approved plans showing the relocation. If relocation is not physically possible then the lateral shall be:

- (1) exposed and totally encapsulated in not less than three inches of concrete, or
- (2) exposed and walled and the building rooms above positively ventilated outdoors.

All existing manholes in or under the basement shall be sealed air-tight in a manner acceptable to the Superintendent. No new manholes shall be constructed on the portion of the lateral under the building.

Section 603 B -Laterals Serving Several Buildings

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with the metered water use and with sound professional engineering judgment.

Section 603 C - Laterals Serving Complexes

Where a lateral sewer is to serve a complex of industrial, commercial, institutional, or dwelling structures, special design of the building lateral system shall be required. Such lateral sewer shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this connection to the public sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to Section 503 D and 1007 and the lateral connection made and tested as directed by the Superintendent. Plans and specifications shall be prepared and submitted for approval pursuant to this Law.

Section 603 D - Dry Sewers

Dry Sewers shall be designed and installed in accordance to this Law.

Section 604 - Using Existing Building Laterals

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this local Law.

Section 605 - Lateral Pipe Materials

Building and street lateral pipe materials shall be one of the following:

(1) Tar-coated, service grade, cast iron soil pipe conforming to ASTM Specification A-74, "Cast Iron Pipe and Fittings". All dimensions, weight and markings of the pipe shall conform to the requirements of ANSI, Designation A112.5.1, except spigot ends shall be "plain end", if gasket joints are used.

(2) Polyvinyl chloride (PVC) pipe and fittings conforming to ASTM Specification D-3034-73, "SDR-35 Polyvinyl Chloride (PVC) Sewer Pipe and Fittings". All pipe shall be suitable for gravity sewer service. Provisions shall be made for contraction and expansion at each joint with a rubber ring. The bell shall consist of an integral wall section stiffened with two PVC retainer rings which securely lock the solid cross-section ring into position. Minimum "Pipe Stiffness" (F/Y) at five percent (5%) deflection shall be 46 PSI when tested in accordance with ASTM Specification D-2412.

Any part of the building or street lateral that is located within five (5) feet of a water main or water service shall be constructed of cast iron soil pipe. Cast iron soil pipe may be required by the Superintendent where the building or street lateral is likely to be damaged by tree roots. If installed on fill or unstable ground, the building or street lateral shall be of cast iron soil pipe, although other pipe material may be permitted if such pipe is uniformly supported on a poured concrete cradle approved by the Superintendent. The distance between consecutive joints, as measured along the centerline of the installed pipe, shall not be less than ten (10) feet, except under abnormal circumstances, in which case this dimension may be diminished, if approved by the Superintendent. The size and slope of building and street laterals shall be subject to approval by the Superintendent, but in no event shall the internal pipe diameter be less than 4 inches, nor shall the pipe slope be less than 1/4 inch per foot.

The street lateral shall include a full port curb stop with flow-through diameter equal to that of the lateral. A curb box shall be installed.

Section 606 A - Street Lateral to Public Sewer Connection

At the point of connection of a street lateral to a main sewer, a standard wye fitting and sufficient one-eighth (45 degree) bend fittings shall be used. The wye fittings shall be installed so that flow in the "arm" shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the public sewer which permits the flow into the public sewer from the lateral to enter at right angles.

The inside diameter of the fittings shall be same diameter as the street lateral inside diameter.

Section 606 B - Future Connection Locations; As-Built Drawings

The street lateral, including the wye and eighth bend fittings, shall be connected to the main sewer at the time of constructing the main sewer, for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted a standard plug approved for use by the Superintendent. All sewer connections shall be via a properly installed saddle on the main sewer pipe. No portion of the lateral pipe shall protrude into the main sewer pipe. The location of all lateral connections shall be field marked with a 2 inch by 6 inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two (2) feet above grade. The location of all lateral connections shall be indicated on a drawing with a minimum of three (3) tie lines indicated. Four (4) copies of this drawing, showing the as-built location of these connections, shall be furnished to the Superintendent. A refundable deposit shall be placed with Village to assure receipt of these as-builts. The deposit shall be placed when application is made; the amount of the deposit shall be \$100 per sheet of plans showing locations of lateral connections. No sanitary sewer shall be accepted by Village until four (4) copies of this record drawing have been so filed with the Superintendent and the Superintendent has approved the submitted drawings.

Section 606 C - Special Manhole Requirements

When any street lateral is to serve a school, hospital, or similar institution, or public housing, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Superintendent, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the public sewer pursuant to Sections 504 and 1007, and the lateral connection made thereto as directed by the Superintendent.

Section 607 - Laterals At and Near Buildings

Building laterals laid parallel to a bearing wall shall not be installed closer than three (3) feet to such wall. The building lateral shall enter the basement through the basement wall no less than twelve (12) inches above the basement floor. In no event shall any building lateral be placed below the basement floor, except with the expressed written approval of the Superintendent.

The building lateral shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

Changes of direction of 90 degrees or greater shall be made with a cleanout which extends to grade, terminating in a terminal box set in concrete. In building laterals, said cleanouts shall be provided such that the maximum distance between cleanouts is 75 feet. The ends of all building or street laterals, which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug, or by other approved means.

Section 608 - Sewage Lifting

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the Superintendent.

Section 609 - Lateral Pipe Installation

All excavations required for the installation of a building or street lateral shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfilling, regardless of pipe material used, shall be performed in general accordance with paragraphs 3 through 6 of ASTM Specification C-12, except that trench width, measured at the top of the installed pipe, shall not exceed the outside pipe diameter plus 14 inches and, except that no backfill shall be placed until the work has been inspected. The depth of cover over the pipe shall be sufficient to afford protection from frost, but no in any case shall such depth be less than four (4) feet. Where it is physically impossible to provide cover of four (4) feet, the depth may be reduced to a minimum of two (2) feet and the pipe shall be insulated, as approved by the Superintendent.

Section 610 A - Watertight Joints

All joints and connections shall be made watertight.

Section 610 B - Cast Iron Pipe Poured Joints

Poured joints for cast iron pipe shall be firmly packed with oakum or hemp, and the annulus filled with an approved compound not less than 1 inch deep. The said compound shall be run in with a single pouring, and caulked tight, if appropriate for the compound used. No paint, varnish, or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and other pipe materials shall be made with special adapters and jointing materials approved by the Superintendent. If such joints are hot-poured, the material shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160 degrees F, nor be soluble in any of the wastes carried by the lateral.

Section 610 C - Cast Iron Push Joints

Pre-molded gaskets may be used for hub and plain end cast iron pipe joints and joints with fittings, if approved by the Superintendent. The gasket shall be a neoprene compression-type unit which provides a positive seal in the assembled joint. The gasket shall be pre-molded, one-piece unit, designed for joining the cast iron hub and plain end soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools designed for that purpose. The plain spigot end shall be forced

into the hub end of the pipe for the full depth of the hub itself. Lubricant shall be a bland, flax-base, non-toxic material, and shall not chemically attack the gasket material.

Section 610 D - PVC Push Joints

Joints for PVC sewer pipe shall follow the manufacturer's recommendations, using properly designed couplings and rubber gaskets pursuant to the published information relating thereto, and conforming to the applicable ASTM specification identified in Section 605.

Section 611 A - Building Lateral/Street Lateral Connection

(1) The connection of the building lateral to an existing street lateral shall be made at the property line. Except as provided under Section 502, if a street lateral has not previously been provided, the street lateral will be constructed from the existing public sewer to the property line, by a licensed plumber, at the owner's expense. The street lateral shall be installed with a properly sealed and covered clean-out to grade located at the property line. The clean-out shall terminate in a metal box imbedded in concrete.

(2) The cost of constructing the street lateral from the existing public sewer to the property line shall be at the property owner's expense; all subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.

(3) The property owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building lateral.

(4) It shall be the responsibility of the property owner to maintain, repair, or replace the building lateral, as needed.

(5) The method of connection of the building lateral to the street lateral will be dependent upon the type of sewer pipe material, and, in all cases, shall be approved by the Superintendent. After installation of the street lateral has been approved by the Superintendent, the new street lateral shall become the property of the Village. Any subsequent repairs to the new street laterals shall be made by the Village at the Village's expense.

Section 611 B - Cleanout Repair/Replacement

If, in the judgment of the Superintendent, it is determined that a building lateral, without a property line clean-out, needs repair or replacement, the Village may install a clean-out at the property line, at the property owner's expense, such that the street lateral can be maintained independently of the building lateral.

Section 611 C - Street Lateral Replacement; Ownership

Any existing street lateral which, upon examination by the Superintendent, is determined to be in need of replacement will be replaced with a new street lateral with a property line clean-out. The replacement street lateral shall be constructed by a licensed plumber. The cost of constructing the replacement street lateral and clean-out shall be at the property owner's expense. Once the replacement street lateral and clean-out have been constructed and approved by the Superintendent, the new street lateral shall become the property of the Village. Any repairs to new street laterals shall be made by the Village at the Village's expense.

Section 612 - Testing

The street lateral, building lateral, or the combined lateral shall be tested for infiltration/exfiltration by:

- (a) any full pipe method described in Section 505, or
- (b) by a suitable joint method, with the prior written approval of the Superintendent.

Section 613 A - Connection Inspection

The applicant for the building lateral permit shall notify the Superintendent when the building lateral is ready for inspection and connection is to be made to the street lateral. The connection shall be made under the supervision of the Superintendent.

The applicant for the street lateral permit shall notify the Superintendent when the street lateral is ready for inspection and connection is to be made to the main sewer. The connection shall be made under the supervision of the Superintendent.

Section 613 B - Trench Inspections

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes, such trenches shall be inspected by the Superintendent. Before the trenches are backfilled, the person performing such work shall notify the Superintendent when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the Superintendent.

Section 614 - Public Safety Provisions Required; Restoration of Disturbed Areas

All excavations for constructing building laterals shall be adequately protected with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed, in the course of the work, shall be restored in a manner satisfactory to the Superintendent. When installation requires disturbance of paved public roads and shoulders, restoration shall involve backfilling to road grade. Shortly thereafter the Village Department of Public Works (DPW) shall complete road and shoulder restoration to the Village Standards. The cost for such final road and shoulder restoration by the DPW shall be included with the fees paid with the application for the permit required in Section 602.

Section 615 - Interior Clean-Out

An interior clean-out fitting shall be provided for each building lateral at a readily accessible location, preferably just inside the basement wall. The fitting shall contain a 45-degree branch with removable plug or test tee, and so positioned that sewer cleaning equipment can be inserted therein to clean the building lateral.

The cleanout diameter shall be no less than the building lateral diameter.

Section 616 - Costs Borne by Owner

All costs associated with the provisions of this Article shall be borne by the property owner unless specifically stated or agreed to be a cost borne by the Village. The property owner shall indemnify the Village from any loss or damage that may be directly or indirectly occasioned by the installation of the building and street laterals, and connections and appurtenances.

Section 617 - Fixtures and Area Drains Subject to Backwater

Where fixture or area drains are subject to overflow as the result of backwater from the public sewer system, accessible backwater valves shall be installed in the fixture drains of such fixtures or in the branch drains of such area drains or an accessible gate valve shall be installed in the building drain at its point of entry inside the building and downstream from any building trap. Nothing in this section shall be construed to permit area drains which are prohibited by Section 601B of this law or otherwise prohibited.

Section 618 - Design of Backwater Valves

Backwater valves shall be designed so as to provide a positive mechanical seal against backwater, and, when fully opened, such valves shall have flow capacity not less than that of the piping in which they are installed. All bearing parts of such valves shall be of corrosion resistant material.

Article 7

Inflow

Section 701 - New Inflow Sources Prohibited

Section 702 - Existing Inflow Sources Disconnected

Section 703 - Existing Inflow Sources Disconnected When Property Sold

Section 704 - No Re-connection of Inflow Source Allowed

Section 705 - Charges for Inflow

Section 701 - New Inflow Sources Prohibited No connections shall be made to a sanitary sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.

Section 702 - Existing Inflow Sources Disconnected

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the Superintendent, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Superintendent, prior to the sale of the property.

Section 703 - Existing Inflow Sources Disconnected When Property Sold

Upon notice from the Tax Assessor, the Superintendent shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.

Section 704 - No Re-connection of Inflow Source Allowed It shall be a willful violation of this Law for any person to reconnect any inflow source which has been disconnected pursuant to this Article.

Section 705 - Charges for Inflow

The Superintendent is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to Article 12, however, the Village Board may cause a surcharge at a rate not to exceed five (5) times that for normal sewage volume charge.

ARTICLE 8

Trucked Or Hauled Waste

Section 801 - Licenses and Application

Section 802 - Concurrent Requirements

Section 803 - Dumping Location and Timing

Section 804 - Notification of Dumping

Section 805 - Identification of Vehicle and Load

Section 801 - Licenses and Application

The discharge of trucked or hauled wastes into the Village sewer system and public sewers tributary thereto will be permitted only with the written approval (license) of the Superintendent. Applicants for such license shall apply on a form provided by the Superintendent. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR Part 364, approximate annual septage volume expected, service area, and any other information that the Superintendent may require, to determine whether the trucked or hauled wastes could adversely impact the POTW. The application shall be accompanied by a fee prescribed by the Superintendent, not to exceed \$100.

The licensee of trucked or hauled wastes will also be charged a fee for each dumping, in accordance with Article 12. The dumping fee shall be paid prior to dumping.

Section 802 - Concurrent Requirements

The applicant for a license to truck or haul wastes shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement, in any license application, shall be grounds for invalidating the license. All licenses, issued by the Superintendent, for this purpose, shall be for one (1) year. The licensee shall also be duly permitted by the NYSDEC under 6 NYCRR Part 364 ("364 permit"). If, for any reason, the 364 permit is revoked, the 364 permit lapses or becomes invalid, then the license issued under this Article shall become invalid immediately. All acts performed in connection with the license shall be subject to the inspection and regulations, as established by the Superintendent, the terms and conditions of the license and all local and general laws, ordinances, and regulations which are now or may come into effect, and such license may be suspended or revoked, at any time, by the Superintendent for willful, continued, or persistent violation thereof.

Section 803 - Dumping Location and Timing

The Superintendent may require discharging at only certain locations within the POTW, and only at certain times, and on only certain days of the week, or seasons of the year as shall be stated on said license or as may be relocated by the Superintendent, after appropriate notice. The time and conditions for permissible discharge shall be as set forth on the license, or as may be revised by the superintendent, after appropriate notice.

Section 804 - Notification of Dumping

Each discharge of trucked or hauled wastes shall be made only with the approval of the Superintendent. The Superintendent may require inspection, sampling, and analysis of each load prior to the discharge of a load. Any extra costs associated with such inspection, sampling, and analysis shall be paid by the licensee.

Section 805 – Identification of Vehicle and Load

Each tanker vehicle shall bear an identification sticker visibly displayed, which will be issued with the permit. The source of each load shall be identified in writing by the hauler at the time of delivery. Delivery tickets shall be signed at the sewage treatment plant for each load.

Article 9

Discharge Restrictions

Section 901 - Pretreatment Standards

Section 902 - General Prohibitions

Section 903 - Concentration Based Limitations

Section 904 - Mass Discharge Based Limitations

Section 905 - Modification of Limitations

Section 906 - Access to User's Records

Section 907 - Dilution

Section 908 - Grease, Oil, and Sand Interceptors

Section 909 - Solid Waste Grinders

Section 910 - Rejection of Wastewater

Section 901 - Pretreatment Standards

All users of the Village POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Parts 406 - 471.

Section 902 - General Prohibitions

No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State, or Local Pretreatment Standards or Requirements.

Without limiting the generality of the foregoing, a user may not contribute the following substances to the POTW:

(1) Any solids, liquids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious, in any way, to the POTW, or to the operation of the POTW. At no time shall both of two successive readings on a flame type explosion hazard meter, at the point of discharge into the system (or at any other point in the system) be more than 25 % nor any single reading be more than 40 % of the lower explosive limit (LEL) of the meter. Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Village, the State, or the EPA has determined to be a fire hazard, or hazard to the POTW.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or otherwise interfere with the operation of the wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass or stone grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was specifically designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or POTW personnel.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard.

A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(A) of the Act.

(5) Any noxious or malodorous solids, liquids, or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.

(6) Oils and grease - Any commercial, institutional, or industrial wastes containing fats, waxes, grease, or oils which become visible solids when the wastes are cooled to ten (10) degrees centigrade (50 degrees Fahrenheit); any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in excess of 100 mg/l or in amounts that will cause interference or pass through.

(7) Any wastewater which will cause interference or pass through.

(8) Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes, and vegetable tanning solutions.

(9) Any solid, liquid, vapor, or gas having a temperature higher than 65 degrees C (150 degrees F); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40 degrees C (104 degrees F). The Superintendent reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 65 degrees C.

(10) Unusual flow rate or concentration of wastes, constituting slugs, except by Industrial Wastewater Permit.

(11) Any wastewater containing any radioactive wastes except as approved by the Superintendent, and in compliance with applicable State and Federal regulations.

(12) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.

(13) Any wastewater with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21.

(14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

Section 903 - Concentration Based Limitations

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by permit or as provided for in Section 904. Concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW ("end of pipe" concentrations).

Substance (1)	Effluent Concentration Limit - mg/l (2)
Arsenic	0.2
Barium	4.0
Cadmium	0.4
Chlorine (Available)	50.0
Chromium (hex)	0.2
Chromium (total)	1.0
Copper	3.0
Cyanide (total)	1.6
Cyanide (free)	0.4
Fluorides	4.0
Gold	0.2
Iron	5.0
Lead	0.5
Manganese	4.0
Mercury	0.2
Molybdenum	0.05
Nickel	1.0
Phenols, total	4.0
Selenium	0.1
Silver	0.2
Sulfides	6.0
Zinc	1.0

(1) Except for chromium (hex), all concentrations listed for metallic substances shall be as "total metal", which shall be defined as the value measured in a sample acidified to a pH value of 2 or less, without prior filtration.

(2) As determined on a composite sample taken from the User's daily discharge over a typical operational and/or production day.

(3) As determined on a grab sample taken from the User's discharge at any time during the daily operational and/or production period.

(4) Other substances which may be limited are:

alkanes, alkenes and alkynes

aliphatic and aromatic alcohols and acids

aliphatic and aromatic aldehydes and ketones

aliphatic and aromatic esters

aliphatic and aromatic halogenated compounds

aliphatic and aromatic nitro, cyano and amino compounds

antibiotics

benzene derivatives

chemical compounds which, upon acidification, alkalization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW, produce toxic, flammable, or explosive compounds

pesticides, including algicides, fungicides, herbicides, insecticides, rodenticides

phthalates

polyaromatic and polynuclear hydrocarbons

total toxic organics, TTO, as defined in 40 CFR 433.11

toxic organic compounds regulated by Federal Pretreatment Standards

unsaturated aliphatics, including those with an aldehyde, ketone or nitrile functional group

viable pathogenic organisms from industrial processes or hospital procedures

Section 904 - Mass Discharge Based Limitations

At no time shall the influent to the POTW contain quantities in excess of those specified in the individual permit.

The Superintendent shall determine the total allowable influent load of each substance from significant industrial users. In determining the total load of each substance that significant industrial users shall be allowed to discharge, the superintendent shall consider:

(1) the quantities of each substance that are uncontrollable because they occur naturally in wastewater,

(2) the quantities of each substance that are anthropogenic but are nonetheless uncontrollable,

(3) historical discharge trends,

(4) past pollution control efforts of each significant industrial user as compared to other significant industrial dischargers of the same substance,

(5) potential for growth in the POTW service area,

(6) potential for more restrictive regulatory requirements to be placed on the POTW discharge or sludge disposal or sludge reuse method, and

(7) treatability of the substance. The superintendent shall apply a minimum 15 % safety factor to be protective of the POTW.

To assure that the total loads so calculated, for each substance, are not violated, the Superintendent shall issue permits to significant industrial users limiting discharge loads.

Permits issued in accordance with this section may allow for discharges in excess of limitations set forth under section 903.

Section 905 - Modification of Limitations

Limitations on wastewater strength or mass discharge contained in this Law may be supplemented with more stringent limitations when, in the opinion of the Superintendent:

(1) The limitations in this Law are not sufficient to protect the POTW,

(2) The limitations in this Law are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permit,

(3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Village desires, as a result of discharge of wastewaters at the above prescribed concentration limitations,

(4) Municipal employees or the public will be endangered, or

(5) Air pollution and/or groundwater pollution will be caused.

The limitations on wastewater strength or mass discharge shall be recalculated not less frequently than once every five (5) years. The results of these calculations shall be reported to the Village Board. This Law shall then be amended appropriately. Any issued industrial wastewater discharge permits, which have limitations, based directly on any limitations, which were changed, shall be revised and amended, as appropriate.

Section 906 - Access to User's Records

The Superintendent shall have the authority to copy any record related to wastewater discharges to the POTW.

Section 907 - Dilution

Except where expressly authorized to do so by an applicable Pretreatment Standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard.

Dilution flow shall be considered to be inflow.

Section 908 - Grease, Oil, and Sand Interceptors

Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

Section 909 - Solid Waste Grinders

Solid waste grinders at or serving commercial establishments, institutions or industries shall not discharge into the Village POTW if there is a combined sewer overflow (CSO) on the sewer lines conveying the waste to the POTW treatment plant.

Section 910 - Rejection of Wastewater

The Village Board may reject a User's wastewater, on recommendation of the Superintendent, when it is has been determined that the wastewater contains substances or possesses characteristics which have a deleterious effect on the POTW and its processes, or on the receiving water, or which constitute a public nuisance or hazard. See Section 1016.

Article 10

Discharge Permits And Pretreatment Requirements

Section 1001 - Wastewater Discharge Reports

Section 1002 - Notification to Industrial Users

Section 1003 A - Wastewater Discharges

Section 1003 B - Wastewater Discharge Permits Required For Significant Industrial Users

Section 1003 C - Other Industrial Users

Section 1003 D - Discharge Permits to Storm Sewers Not Authorized

Section 1004 A - Application for Wastewater Discharge Permits

Section 1004 B - Permit Modifications

Section 1004 C - Permit Conditions

Section 1004 D - Permit Duration

Section 1004 E - Permit Reissuance

Section 1004 F - Permit Transfer

Section 1004 G - Permit Revocation

Section 1004 H - Public Notification

Section 1005 - Reporting Requirements for Permittee

Section 1006 - Flow Equalization

Section 1007 - Monitoring Stations (Control Manholes)

Section 1008 - Proper Design and Maintenance of Facilities and Monitoring Stations

Section 1009 - Vandalism, Tampering with Measuring Devices

Section 1010 - Sampling and Analysis

Section 1011 - Accidental Discharges; SPCC Plan

Section 1012 - Posting Notices

Section 1013 - Sample Splitting

Section 1014 - Public Access to Information Maintained by the Superintendent

Section 1015 A - Access to Property and Records

Section 1015 B - Access to Easements

Section 1015 C - Liability of Property Owner

Section 1016 - Special Agreements

Section 1001 - Wastewater Discharge Reports

As a means of determining compliance with this Law, with applicable SPDES permit conditions, and with applicable State and Federal law, each industrial user shall be required to notify the Superintendent of any new or existing discharges to the POTW by submitting a completed Industrial Chemical Survey (ICS) form and a completed Industrial Wastewater Survey (IWS) form to the Superintendent. The Superintendent may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Superintendent deems necessary. All information shall be furnished by the user in complete cooperation with the Superintendent.

Section 1002 - Notification to Industrial Users

The Superintendent shall, from time to time, notify each industrial user of applicable Pretreatment Standards, and of other applicable requirements under Section 204(B) and Section 405 of the Clean Water Act, and Subtitles C and D of RCRA.

Section 1003 A - Wastewater Discharges

No Significant Industrial User shall discharge wastewater to the POTW without having a valid Wastewater Discharge Permit, issued by the Superintendent. Significant Industrial Users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Law. Violation of a permit term or condition is deemed a violation of this Law.

Section 1003 B - Wastewater Discharge Permits Required For Significant Industrial Users

All Significant Industrial Users proposing to connect to or to discharge to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a Wastewater Discharge Permit within 30 days after the effective date of this Law, and shall obtain such a permit within 90 days after making application.

Section 1003 C - Other Industrial Users

The Superintendent may issue Wastewater Discharge Permits to other industrial users of the POTW.

Section 1003 D - Discharge Permits to Storm Sewers Not Authorized

The Village does not have the authority to issue permits for the discharge of any wastewater to a storm sewer. This authority rests with the NYSDEC.

Section 1004 A - Application for Wastewater Discharge Permits

Industrial users required to obtain a Wastewater Discharge Permit shall complete and file with the Superintendent an application in the form prescribed by the Village, the application shall be accompanied by a fee, as set forth in Section 1203. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC code of both the industry and any categorical processes.
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Article 10 of this Law and which are limited in the appropriate Categorical Standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with Standard Methods.
- (4) Time and duration of the discharge.
- (5) Average daily peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances.
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged to the POTW.
- (8) Each product produced by type, amount, process or processes, and rate of production.
- (9) Type and amount of raw materials processed (average and maximum per day).
- (10) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (11) The nature and concentration of any pollutants in the discharge which are limited by any County, State, or Federal Standards, and a statement whether or not the standards are being met on a consistent basis and if not whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable Standards.
- (12) If additional pretreatment and/or O&M will be required to meet the Standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and beginning routine operation).
 - (b) No increment referred to in (a) above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (c) No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user

to return to the established schedule. In no event shall more than 9 months elapse between such progress reports to the Superintendent.

(13) Any other information as may be deemed by the Superintendent to be necessary to evaluate the permit application.

The Superintendent will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Village may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

Section 1004 B - Permit Modifications

Wastewater Discharge Permits may be modified by the Superintendent, upon 30 days notice to the permittee, for just cause. Just cause shall include, but not be limited to:

- (1) Promulgation of an applicable National Categorical Pretreatment Standard,
- (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13,
- (3) Changes in general discharge prohibitions and local limits as per Section 903 of this law,
- (4) Changes in processes used by the permittee, or changes in discharge volume or character,
- (5) Changes in design or capability of any part of the POTW,
- (6) Discovery that the permitted discharge causes or contributes to pass through or interference, and
- (7) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance as set forth in Section 1004 A (12)(a).

Section 1004 C - Permit Conditions

Wastewater Discharge Permits shall be expressly subject to all the provisions of this Law, and all other applicable regulations, user charges and fees established by the Village. Permits may contain the following:

- (1) Limits on the average and maximum rate and time of discharge, or requirements for flow regulation and equalization.
- (2) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- (3) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
- (4) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(6) Compliance schedules

(7) Requirements for submission of technical reports or discharge reports.

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Village, and affording the Superintendent access thereto.

(9) Requirements for notification of the Village of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.

(10) Requirements for the notification of the Village of any change in the manufacturing and/or pretreatment process used by the permittee.

(11) Requirements for notification of excessive, accidental, or slug discharges.

(12) Other conditions as deemed appropriate by the Village to ensure compliance with this Law, and State and Federal laws, rules, and regulations.

Section 1004 D - Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years.

Section 1004 E - Permit Reissuance

The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Superintendent, during the term of the permit, as limitations or requirements, as identified in Section 1004 B, or other just cause exists. The User shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance as established in Section 1004 A (12)(a).

Section 1004 F - Permit Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation, or discharge at a specific location. A Wastewater Discharge Permit shall not be reassigned, transferred, or sold to a new owner, new User, different premises, or a new or changed operation.

Section 1004 G - Permit Revocation

Wastewater Discharge Permits may be revoked for the following reasons: falsifying self-monitoring reports, tampering with monitoring equipment, refusing to allow the Superintendent timely access to the industrial premises, failure to meet effluent limitations, failure to pay fines, failure to pay user charges, and failure to meet compliance schedules.

Section 1004 H - Public Notification

The Village will publish in the Village official daily newspaper(s), informal notice of intent to issue a Wastewater Discharge Permit, at least 14 days prior to issuance.

Section 1005 - Reporting Requirements for Permittee

The reports or documents required to be submitted or maintained under this section shall be subject to:

- (a) The provisions of 18 USC Section 1001 relating to fraud and false statements;
- (b) The provisions of Sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and
- (c) The provisions of Section (c)(6) of the Act, as amended, regarding corporate officers.

(1) Baseline Monitoring Report

Within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard, a User subject to that standard shall submit, to the Superintendent, the information required by paragraphs (8) and (9) of Section 1004 A.

(2) 90-Day Compliance Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit, to the Superintendent, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User's facility which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis, and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

(3) Periodic Compliance Reports

a) The Superintendent may require a compliance schedule for any industrial user. If additional pretreatment and/or operation and maintenance will be required to meet applicable standards, or for the prevention of spills, for personnel training, etc., then the industrial user or Superintendent shall prepare and provide a compliance schedule, pursuant to 40 CFR 403.12(b)(7) and 403.12 (c), to accomplish such pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

b) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Superintendent, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded

the average daily flow reported in Section 1004 A. At the discretion of the Superintendent, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Superintendent may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.

c) The Superintendent may impose mass limitations on Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or, in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 1005 (3) (a) shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of discharge sampling and analysis, including the flow, and the nature and concentration, or production and mass, of pollutants contained therein, which are limited by the applicable Pretreatment Standard. All analyses shall be performed in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses.

(4) Violation Report

If sampling, performed by the user, indicates a violation of this Law and/or the User's discharge permit, the User shall notify the Superintendent within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The User is not required to re-sample if the POTW performs monitoring of the User's discharge at least once a month for the parameter which was violated, or if the POTW performs sampling, for the parameter which was violated, between the User's initial sampling and when the User receives the results of this sampling.

(5) Other reports

The Superintendent may impose reporting requirements equivalent to the requirements imposed by Section 1005(3) for users not subject to pretreatment standards.

(d) Notification of Change in Discharge: All industrial users shall promptly notify the Commissioner in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

(e) Certification: When submitting reports, notifications, or other required documents to the Control Authority and Approval Authority, an industrial user must provide a statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards and requirements are being met, and, if not, whether additional operation and maintenance and/or pretreatment is required for the industrial user to meet the pretreatment standards and requirements. This certification shall include the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(f) Signatory Requirements for Reports: The reports required by Section 903(b), (c), and (d) above shall include the certification statement specified in Section 903(j) above, and shall be signed in accordance with the requirements of 40 CFR 403.12(l).

(g) Record Keeping Requirements: Any industrial user subject to the reporting requirements of this Section shall maintain records of all information resulting from any monitoring activities, whether or not such monitoring activities are required by this Law. These record keeping requirements include documentation of Best Management Practices (BMP's).

Such records shall include, for all samples:

- (1) the date, exact place, method, and time of sampling, and the name(s) of the person(s) taking samples;
- (2) the dates that analyses were performed;
- (3) who performed the analyses;
- (4) the analytical techniques/methods used; and
- (5) the results of such analyses.

Such records shall be retained for a minimum of three (3) years by the industrial user. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, when requested by the Commissioner or Approval Authority.

(h) Provisions Governing Fraud or False Statements: The reports and other documents required to be submitted or maintained under this Law shall be subject to:

- (1) the provisions of 18 USC Section 1001, relating to fraud and false statements;
- (2) the provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

Section 1006 - Flow Equalization

No person shall cause the discharge of slugs to the POTW. Each person discharging, into the POTW, greater than 100,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is lesser, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Superintendent. A wastewater discharge permit may be issued solely for flow equalization.

Section 1007 - Monitoring Stations (Control Manholes)

(a) All Significant Industrial Users, and other Industrial Users whose industrial waste discharge has caused or may cause Interference or Pass-Through shall install and maintain a suitable monitoring station, on their premises at their expense, to facilitate the observation, sampling, and measurement of their industrial wastewater discharge.

(b) If there is more than one street lateral serving an Industrial User, the Superintendent may require the installation of a control manhole on each lateral.

(c) The Superintendent may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station(s) shall be accessibly and safely located, and the Industrial User shall allow immediate access, without prior notice, to the station by the Superintendent, or his designated representative.

Section 1008 - Proper Design and Maintenance of Facilities and Monitoring Stations

Preliminary treatment, and flow equalization facilities, or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where an Industrial User has such treatment, equalization, or monitoring facilities at the time this Law is enacted, the Superintendent may approve or disapprove the adequacy of such facilities. Where the Superintendent disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization, or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Superintendent. Construction of new or upgraded facilities shall not commence until written approval of the Superintendent has been obtained.

Section 1009 - Vandalism, Tampering with Measuring Devices

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access, or render inaccurate, or cause or permit the negligent breaking, damaging, destroying, uncovering, defacing, tampering with, preventing access, or rendering inaccurate to:

- i - any structure, appurtenance, or equipment which is a part of the Village POTW, or
- ii - any measuring, sampling, and/or testing device or mechanism installed pursuant to any requirement under this Law except as approved by the Superintendent.

Section 1010 - Sampling and Analysis

Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis. All monitoring and analysis requirements of the National Pretreatment Program as set forth in 40 CFR 403.12 shall apply to all industrial users of the POTW.

All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Law shall be carried out in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in Section 1007, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in Federal regulation,

samples shall be gathered as flow proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

Section 1011 - Accidental Discharges; SPCC Plan

Each user shall provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Law or of an Industrial Wastewater Discharge Permit. Users shall immediately notify the Superintendent of the discharge of wastes in violation of this Law or any Permit. Such discharges may result from:

- (1) Breakdown of pretreatment equipment
- (2) Accidents caused by mechanical failure, or negligence
- (3) Other causes.

Where possible, such immediate notification shall allow the Superintendent to initiate appropriate countermeasure action at the POTW. The user shall prepare a detailed written statement following any accidental or slug discharge, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five (5) days of the occurrence, and the Superintendent shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

When required by the Superintendent, detailed plans and procedures to prevent accidental or slug discharges shall be submitted to the Superintendent, for approval. These plans and procedures shall be called a Spill Prevention, Control, and Countermeasure (SPCC) Plan. The plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any provision of the permit and any National Prohibitive Discharge Standard;
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 1012 - Posting Notices

In order that the Industrial User's employees be informed of the Village requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of the Village requirements and whom to call in case of an accidental discharge in violation of this Law.

Section 1013 - Sample Splitting

When so requested in advance by an industrial user, and when taking a sample of industrial wastewater, the Village representative(s) shall gather sufficient volume of sample so that the sample can be split into two nearly equal volumes, each of size adequate for the anticipated analytical protocols including any Quality Control (QC) procedures. One of the portions shall be given to the representative of the industrial user whose wastewater was sampled, and the other portion shall be retained by the Village for its own analysis.

Section 1014 - Public Access to Information Maintained by the Superintendent

When requested, the Superintendent shall make available, to the public, for inspection and/or copying, information and data on industrial users obtained from reports, questionnaires, permit applications, permit and monitoring programs, and inspections, unless the Industrial User specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that such information, if made public, would divulge processes or methods of production entitled to protection as trade secrets of the user. Wastewater constituents and characteristics, and reports of accidental discharges shall not be recognized as confidential.

Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed, upon written request, to governmental agencies, for uses related to this Law, or the SPDES Permit, providing that the governmental agency making the request agrees to hold the information confidential, in accordance with State or Federal Laws, Rules and Regulations. The Superintendent shall provide written notice to the industrial user of any disclosure of confidential information to another governmental agency.

Section 1015 A - Access to Property and Records

The Superintendent and other authorized representatives of the Village, representatives of EPA, NYSDEC, NYSDOH, and/or (-Cty-) County Health Department, bearing proper credentials and identification, shall be permitted to enter upon all non-residential properties at all times for the purpose of inspection, observation, sampling, flow measurement, and testing to ascertain a user's compliance with applicable provisions of Federal and State law governing use of the Village POTW, and with the provisions of this Law. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up, on the User's property or property rented/leased by the User, such devices as are necessary to conduct sampling or flow measurement. Guard dogs shall be under proper control of the User while the representatives are on the User's property or property rented/leased by the User. Such representative(s) shall, additionally have access to and may copy any records the User is required to maintain under this Law. Where a User has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

Section 1015 B - Access to Easements

The Superintendent, bearing proper credentials and identification, shall be permitted to enter all private premises through which the Village holds an easement for the purpose of

inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Village public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

Section 1015 C - Liability of Property Owner

During the performance, on private premises, of inspections, sampling, or other similar operations referred to in Sections 1014 A and 1014 B, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

Section 1016 - Special Agreements

Nothing in this Article shall be construed as preventing any special agreement or arrangement between the Village and any User of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Village Board shall consider whether the wastewater will:

- (1) pass-through or cause interference
- (2) endanger the public municipal employees
- (3) cause violation of the SPDES Permit
- (4) interfere with any Purpose stated in Section 102
- (5) prevent the equitable compensation to the Village for wastewater conveyance and treatment, and sludge management and disposal

No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

No agreement shall be entered into without the user having been issued and presently having a permit to discharge wastes into the POTW for treatment and disposal. Additionally the user shall be in compliance with all conditions in the permit and shall not be in arrears in any charges due to the Village before the agreement is entered into. The Village Board may condition the agreement.

Article 11

Enforcement And Penalties

Note: This Article is under review by NYSDEC and may be revised following review. The municipal attorney or officer responsible for drafting the Village Sewer Use Law should carefully review the provisions in this Article of the Model and make any suitable adjustments to maintain consistency with local and state law.

Section 1101 - Enforcement Response Plan

Administrative Remedies

Section 1102 - Notification of Violation

Section 1103 - Consent Orders

Section 1104 - Administrative or Compliance Orders

Section 1105 - Administrative Fines

Section 1106 - Cease and Desist Orders

Section 1107 - Termination of Permit

Section 1108 - Water Supply Severance

Section 1109 - Show Cause Hearing

Section 1110 - Failure of User to Petition the Superintendent

Section 1111 - Notice

Section 1112 - Right to Choose Multiple Remedies

Judicial Remedies

Section 1113 - Civil Actions for Penalties

Section 1114 - Court Orders

Section 1115 - Criminal Penalties

Section 1116 - Injunctive Relief

Section 1117 - Summary Abatement

Miscellaneous

Section 1118 - Delinquent Payments

Section 1119 - Performance Bonds

Section 1120 - Liability Insurance

Section 1121 - Informant Rewards

Section 1122 - Public Notification

Section 1101 - Enforcement Response Plan

The Superintendent shall prepare an Enforcement Response Plan. The Enforcement Response Plan, in a step-by-step fashion, shall outline the procedures to be followed to identify, document, and respond to violations by Users of the POTW. All violations by Users of the POTW shall be met with some type of enforcement response. The response shall be comprehensive and effective.

The Enforcement Response Plan shall:

- (1) describe how the Superintendent will investigate instances of non-compliance
- (2) describe the types of escalated enforcement actions that the Superintendent will take in response to all anticipated types of User violations and the time periods within which to initiate and follow-up these actions
- (3) adequately reflect the Village Board's responsibility to enforce all applicable standards and requirements.

The Enforcement Response Plan shall contain:

- (1) criteria for scheduling periodic inspection and/or sampling visits to POTW Users
- (2) forms and guidelines for documenting compliance data in a manner which will enable the information to be used as evidence
- (3) systems to track due dates, compliance schedule milestones, and pending enforcement actions
- (4) criteria, responsible personnel, and procedures to select and initiate an enforcement action.

The range of appropriate enforcement actions shall be based on the nature and severity of the violation and other relevant factors, such as:

- magnitude of the violation
- duration of the violation
- effect of the violation on the receiving water
- effect of the violation on the POTW
- effect of the violation on the health and safety of the POTW employees
- compliance history of the User
- good faith of the User
- and shall promote consistent and timely use of enforcement remedies.

The Village Board shall approve the Enforcement Response Plan. The Enforcement Response Plan shall be reviewed at least every five years.

Administrative Remedies

Section 1102 - Notification of Violation

Whenever the Superintendent finds that any User has violated or is violating this Law, or any Wastewater Discharge Permit, order, prohibition, limitation, or requirement permitted by this Law, the Superintendent may serve upon such person a written notice stating the nature of the violation. Within ten (10) calendar days of the date the Superintendent mails the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Superintendent, by the User. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the User of liability for any violations caused by the User before or after receipt of the Notice of Violation.

Section 1103 - Consent Orders

The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as an administrative order.

Section 1104 - Administrative or Compliance Orders

When the Superintendent finds that a User has violated or continues to violate this Law or a permit or administrative order issued thereunder, he may issue an administrative order to the User responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

The User may, within fifteen (15) calendar days of receipt of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Section 1105 - Administrative Fines

Notwithstanding any other section of this Law, any User who is found to have violated any provision of this Law, or a wastewater discharge permit or administrative order issued hereunder, shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

The User may, within fifteen (15) calendar days of notification of the Superintendent's notice of such fine, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the fine, or
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Section 1106 - Cease and Desist Orders

When the Superintendent finds that a User has violated or continues to violate this Law or any permit or administrative order issued hereunder, the Superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

The User may, within fifteen (15) calendar days of the date the Superintendent mails notification of such order, petition the Superintendent to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Section 1107 - Termination of Permit

Any User who violates the following conditions of this Law or a wastewater discharge permit or administrative order, or any applicable or State and Federal law, is subject to permit termination:

- (1) Violation of permit conditions or conditions of an administrative order,
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge,
- (3) Failure to report significant changes in operations or wastewater constituents and characteristics,
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling, or

(5) Failure to pay administrative fines, fees or user charges.

Non-compliant industrial Users will be notified, by registered mail, of the proposed termination of their wastewater permit. The User may, within fifteen (15) calendar days of the date the Superintendent mails such notification, petition the Superintendent to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

(1) Reject any frivolous petitions,

(2) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1108 - Water Supply Severance

Whenever a User has violated or continues to violate the provisions of this Law or an order or permit issued hereunder, water service to the User may be severed and service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply. The User may, within fifteen (15) calendar days of severance, petition the Superintendent to reconnect water supply service. Such petition shall be in written form and shall be transmitted to the Superintendent by registered mail. The Superintendent shall then:

(1) Reject any frivolous petitions,

(2) Reconnect the water supply, or

(3) Order the petitioner to show cause in accordance with Section 1109 and may as part of the show cause notice request the User to supply additional information.

Section 1109 - Show Cause Hearing

The Superintendent may order any User appealing administrative remedies for violations of this Law to show cause, before the Village Board, why an enforcement action, initiated by the Superintendent, should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Village Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Village Board why the proposed enforcement action should not be taken. Service shall be made on any principal or executive officer of a User's establishment or to any partner in a User's establishment. The notice of the hearing shall be served at least ten (10) calendar days before the hearing, in accordance with Section 1111. The Village Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Village to conduct the hearing:

(1) Issue, in the name of the Village Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings,

(2) Take the evidence,

(3) Take sworn testimony,

(4) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Village Board for action thereon.

After the Village Board has reviewed the evidence and testimony, it may order the user to comply with the Superintendent's order or fine, modify the Superintendent's order or fine, or vacate the Superintendent's order or fine.

Section 1110 - Failure of User to Petition the Superintendent

In the event the Superintendent issues any administrative order, terminates the User's permit, or makes any fine as set forth in this article, and the User fails, within the designated period of time set forth, to petition the Superintendent, as provided in appropriate sections of this article, the User shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

Section 1111 - Notice

The notices, orders, petitions, or other notification which the User or Superintendent shall desire or be required to give pursuant to any sections of this Law shall be in writing and shall be served personally or sent by certified mail or registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the User pursuant to the sections of this Law shall be mailed to the User where the User's effluent is discharged into transmission lines to the Village's POTW. Any notice, petition, or other communication mailed to the Superintendent shall be addressed and mailed to the Village Hall of the Village.

Section 1112 - Right to Choose Multiple Remedies The Superintendent shall have the right, within the Superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Superintendent may utilize more than one administrative remedy established pursuant to this Article, and the Superintendent may hold one show cause hearing combining more than one enforcement action.

Judicial Remedies

Section 1113 - Civil Actions For Penalties Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any administrative order or determination of the Superintendent promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Village for a civil penalty not to exceed one thousand dollars (\$1000) for each such violation, to be assessed after a hearing (unless the User waives the right to a hearing) held in conformance with the procedures set forth in this Article. Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Village attorney, or his designated attorney, at the request of the Superintendent in the name of the Village, in any court of competent jurisdiction giving preference to courts local to the Village. In addition to the above described penalty, the Superintendent may recover all damages incurred by the Village from any persons or Users who violate any provisions of this Law, or who fail to perform any duties imposed by this Law or any administrative order or determination of the Superintendent promulgated under this Law, or the terms of any permit issued hereunder. In addition to the above described damages, the Superintendent may recover all reasonable attorney's fees incurred by the Village in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the Superintendent may also recover court costs, and

other expenses associated with the enforcement activities, including sampling and monitoring expenses.

In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other relative factors as justice may require.

Such civil penalty may be released or compromised by the Superintendent before the matter has been referred to the Village Attorney, and where such matter has been referred to the Village Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Village Attorney, with the consent of the Superintendent.

Section 1114 - Court Orders

In addition to the power to assess penalties as set forth in this Article, the Superintendent shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:

- (1) Suspending, revoking, or modifying the violator's Wastewater Discharge Permit, or
- (2) Enjoining the violator from continuing the violation.

Any such court order shall be sought in an action brought by the Village Attorney, at the request of the Superintendent, in the name of the Village, in any court of competent jurisdiction giving precedence to courts local to the Village.

The Village Attorney, at the request of the Superintendent shall petition the Court to impose, assess, and recover such sums imposed according to this Article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Section 1115 - Criminal Penalties

Any person who willfully violates any provision of this Law or any final determination or administrative order of the Superintendent made in accordance with this Article shall be guilty of a Class A Misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000), or imprisonment not to exceed one (1) year or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.

No prosecution, under this Section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

Section 1116 - Additional Injunctive Relief

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the Superintendent, through counsel may petition the Court, in the name of the Village, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with any order or determination thereunder by the Superintendent.

Any person violating any of the provisions of this Law shall, in addition to civil penalties, be liable to the Village for any expense, loss, or damage occasioned to the Village by reason of such violation.

Section 1117 - Summary Abatement

Notwithstanding any inconsistent provisions of this Law, whenever the Superintendent finds, after investigation, that any User is causing, engaging in, or maintaining a condition or activity which, in the judgement of the Superintendent, presents an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Superintendent may, without prior hearing, order such User by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a User's failure to comply voluntarily with an emergency order, the Superintendent may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) calendar days, the Superintendent shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

If the User is not within the geographic boundaries of the Village the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in the inter-municipal agreement.

The Superintendent, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.

Miscellaneous

Section 1118 - Delinquent Payments

If there shall be any payments which are due to the Village, or any Department thereof, pursuant to any Article or Section of this Law, which shall remain due and unpaid, in whole or in part, for a period of thirty (30) calendar days from the date of billing by the Village, the same shall constitute a default, and there shall be added to the entire amount of the original bill, a penalty equal to ten percent (10%) of the original bill, and interest shall accrue on the unpaid balance retroactive to the date of the original billing.

In the event that there are any sewer taxes, assessments, or other service charges which shall have been delinquent for a period of at least thirty (30) calendar days as of April 30 of any year, the Village Clerk shall report the names of the defaulting persons to the Cattaraugus County Department of Real Property on or before April 30th of the same year. The Village Clerk is hereby directed to add the entire amount of the sewer tax, assessment, or other service charge which shall be in default, plus penalty and interest, as provided for in this Law, to the real property taxes due and owing to Village in the next succeeding year, and the Village Clerk is directed to collect the same in the same manner as real property taxes due and owing to the Village are collected.

Where charges are delinquent and the violator is not a resident of the Village, or is located outside the geographical boundaries of the Village, then the Village Attorney is authorized to seek recovery of charges, including punitive damages, in a court of competent jurisdiction or make arrangements with the appropriate county where the User is located to add the amount of the sewer assessment or other charges which shall be in default, plus penalty and interest, as provided for in the Law, to the real property taxes due to the County in the next ensuing year.

Section 1119 - Performance Bonds

The Superintendent may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

Section 1120 - Liability Insurance

The Superintendent may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

Section 1121 - Informant Rewards

The Superintendent is authorized to pay up to \$500 for information leading to the discovery of noncompliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the User, the Superintendent is authorized to disperse up to ten (10) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$10,000, including the discovery reward.

Section 1122 - Public Notification

The Superintendent Shall provide public notification, in the daily newspaper with the largest circulation in the Village, of Users which were in significant non-compliance of local or Federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year.

Section 1123 - Contractor Listings

(1) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Village.

(2) Existing contracts for the sale of goods or services to the Village held by a User found to be in significant violation with pretreatment standards may be terminated at the discretion of the Village Board.

Article 12

Charges

Section 1201 - Normal Sewage Service Charges

Section 1202 - Surcharge for Abnormal Sewage

Section 1203 - Total Sewer Service Charge

Section 1204 - Segmenting the POTW

Section 1205 - Measurement of Flow

Section 1206 - Billing Period

Section 1207 - Pretreatment Program Costs

Section 1208 - Charges for Trucked and Hauled Wastes

Section 1209 - Capital Recovery

Section 1210 - Collection of Charges

Section 1211 - Fiscal Year for System

Section 1212 - Use of Revenues

Section 1213 - Records and Accounts

Section 1201 - Normal Sewage Service Charges

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited, which charge shall be collected as a sewer rent.

Section 1202 - Surcharge for Abnormal Sewage

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge of twenty-five (25) percent of the appropriate base fee for the classification they are assigned.

Section 1203 - Total Sewer Service Charge

The total sewer service charge, (which shall be called the "User Charge"), is comprised of the following:

User Charge shall be a set amount (base rate) up to a minimum usage of 15,000 gallons per quarter for residential and 75,000 gallons commercial and industrial.

For the 2nd, 3rd and 4th quarters of the calendar year, the demand rate for all uses above the minimum shall be 1.15 times the base rate.

For the 1st quarter, the demand rate shall be based on the table below for usage above the base rates:

Demand Rate 2 -	1.15 x base rate - for usage between 1.0 and 2.5 times the minimum
Demand Rate 3 -	1.3 x base rate - for usage between 2.5 and 5.0 times the minimum
Demand Rate 4 -	1.45 x base rate - for usage between 5.0 and 7.5 times the minimum
Demand Rate 5 -	1.6 x base rate - for usage between 7.5 and 10.0 times the minimum
Demand Rate 6 -	1.75 x base rate - for usage over 10.0 times the minimum

Section 1204 - Segmenting the POTW

The service area of the POTW may be segmented to assist in a fair distribution of user charges, especially if there is a pump station serving a segment.

Section 1205 - Measurement of Flow

The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Village Water Department. In the event that a person discharging wastes into the POTW produces evidence, to the Superintendent, demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Superintendent shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from un-metered sources, the Superintendent shall either direct the installation of water meters on the other sources of water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this Section shall be of a type and design acceptable to the Superintendent and shall be installed, maintained, and periodically tested as required by the Superintendent, at the owner's expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the Superintendent. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the Superintendent, at the owner's expense.

Section 1206 - Billing Period

The Billing Period shall be quarterly for all users.

Section 1207 - Pretreatment Program Costs

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the User, and include:

- (1) reimbursement of costs of setting up and operating the pretreatment program

- (2) issuing permits
- (3) monitoring, inspections, and surveillance procedures
- (4) costs of equipment and supplies
- (5) reviewing accidental discharge procedures
- (6) construction inspections
- (7) filing appeals
- (8) application for consistent removal status as outlined in 40 CFR 403
- (9) other reasonable expenses to carry out the program to satisfy the requirements of this Law, the NYSDEC, and the Federal government

Section 1208 - Charges for Trucked and Hauled Wastes

The charge for treatment and disposal of trucked or hauled waste which has been introduced into the POTW shall be as established by the Village Board. The manner of determining the volume dumped shall be at the discretion of the Superintendent.

Section 1209 - Capital Recovery

The Village may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

Section 1210 - Collection of Charges

Provisions of Article 11 of this Law relating to the collection of penalties shall apply to the collection of Sewer Service Charges and Abnormal Sewage Service Surcharges, unless where otherwise provided by application of the Sewer Rent Law by Village.

Section 1211 - Fiscal Year for System

The POTW shall be operated on the basis of a fiscal year commencing on the first day of June and ending on the thirty-first day of May.

Section 1212 - Use of Revenues

Revenues derived from user charges and associated penalties, and hookup fees, shall be credited to the sewer fund. Monies in this fund shall be used exclusively for the following functions:

- (a) For the payment of the operation and maintenance, including repair and replacement costs of the Village POTW,
- (b) For the discovery and correction of inflow and infiltration,
- (c) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Village POTW,
- (d) For the extension, enlargement, replacement of, and/or additions to the Village POTW, including any necessary appurtenances.

Section 1213 - Records and Accounts

The Village shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW. The Village will cause an annual audit of such books of record and account for the preceding fiscal year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized officials, and the public, on request.

In conjunction with the audit, there shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year.

Classification of old and new industrial users should also be reviewed annually.

The Village shall maintain and carry insurance on all physical properties of the POTW, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

Article 13

Public Disclosure Of POTW Operations

Section 1301- POTW Operations Open to the Public

Section 1302- Procedural Requirements Available

Section 1303- Validity Through Public Inspection

Section 1301- POTW Operations Open to the Public

It shall be the policy of the Village (Board) to conduct all business with full disclosure to the public.

Section 1302- Procedural Requirements Available

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Law and for requesting a hearing shall be formulated by the Village and be made available to any resident of the Village upon request.

Section 1303- Validity Through Public Inspection

The Village shall formulate procedures to make available to the public for inspection such orders, statements of policy, and interpretations used by the Village in administration of this Law. No rule, regulation, or civil order shall be valid until it has been available for public inspection.

Article 14

Conflicts, Severability, Effective Date and Applicability

Section 1401- Conflicts

Section 1402- Severability

Section 1403- Effective Date

Section 1404- Applicability

Section 1401- Conflicts

The provisions of any Village law in conflict with any provision of this Law are hereby repealed.

Section 1402- Severability

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law which shall nonetheless remain in full force and effect.

Section 1403- Effective Date

This law shall take effect 30 days after its filing in the office of the Secretary of State.

Section 1404- Applicability

All Articles 1 - 14 shall apply in all areas of the Village.

Village of Ellicottville
Local Law No. 3 of the year 2013

A local law to amend Local Law No. 3 of the Year 2011 entitled "A Local Law in Regard to Local Sewer Use Law"

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

1. Section 1203 of Local Law No. 3 of the Year 2011 is hereby amended to establish Sewer Meter Rates and Sewer Demand Rates as set forth in the schedule attached hereto.

2. This Local Law shall take effect immediately.

Based on 12K gal minimum.

Village of Ellicottville
 Sewer Meter Rates

Rate Class	Description	Rate Block	Cost per Cubic Ft	Cost per K cu/ft	Minimum Charge
401	Residential	0 to 1,604 cu/ft => 1,605cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$66.52 NA
403	Residential Senior Rate	0 to 1,604 cu/ft => 1,605 cu/ft	\$ - \$0.01912	\$ - \$19.12000	#33.26 NA
404	Commercial 1½" & larger meter	0 to 8,020 cu/ft => 8,021 cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$32.60 NA
406	Commercial 5/8" & 1" meter	0 to 4,010 cu/ft => 4,011 cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$166.30 NA
405	2 Dwelling units 1 premise	0 to 3,208 cu/ft => 3,209cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$133.04 NA
409	4 Dwelling units 1 premise	0 to 6,416 cu/ft => 6,417 cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$266.08 NA
410	Industrial	0 to 8,020 cu/ft => 8,021 cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$332.60 NA
411	3 Dwelling units 1 premise	0 to 4,812 cu/ft => 4,813 cu/ft	\$ - \$0.03820	\$ - \$38.20000	\$199.56 NA
417	Residential Flat Rate	NA	NA	NA	\$66.52

Sewer Meter Rates

Rate Class	Description	Rate Block	Cost per Cubic Ft.	Cost per K Cubic Ft.	Minimum Charge
418	2 Dwelling 1 premise	0 to 24,000 Gal => 24,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$133.04 NA
419	Sunup Trailer Court	0 to 142,000 Gal => 142,001 Gal	\$ - #DIVI0!	\$ - #DIVI0!	\$ - NA
420	Residential Senior Rates	0 to 12,000 Gal => 12,001 Gal	\$ - \$0.00255	\$ - \$2.55000	\$33.26 NA
421	3 Dwelling units 1 premise	0 to 36,000 Gal => 36,001 Gal	\$ - \$0.00509	\$ - \$5.0900	\$199.56 NA
422	Industrial	0 to 60,000 Gal => 60,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$332.57 NA
423	Commercial 1½" & larger meter	0 to 60,000 Gal => 60,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$332.57 NA
425	Commercial ⅝" & 1" meter	0 to 30,000 Gal => 30,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$166.29 NA
424	Residential	0 to 12,000 Gal => 12,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$66.52 NA
429	4 Dwelling units 1 premise	0 to 48,000 Gal =>48,001 Gal	\$ - \$0.00509	\$ - \$5.09000	\$266.08 NA

Sewer Demand Rates Gallons (Gal)

Rate Class	Description	Minimum Quarterly Use	Demand Rate	Cost per Gallon	Cost per K Gallon
418	2 Dwelling units 1 premise	24,000 Gal	101-250	\$0.00509	\$5.09000
			251-500	\$0.00576	\$5.7600
			501-750	\$0.00642	\$6.4200
			751-1,000	\$0.00709	\$7.0900
			=/>1,001	\$0.00775	\$7.7500
420	Residential Senior Rate	12,000 Gal	101-250	\$0.00255	\$2.55000
			251-500	\$0.00288	\$2.88000
			501-750	\$0.00322	\$3.22000
			751-1,000	\$0.00355	\$3.55000
			=/> 1,001	\$0.00389	\$3.89000

Rate Class	Description	Minimum Quarterly Use	Demand Rate	Cost per Gallon	Cost per K Gallon
421	3 Dwelling units 1 premise	36,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00775	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.75000
422	Industrial	60,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00775	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.75000
423	Commercial 1½" & larger meter	60,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00755	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.55000
425	Commercial ¾" & 1" meter	30,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00755	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.55000
424	Residential	12,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00755	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.55000
429	4 Dwelling units 1 premise	48,000	101-250 251-500 501-750 751-1,000 => 1,001	\$0.00509 \$0.00576 \$0.00642 \$0.00709 \$0.00755	\$5.09000 \$5.76000 \$6.42000 \$7.09000 \$7.55000

Sewer Demand Rates
Cubic Feet (cu/ft)

Rate Class	Description	Minimum Quarterly Use	Demand Rate	Cost per Cubic Ft	Cost per K cu/ft
401	Residential	1,604 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
403	Residential Senior Rate	1,604 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.01912 \$0.02119 \$0.02411 \$0.02661 \$0.02910	\$19.12000 \$21.19000 \$24.11000 \$26.61000 \$29.10000
404	Commercial 1½" & larger meter	8,020 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
406	Commercial ⅝" & 1" meter	4,010 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
405	2 Dwelling units 1 premise	3,208 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
409	4 Dwelling units 1 premise	6,416 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
410	Industrial	8,020 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
411	3 Dwelling units 1 premise	4,812 cu/ft	101-250 251-500 501-750 751-1,000 => 1,001	\$0.03820 \$0.04368 \$0.04872 \$0.05376 \$0.05880	\$38.20000 \$43.68000 \$48.72000 \$53.76000 \$58.80000
417	Residential	NA		NA	\$66.52

Village of Ellicottville
Local Law No. 1.....**of the year 2018**
A local law Amending Local Law No.3-2017 Entitled "A Local Law In RegardTo Local Sewer Use Law, As Amended from time to time"
Be it enacted by the Village of Ellicottville **of the**
Village of Ellicottville **as follows:**

LOCAL LAW NO. 1 - 2018

A LOCAL LAW AMENDING LOCAL LAW NO. 3 - 2011 ENTITLED IN REGARD TO A LOCAL SEWER USE LAW, AS AMENDED FROM TIME TO TIME”

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board (“Board”) of the Village of Ellicottville, New York (“Village”) as follows:

Section 1: TITLE

This Local Law shall be known as the Local Law No. 1 - 2018, a Local Law Amending Local Law No.3 – 2011 entitled “A Local Law in Regard to Local Sewer Use Law”, as amended from time to time.

Section 2: PURPOSE

The Board finds that it is in the best interests of the Village and its residents to discontinue certain Sewer Demand Rates contained in Local Law No. 3 -- 2011, as amended from time to time.

Section 3: AMEND LOCAL LAW NO.3 – 2011 AS AMENDED FROM TIME TO TIME.

Remove and discontinue use of the Sewer Demand Rates contained in Local Law No. 3 - 2011, as amended from time to time.

Section 4: EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York State Secretary of State.

Village of Ellicottville

Local Law No. 2 **of the year 2019**

A local law of the year 20 19 A local law A Local Law#2-2019, repealing Local Law No. 1-2018, entitled, "A Local Law in regard to local sewer use Law, as amended from time to time, and adopting Local law N6.2-2019 Entitled, "Village+ Town of Ellicottville Sewer Service - Regulations"

Be it enacted by the Village Board **of the**
Village Ellicottville **as follows:**

See Attached



SEWER SERVICE REGULATIONS

ELLCOTTVILLE ENGINEERING DEPARTMENT – SEWER DIVISION

TOWN & VILLAGE OF ELLCOTTVILLE, NY

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SECTION 1 – DEFINITIONS

Unless otherwise stated in the section where the term is used in this Law, the meaning of terms used in this Law shall be as stated below. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. “Shall” is mandatory; “may” is permissive.

ABNORMAL SEWAGE:

Sewage whose concentration of one or more characteristics of normal sewage exceeds the maximum concentrations of the characteristics of normal sewage. See normal sewage.

ACT OR "THE ACT":

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq., as may be amended.

ADMINISTRATOR:

The Regional Administrator of the U. S. Environmental Protection Agency (USEPA), Region 2.

AMMONIA:

The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample, expressed as milligrams of nitrogen per liter.

APPLICANT:

That person who makes application for any permit. The applicant may be an owner, new or old, or his agent.

APPROVAL AUTHORITY:

The USEPA, or the New York State Department of Environmental Conservation (NYSDEC), in the event the NYSDEC is delegated approval authority responsibility by the USEPA.

APPROVED LABORATORY AND SAMPLING PROCEDURE:

Techniques prescribed in Standard Methods and the amendments thereto. Where 40 CFR does not contain sampling or analytical techniques for the pollutant in question, or where the Superintendent determines that the Part 136 techniques are inappropriate, sampling and analysis shall be performed using validated analytical methods or any other applicable procedures, including procedures suggested by the Superintendent or other parties.

ASTM, DENOTING AMERICAN SOCIETY FOR TESTING AND MATERIALS:

The latest edition of any ASTM specification, when stipulated in this Law.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER:

An authorized representative of the industrial user may be: a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation; (b) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively; and (c) A duly authorized representative of the individual

designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

BOD, DENOTING BIOCHEMICAL OXYGEN DEMAND:

The result obtained when using an approved laboratory procedure to determine the quantity of oxygen utilized in the aerobic biochemical oxidation of organic matter or in a sample, expressed in milligrams per liter.

BUILDER:

Any person who undertakes to construct a building or any part of a building, either under contract or for resale.

BUILDING DRAIN:

That part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the building walls, and conveys it to the building lateral, which begins five (5) feet outside the inner face of the building wall.

CHLORINE DEMAND:

The result obtained when using an approved laboratory procedure to determine the difference between the amount of chlorine added to a sample and the amount of chlorine remaining in the sample at the end of a specified contact time at room temperature, expressed in milligrams per liter.

COD, DENOTING CHEMICAL OXYGEN DEMAND:

The result obtained when using an approved laboratory procedure to measure the oxygen requirement of that portion of matter, in a sample, that is susceptible to oxidation, by a specific chemical oxidant, expressed in milligrams per liter.

COLOR:

The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

COMPOSITE SAMPLE:

The sample resulting from the combination of individual samples of wastewater taken at selected intervals, for a specified time period. The individual samples may have equal volumes or the individual volumes may be proportioned to the flow at the time of sampling.

CONNECTION:

Attachment of one user to a sewer. (See Extension)

CONNECTION CHARGE / TAP FEE:

The application fee to offset Town and Village expenses to process an application for a connection of a building/street lateral to the public sewer. The fee also covers plan review, permit issuance, and inspection costs. The fee may be scaled to the amount of work involved, or to the size of the public sewer involved.

CONTROL AUTHORITY:

The term shall refer to "Approval Authority", or to the superintendent when Town and Village has an approved pretreatment program under the provisions of 40 CFR 403.11.

CONTROL MANHOLE:

A manhole accessible to the Town and Village in or upstream of the street lateral, such that samples collected from the manhole represent the discharge to the POTW.

CONVENTIONAL POLLUTANT:

A pollutant that the POTW treatment plant was designed to treat, defined in accordance with the Act.

COOLING WATER:

The water discharged from any system of condensation, air conditioning, refrigeration, or other sources. It shall contain no polluting substances which would produce COD or suspended solids in excess of five (5) milligrams per liter, or toxic substances, as limited elsewhere in this Law.

COUNTY:

The County in which the Town and Village is located.

DEVELOPER:

Any person who subdivides land for the purpose of constructing, or causing to be constructed, buildings for which wastewater disposal facilities are required.

DIRECT OR INDIRECT DISCHARGE:

The contribution, introduction, spilling, leaking, pumping, pouring, emitting, emptying or dumping of pollutant(s) or wastewater from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act, (33 USC 1317), into the POTW, including scavenger wastes discharged into the system, with ultimate discharge into the waters of the State of New York.

DOMESTIC WASTES:

See Sewage, Domestic.

DRY SEWERS:

The sanitary sewer installed in anticipation of future connection to a POTW but which is not used, in the meantime, for transport of storm or sanitary sewage.

END OF PIPE:

For the purpose of determining compliance with limitations prescribed by Article 9, end of pipe shall mean the control manhole, provided the samples collected from the control manhole are representative of the discharge to the POTW.

END OF PIPE CONCENTRATION:

The concentration of a substance in a sample of wastewater at end of pipe.

END OF PROCESS CONCENTRATION:

See National Categorical Pretreatment Standard.

EASEMENT:

An acquired legal right for the specific use of land owned by others.

EPA OR ENVIRONMENTAL PROTECTION AGENCY:

The agency of the federal government charged with the administration and enforcement of federal environmental laws, rules, and regulations. Also may be used as a designation for the Administrator or other duly authorized official of this Agency.

EXTENSION:

Attachment of a sewer line, with more than one user, to an existing sewer line.

FACILITY:

All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.

FLOATABLE OIL:

Oil, grease, or fat in a physical state such that it will separate by gravity from wastewater by treatment in a wastewater treatment facility.

FLOW RATE:

The quantity of liquid or waste that flows in a certain period of time.

GARBAGE:

The solid wastes from the preparation, cooking, and dispensing of food, from the handling, storage, and sale of produce, and from the packaging and canning of food.

GRAB SAMPLE:

A single sample of wastewater representing the physical, chemical, and biological characteristics of the wastewater at one point and time.

ICS OR INDUSTRIAL CHEMICAL SURVEY FORM:

The form used by the NYSDEC to survey industries to perform and update the Industrial Chemical Survey.

INDIRECT DISCHARGE:

The introduction of wastewater into a POTW for treatment and ultimate discharge of the treated effluent to the State's Waters. (For reference, see Direct Discharge).

INDUSTRIAL:

Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.

ICS OR INDUSTRIAL CHEMICAL SURVEY:

The survey of industries in New York State, initiated by the NYSDEC, to determine chemical usage and storage by those industries.

INDUSTRIAL WASTES:

The liquid or liquid-carried solid, liquid and/or gaseous wastes from industrial manufacturing processes, trade, service, utility, or business, as distinct from sanitary sewage.

INDUSTRIAL WASTE SURVEY OR (IWS):

A survey of industrial users of the County POTW, performed by the County at least every five (5) years, or as necessary, to determine discharge characteristics of the user.

INFILTRATION:

Water, other than wastewater, that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. Infiltration is inadvertent, that is, not purposely designed or built into the sewer or drain.

INFLOW:

Water, other than wastewater, that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, foundation drains, swimming pools, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. Inflow is purposely designed and/or built into the sewer or drain.

INTERFERENCE:

A discharge which, alone or in conjunction with discharges by other sources,

(a) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) therefore is a cause of a violation of any requirement of the Town and Village POTW's SPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

i - Section 405 of the Clean Water Act,

ii - the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act - RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D or the SWDA),

iii - Clean Air Act,

iv - Toxic Substance Control Act, and

v - Marine Protection Research and Sanctuaries Act.

LATERAL, BUILDING:

The sewer extension from the building drain to the Street Lateral or other place of wastewater disposal.

LATERAL, STREET:

The sewer extension from the public sewer to the property line.

LOCAL LIMITS:

The term “Local Limits” shall mean any effluent limits that are established by the Commissioner. This term includes, but is not limited to, limits that are more stringent than applicable categorical pretreatment standards.

MONITORING EVENT:

One, 24-hour composite sample of a user’s discharge, or, in the case of a batch discharge, one grab sample.

NATIONAL CATEGORICAL PRETREATMENT STANDARD:

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (B) and (C) of the Act (22 U.S.C. 1347), which applies to a specific category of industrial users. These standards apply at the end of the categorical process ("end of process").

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:

A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

NATIONAL PROHIBITIVE DISCHARGE STANDARD:

Any regulation developed under the authority of Section 307 (B) of the Act, and 40 CFR, Section 403.5.

NATURAL OUTLET:

Any outlet, including storm sewers and combined sewer overflows, to State's Waters.

NEW OWNER:

That individual or entity who purchased property within the Service Area of the Town and Village after the effective date of this law.

NEW SOURCE:

Any source, the construction of which is commenced after the publication of the proposed regulation prescribing a Section 307 (C) (33 U.S.C 1317) Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated.

NEW USER:

A discharger to the POTW who commences discharge after the effective date of this Law.

NONCOMPLIANCE:

Failure to meet the requirements of this Law and other applicable County, State and Federal pretreatment standards and requirements. Also, failure to adhere to any order, fine or penalty administered by the Commissioner, County, State or Approval Authority.

NORMAL SEWAGE:

See Sewage, Normal.

NUISANCE:

The use or lack of use of the POTW in such a manner so as to endanger life or health, give offense to the senses, or obstruct or otherwise interfere with the reasonable use or maintenance of the POTW.

OIL AND GREASE:

The result obtained when using an approved laboratory procedure to determine the quantity of fats, wax, grease, and oil, in a sample, expressed in milligrams per liter. Includes portion of waste water derived from mineral/petroleum and from animal or vegetable lipids.

OLD OWNER:

That individual or entity who owns or owned a property, within the Service Area of the POTW, purchased prior to the effective date of this Law, who or inherited the property at any time and intends to sell the property, or has sold the property to a new owner, also the agent of the old owner.

OTHER WASTES:

Garbage (shredded or unshredded), refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, ashes, and all other discarded matter not normally present in sewage or industrial wastes. Also, the discarded matter not normally present in sewage or industrial waste.

PASS THROUGH:

The discharge which exits the Town and Village POTW into waters of the State in quantities, which, alone or in conjunction with Discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

PERMIT:

A temporary revocable written document allowing use of the POTW for specified wastes over a limited period of time, containing sampling locations and reporting frequencies, and requiring other actions as authorized by this Law.

PERSON:

Any individual, public or private corporation, political subdivision, Federal, State, or local agency or entity, association, trust, estate or any other legal entity whatsoever.

PH:

The logarithm (base 10) of the reciprocal of the weight of hydrogenions, in gram moles per liter of solution. A pH value of 7.0, the pH scale midpoint, represents neutrality. Values above 7.0 represent alkaline conditions. Values below 7.0 represent acid conditions.

PHOSPHORUS, TOTAL

See total phosphorus.

POLLUTANT:

Any material placed into or onto the State's waters, lands and/or airs, which interferes with the beneficial use of that water, land and/or air by any living thing at any time.

POLLUTION:

The man-made or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of the State's waters, lands and/or airs resulting from the introduction of a pollutant into these media.

PRETREATMENT:

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be achieved by physical, chemical, or biological process, process changes, or by other means, except as prohibited by 40 CFR, Section 403.6 (D).

PRETREATMENT REQUIREMENT:

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

PRETREATMENT STANDARD:

Any Categorical Standard or Prohibitive Discharge Standard.

PRIORITY POLLUTANTS:

The most recently revised or updated list, developed by the EPA, in accordance with the Act.

PROPERLY SHREDED GARBAGE:

The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and with no particle having a dimension greater than one-half (1/2) inch in any dimension.

POTW TREATMENT PLANT:

That portion of the POTW designed to provide treatment to wastewater, and to treat sludge and residuals derived from such treatment.

PUBLICLY OWNED TREATMENT WORKS (POTW):

A treatment works, as defined by Section 212 of the Act, (33 U.S.C 1292), which is owned, in this instance, by Town and Village . This definition includes any sewers and appurtenances that transport wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected directly or indirectly to a facility providing treatment.

RECEIVING WATERS:

A natural water course or body of water (usually Waters of the State) into which treated or untreated sewage is discharged.

RECORDS:

Shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, graphs and inspection reports. For the purposes of this law, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.

ROOF DRAIN:

A drain installed to receive water collecting on the surface of a roof for disposal.

SCAVENGER WASTE:

All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved types of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries that are hauled to the POTW treatment plant. Scavenger waste also includes sludge from small sewage treatment plants, and leachate from landfills. Scavenger waste shall not have been contaminated with Substance of Concern, Priority Pollutants, or be a RCRA Listed or Characteristic Hazardous Waste.

SEPTAGE:

All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or approved type of chemical toilets, including but not limited to those serving private residences, commercial establishments, institutions, and industries. Also, sludge from small sewage treatment plants. Septage shall not have been contaminated with substances of concern or priority pollutants.

SEPTIC TANK:

A private domestic sewage treatment system consisting of an underground tank (with suitable baffling), constructed in accordance with any and/or all local and State requirements.

SERVICE AREA OF THE POTW:

The legally defined bounds of real property from which wastewater may be discharged into the POTW. The bounds shall be established, altered, changed, modified, reduced, enlarged, combined, or consolidated by action of the Town and Village Board.

SEWAGE:

A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, and such ground, surface, and storm water as may be inadvertently present. The admixture of sewage, as defined above, with industrial wastes and other wastes shall also be considered "sewage", within the meaning of this definition.

SEWAGE, DOMESTIC:

Liquid wastes from the non-commercial preparation, cooking, and handling of food, liquid wastes containing human excrement and similar matter from the sanitary conveniences in dwellings, commercial buildings, industrial buildings, and institutions, or liquid wastes from clothes washing and/or floor/wall washing. Therefore, domestic sewage includes both black water and grey water. (See Sewage, Sanitary.)

SEWAGE, NORMAL:

Sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- B.O.D. (Five Day) - 2090 lbs. per million gallons (250 milligrams per liter), or less.
- Suspended Solids - 2500 lbs. per million gallons (300 milligrams per liter), or less.
- Phosphorus - 125 lbs. per million gallons (15 milligrams per liter), or less
- Ammonia - 250 lbs. per million gallons (30 milligrams per liter), or less.
- Total Kjeldahl Nitrogen - 417 lbs. per million (50 milligrams per liter), or less.
- Chlorine Demand - 209 lbs. per million gallons (25 milligrams per liter), or less.
- Chemical Oxygen Demand - 2920 lbs. per million gallons (350 milligrams per liter), or less.
- Oil and Grease - 830 lbs. per million gallons (100 milligrams per liter), or less

In spite of satisfying one or more of these characteristics, if the sewage also contains substances of concern, it may not be considered normal sewage.

SEWAGE, SANITARY:

Liquid wastes from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm water, surface water, industrial, and other wastes. (See Domestic Wastes.)

SEWAGE, SLUDGE:

Any solid, semi-solid or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced wastewater treatment, scum, septage, portable toilet pumpings, Type III Marine Sanitation device pumpings, and sewage sludge products. Sewage sludge does not include grit, screenings or ash generated during the incineration of sewage sludge.

SEWAGE TREATMENT PLANT:

See POTW Treatment Plant.

SEWAGE, UNUSUAL STRENGTH OR CHARACTER:

Sewage which has characteristics greater than those of Normal Sewage and /or which contains Substances of Concern.

SEWER:

A pipe or conduit for carrying or transporting sewage.

SEWER, PUBLIC:

A sewer in which all abutting property owners have equal rights, and the use of which is controlled by the Town and Village.

SEWER, SANITARY:

A sewer which carries sewage, and to which storm, surface, and groundwaters are not intentionally admitted.

SEWER, STORM:

A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastewaters, other than cooling waters and other unpolluted waters.

SEWERAGE SYSTEM:

All facilities for collecting, regulating, pumping, and transporting, treating, and disposal of sludge and wastewater to and away from the POTW treatment plant.

SEWERAGE, SURCHARGE:

The demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics thereof exceed the maximum values of such characteristics in normal sewage. (See Volume Charge.)

SIGNIFICANT INDUSTRIAL USER:

See User, Significant Industrial.

SIGNIFICANT NON-COMPLIANCE:

A User is in significant non-compliance if its violation(s) meet(s) one or more of the following criteria:

- Chronic violations of wastewater discharge limits, defined here as those, in sixty-six (66) percent or more of all of the measurements taken during a six-month period, which exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter;
- Technical Review Criteria (TRC) violations, defined here as those, in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period, which equal or exceed the product of the daily maximum limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; TRC = 1.2 for all other pollutants);
- Any other violation of a pretreatment effluent limit (daily maximum or long-term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Superintendent's exercise of its emergency authority under Article 11 of this Law;
- Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- Failure to report accurately any non-compliance;

- Any other violation which the Superintendent determines will adversely affect the implementation or operation of the local pretreatment program.

SLUG:

A substantial deviation from normal rates of discharge or constituent concentration (see normal sewage) sufficient to cause interference. In any event, a discharge which, in concentration of any constituent or in quantity of flow, that exceeds, for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flow during normal user operations, shall constitute a slug.

STANDARD INDUSTRIAL CLASSIFICATION:

A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and subsequent revisions.

STANDARD METHODS:

Procedures contained in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, procedures established by the Administrator, pursuant to Section 304 (G) of the Act and contained in 40 CFR, Part 136, and amendments thereto. (If 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, then procedures set forth in EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, shall be used.), any other procedure approved by the Administrator, or any other procedure approved by the Superintendent, whichever is the most conservative.

STATE:

State of New York.

STATE POLLUTION DISCHARGE ELIMINATION PERMIT (SPDES):

A permit issued pursuant to Section 402 of the Act (33 USC 1342).

STATE'S WATERS:

See Waters of the State.

STORM WATER:

Any flow occurring during or following any form of natural precipitation; also the flow resulting therefrom.

SUBSTANCES OF CONCERN:

Those compounds which the New York State Department of Environmental Conservation has determined may be harmful to man or the environment.

SUMP PUMP:

A mechanism used for removing water from a sump or wet well.

SUPERINTENDENT/SEWER DIVISION SUPERVISOR:

That individual nominated by the Town and Village Town Supervisor/Mayor and confirmed by the Town and Village Boards as the Sewer Division Supervisor/Head POTW Operator. Such an individual shall be qualified to oversee POTW operations. This definition shall also include his authorized deputy, agent, or representative. The Sewer Division Supervisor shall report directly to the Town and Village Engineer. Any and all authority granted to the Sewer Division Supervisor shall also be granted to the Town and Village Engineer.

SUSPENDED SOLIDS:

The result obtained, using an approved laboratory procedure, to determine the dry weight of solids, in a sample, that either float on the surface of, or are in suspension, or are settleable, and can be removed from the sample by filtration, expressed in milligrams per liter.

TOTAL KJELDAHL NITROGEN (TKN):

The result obtained, using an approved laboratory procedure, to determine the quantity of ammonia in a sample and released during the acid digestion of organic nitrogen compounds, expressed as milligrams of nitrogen per liter.

TOTAL PHOSPHORUS:

The result obtained, using an approved laboratory procedure, to determine the total quantity of orthophosphate, in a sample of wastewater, following the hydrolysis of phosphorus compounds, expressed as milligrams of phosphorus per liter of sample.

TOWN:

The Town of Ellicottville.

TOXIC SUBSTANCES:

Any substance, whether gaseous, liquid, or solid, that when discharged to a public sewer in sufficient quantities may be hazardous to POTW operation and maintenance personnel, tend to interfere with any biological sewage treatment process, or to constitute a hazard to recreation in the receiving waters, due to the effluent from a sewage treatment plant or overflow point. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under provisions of CWA 307 (A), or other Acts.

TREATMENT, OR PRETREATMENT:

The elimination of pollutants, reduction of the amount of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to our in lieu of discharging or otherwise introducing such pollutants into the POTW or waters of the State. The reduction or alteration can be obtained by physical, chemical and/or biological processes, process changes, or by other means, except by dilution as prohibited by 40 CFR 403.6(d).

USER:

Any person who contributes, causes, or permits the contribution of wastewater into the POTW.

USER, SIGNIFICANT, SIGNIFICANT INDUSTRIAL USER (SIU):

An industrial user of the County POTW who meets any of the following criteria as defined in 40 CFR 403.3(t):

- (a) All industrial users subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
- (b) Any industrial user discharging an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW, excluding sanitary, non-contact cooling and boiler blowdown wastewater;
- (c) Any industrial user discharging a waste stream that makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
- (d) Any industrial user designated as a Significant Industrial User by the Commissioner, on the basis that the industrial user has a reasonable potential, alone or in combination with other discharger(s), for adversely affecting the POTW's operation, sludge quality, POTW treatment plant effluent discharge quality, POTW air emissions, or for violating any pretreatment standard.

Upon a finding that an industrial user meeting the criteria listed above has no reasonable potential for adversely affecting the POTW or for violating any pretreatment standard or requirement, the Commissioner may, at any time, on his own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a Significant Industrial User.

*Note: A user discharging a measurable quantity of a pollutant may be classified as non-significant if, at the influent to the POTW treatment plant, the pollutant is not detectable.

VILLAGE:

The Village of Ellicottville.

VOLUME CHARGE (USER CHARGE):

The demand sewer use charge which is based, in part or wholly, on the volume of normal sewage discharged into the POTW (there may be surcharges, as provided for in Article 12). The volume charge shall be based on a specific cost per 100 cubic feet or per 1,000 gallons. The specific charge shall be subject to approval by the Town and Village Boards. The moneys so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness, and for funding of capital projects, of the POTW. The basis of volume charge calculations shall be made available to the public, on demand, as provided in Article 13. The volume charge shall be recalculated annually, as well as the surcharge rates.

WASTEWATER:

The liquid and water-carried industrial or domestic wastewaters from dwellings, commercial establishments, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER DISCHARGE PERMIT:

A permit as set forth in Article 10 of this Law.

WATERS OF THE STATE:

All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or

artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

The following abbreviations shall have the designated meanings:

ANSI - American National Standards Institute

ASTM - American Society for Testing and Materials

AWWA - American Water Works Association

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

CPLR - Code of Public Law and Rules

COD - Chemical Oxygen Demand

CWA - Clean Water Act

EPA - Environmental Protection Agency

GPD - Gallons per Day

l - Liter

lb/d - Pounds per Day

LEL - Lower Explosive Limit

mg - Milligram

mg/l - Milligrams per liter

NCPI - National Clay Pipe Institute

NPDES - National Pollutant Discharge Elimination System

NYSDEC - New York State Department of Environmental Conservation

NYSDOH - New York State Department of Health

NYSDOT - New York State Department of Transportation

P - Total Phosphorus

PSI - Pounds per Square Inch

POTW - Publicly Owned Treatment Works

ppm - Parts per Million, weight basis

SIC - Standard Industrial Classification

SPDES - State Pollutant Discharge Elimination System

SWDA - Solid Waste Disposal Act, 42 U.S.C. 690 L, et seq.

U.S.C. - United State Code of Laws

USEPA - United State Environmental Protection Agency

TSS - Total Suspended Solids

Undefined Terms: Terms not defined in this article, or terms found to be ambiguous or improperly defined in this article, shall be defined by the Act, or Regulations, pursuant thereto.

SECTION 2 – PUBLIC SEWER USE

A. UNLAWFUL WASTE DISPOSAL:

It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property, within the Town and Village or in any area under the jurisdiction of this Sewer Use Law, any human or animal excrement, garbage, or objectionable waste. Also, no person shall discharge domestic sewage onto the surface of the ground or discharge it in a way that permits it to come to the surface of the ground. Furthermore, no person shall discharge sewage into a well.

B. SEWERAGE AND STORM SYSTEM:

No person shall connect a private sewage system so that sewage flows into a storm sewer or into a drain intended exclusively for storm water.

C. WASTEWATER DISCHARGE:

It shall be unlawful to discharge to any natural outlet, within the Town or Village, or in any area under the jurisdiction of this Sewer Use Law, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Law.

D. APPROVED WASTEWATER DISPOSAL:

No property owner, builder, or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities unless a suitable and approved method of wastewater disposal, conforming to this Law, is available. All housing construction or building development which takes place after this Law is enacted shall provide for an approved system of sanitary sewers to be approved by the Town and Village for sewer use.

E. PRIVATE WASTEWATER DISPOSAL:

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, septic tank, or other facility intended or used for disposal of wastewater.

F. CONNECTION TO PUBLIC SEWER:

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and Village, and abutting on any street, alley, or right-of-way in

which there is now located or may, in the future, be located a public sewer, is hereby required, at the owner's expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this law, within 30 day period after official notice by the Town and Village to do so, provided that said public sewer is within 250 feet of the property line. All sewer laterals, lines, and appurtenances up to and including the connection to the sewer main shall be the responsibility of the owner(s).

G. PUBLIC SEWER USE LIMITATION:

The use of the Town and Village public sewers shall be strictly limited and restricted, except as provided in Section 307, to receive and accept the discharge of sewage and other wastes, including industrial wastes generated on or discharged from real property within the bounds of the Service Area of the POTW.

H. OUTSIDE POTW USE:

The Town and Village Board, on the recommendation of the Town and Village Engineer, shall have the authority to enter into agreements to accept sewage and other wastes, including industrial wastes, generated by or discharged from persons outside the service area of the POTW.

If the person is a municipality, that municipality shall have enacted or adopt this Sewer Use Law as restrictive on the discharge of sewage and other wastes as the restrictions contained in this Law. The municipality shall grant access to all information that the contributing municipality obtains with respect to sewage discharges to the Town and Village.

If the person is not a municipality the acceptance shall be made only with the expressed written consent of the Town and Village Engineer (the issuance of a permit) setting forth the terms and conditions of such a acceptance.

I. MORATORIUM:

At the recommendation of the Sewer Division Supervisor and Town/Village Engineer, who determines that:

- one or more segments of the POTW is exceeding its hydraulic capacity at any time
- any specific purpose of this Law is being violated

The Town and Village Board shall have the authority to limit or deny new connections to the POTW until the conditions leading to the moratorium are corrected. Such correction may be by:

- construction of new facilities
- enlarging existing facilities
- correction of inflow and infiltration
- cleaning and repairing of existing facilities

J. BASIS OF SEWER USE REQUIREMENT:

All requirements, directives, and orders calling for mandatory use of the sewers, within the Service Area of the POTW, for the proper discharge of sewage and other wastes, including industrial wastes, shall be established

and given by the Town and Village Board, NYSDEC, USEPA, and/or other such State or Federal agencies, which have enforcement powers.

K. INFLOW:

No connections shall be made to a sanitary sewer which connections are intended to discharge inflow. Such prohibited connections include, but are not limited to, footing drains, roof leaders, roof drains, cellar drains, sump pumps, catch basins, uncontaminated cooling water discharges, or other sources of inflow.

For properties where separate storm sewers are available within 100 feet of the property line or where, in the judgment of the Sewer Division Supervisor, sufficient natural drainage is available, connections which contribute inflow to the sanitary sewers must be disconnected in a fashion approved by the Sewer Division Supervisor, prior to the sale of the property.

Upon notice from the Tax Assessor, the Sewer Division Supervisor shall inspect any newly sold property for the purpose of determining if storm sewers or natural drainage is available, and, if so, if all connections which contribute inflow have been disconnected.

It shall be a willful violation of this Law for any person to reconnect any inflow source which has been disconnected pursuant to this law.

The Town and Village Engineer is enabled to take whatever action is necessary to determine the amount of inflow including the requirement for installation of a control manhole. The property from which the inflow originated shall be billed for inflow according to the sewer rates established by the Town and Village of Ellicottville.

L. TRUCKED OR HAULED WASTE:

The discharge of trucked or hauled wastes into the Town and Village sewer system and public sewers tributary thereto will be permitted only with the written approval (license) of the Sewer Division Supervisor. Applicants for such license shall apply on a form provided by the Sewer Division Supervisor. These forms may require information such as vehicle specifications, vehicle license number, vehicle color, NYSDEC permits issued under 6 NYCRR Part 364, approximate annual septage volume expected, service area, and any other information that the Superintendent may require, to determine whether the trucked or hauled wastes could adversely impact the POTW. The application shall be accompanied by a fee prescribed by the Town/Village Engineer.

The applicant for a license to truck or haul wastes shall be the owner of the vehicle or vehicles to be used for such discharge. Any false or misleading statement, in any license application, shall be grounds for invalidating the license. All licenses, issued by the Sewer Division Supervisor, for this purpose, shall be for one (1) year. The licensee shall also be duly permitted by the NYSDEC under 6 NYCRR Part 364 ("364 permit"). If, for any reason, the 364 permit is revoked, the 364 permit lapses or becomes invalid, then the license issued under this Article shall become invalid immediately. All acts performed in connection with the license shall be subject to the inspection and regulations, as established by the Sewer Division Supervisor, the terms and conditions of the license and all local and general laws, ordinances, and regulations which are now or may come into effect, and such license may be suspended or revoked, at any time, by the Sewer Division Supervisor for willful, continued, or persistent violation thereof.

The Sewer Division Supervisor may require discharging at only certain locations within the POTW, and only at certain times, and on only certain days of the week, or seasons of the year as shall be stated on said license or

as may be relocated by the Sewer Division Supervisor, after appropriate notice. The time and conditions for permissible discharge shall be as set forth on the license, or as may be revised by the Sewer Division Supervisor, after appropriate notice.

Each discharge of trucked or hauled wastes shall be made only with the approval of the Sewer Division Supervisor. The Sewer Division Supervisor may require inspection, sampling, and analysis of each load prior to the discharge of a load. Any extra costs associated with such inspection, sampling, and analysis shall be paid by the licensee.

Each tanker vehicle shall bear an identification sticker visibly displayed, which will be issued with the permit. The source of each load shall be identified in writing by the hauler at the time of delivery. Delivery tickets shall be signed at the sewage treatment plant for each load.

SECTION 3 – PRIVATE SEWAGE DISPOSAL

A. GENERAL:

Where a public sewer is not available, under the provisions of these regulations, the building lateral shall be connected to a private wastewater disposal system complying with the provisions of the Rules and Regulations of the NYSDOH, to be enforced by the Sewer Division Supervisor, and the County Health Department. Upon installation of a private wastewater disposal system, the owner shall operate and maintain the private wastewater disposal system in a satisfactory manner at all times, at the owner's expense.

B. SEPTIC TANK CONNECTIONS:

No two separate permanent buildings, where the intended use for either is for a distinct and separate business or a dwelling place for a private family or families, shall be connected to the same individual septic tank and tile absorption field.

C. BUILDING PERMIT AND APPLICATION:

A completed application form, containing results of percolation tests, computations, and a plot plan, including the design and cross- section of the wastewater disposal system, in relation to lot lines, adjacent and on-site well or water supply, and buildings, shall be submitted to the Cattaraugus County Department of Health with a copy to the Ellicottville Engineering Department. The wastewater disposal system shall be designed by a professional engineer, licensed surveyor, or architect, and shall be in accordance with the NYSDOH - "Standards for Waste Treatment Works", or NYSDEC "Standards for Commercial and Institutional Facilities", as appropriate.

A written building permit shall be obtained from the Engineering Department before construction commencement. The Sewer Division Supervisor, or his designated representative, shall be permitted to inspect the construction work at any stage, without prior notice.

D. PREVENTING NUISANCES:

When the liquid or liquid-borne effluent from a private wastewater disposal system enters any watercourse, ditch, storm sewer, or water supply system, located in the Town or Village, in such a manner, volume, and concentration so as to create a hazardous, offensive, or objectionable condition, in the opinion of the Sewer Division Supervisor, the County Health Department, or the NYSDOH, the owner of the premises upon which such wastewater disposal system is located, upon receiving written notice from the Engineering Department, to do so, shall, within ninety (90) days, after receipt of such notice, repair, rebuild, or relocate such wastewater disposal system for the purpose of eliminating such hazardous, offensive, or objectionable conditions. The repair, rebuilding, or relocation of the system shall be accomplished in accordance with the rules and regulations of the NYSDOH and the County Health Department, at the owner's expense.

E. SEPTAGE REMOVAL:

Where a private wastewater disposal system utilizes a cesspool or a septic tank, septage shall be removed from the cesspool or septic tank, by a licensed hauler of trucked and hauled wastes, at three year intervals or more frequently.

F. PUBLIC SEWER CONNECTION REQUIRED:

At such time that a public sewer becomes available to a property, a direct connection shall be made to the public sewer, in compliance with this Law, and any cesspool, septic tank, and similar wastewater disposal facilities shall be cleaned of septage, by a licensed septage hauler, and finally either filled with clean sand, bank-run gravel, or dirt, or removed and properly disposed. When the connection is made to the public sewer, the connection to the private wastewater disposal facility shall be broken and both ends of the break shall be plugged, as appropriate. Alternatively, the septic tank effluent may be piped or pumped to the sewer; the owner shall provide an easement to the septic tank for septage removal.

G. ADDITIONAL REQUIREMENTS:

No statement in this Article shall be construed to prevent, or interfere with, any additional requirements that may be deemed necessary by the Sewer Division Supervisor, to protect public health and public welfare.

SECTION 4 – SEWER MAIN EXTENSIONS

A. APPLICATION EXTENSION:

Unless otherwise indicated, a written application, in the form of a Public Improvement Permit application, on the form furnished by the Town and Village must be submitted to the Town and Village for the purpose of requesting approval of a sewer line extension and sewer service. Said application is to be signed by the owner or owners, and is subject to the terms and conditions included herein. Which application, together with the Rules and Regulations of the Town and Village, shall regulate and control the installation of sewer line extensions and the furnishing of sewer service therefrom. In addition, all applicable forms and permit fees shall be submitted and paid to the Town and Village.

In general, the following rule shall be followed when determining whether the construction of a new sewer line shall be dedicated to the public:

- If the sewer line will be used to serve more than one private entity then the sewer main line and all associated main-line appurtenances will be made public. However, the final determination will be made by the Town and Village Engineer.

The entire cost of the sewer main extension, including the cost of other appurtenances and facilities, shall be borne by the developer.

B. DESIGN:

New sanitary sewers and all extensions to sanitary sewers owned and operated by the Town and Village shall be designed, by a professional licensed to practice sewer design in the State, in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers ("Ten State Standards"), and in strict conformance with all requirements of the NYSDEC. Plans and specifications shall be submitted to, and written approval shall be obtained from the Sewer Division Supervisor, the County Health Department, and the NYSDEC, before initiating any construction. The design shall anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area. In addition, the design shall account for all structural loads to be placed on the pipe

If, however, there is inadequate capacity in any sewer which would convey the wastewater or if there is insufficient capacity in the POTW treatment plant to treat the wastewater properly, the application shall be denied. Sewer line and POTW treatment plant current use shall be defined as the present use and the unutilized use which has been committed, by resolution, to other users by the Town and Village Board.

Submissions to the Town and Village: The Owner who desires to construct a new sewer main extension must submit the following to the Town and Village:

1. One hard copy and one electronic PDF copy of the plans and specifications.

C. CONSTRUCTION:

When a property owner, builder, or developer proposes to construct sanitary sewers or extensions to sanitary sewers in an area proposed for subdivision, the plans, specifications, and method of installation shall be subject to the approval of the Sewer Division Supervisor, Town and Village Engineer, and the County Health Department. Said property owner, builder, or developer shall pay for the entire installation, including a proportionate share of the treatment plant, intercepting or trunk sewers, pumping stations, force mains, and all other Town and Village expenses incidental thereto. Each street lateral shall be installed and inspected pursuant to these regulations, and inspection fees shall be paid by the applicant prior to initiating construction.

Design and installation of sewers shall be as specified in these regulations, and in conformance with standard specifications and standards outlined in these regulations. The installation of the sewer shall be subject to periodic inspection by the Sewer Division Supervisor, without prior notice. The Sewer Division Supervisor shall determine whether the work is proceeding in accordance with the approved plans and specifications, and whether the completed work will conform with the approved plans and specifications. The Sewer Division Supervisor shall be notified 30 days in advance of the start of any construction actions so that such inspection frequencies and procedures as may be necessary or required, may be established. No new sanitary sewers will be accepted by the Town and Village Board until such construction inspections have been made so as to

assure the Town and Village Board of compliance with this Law and any amendments or additions thereto. The Sewer Division Supervisor has the authority to require such excavation as necessary to inspect any installed facilities if the facilities were covered or otherwise backfilled before they were inspected so as to permit inspection of the construction. The Sewer Division Supervisor shall report all findings of inspections and tests to the Town and Village Board.

Plans, specifications, and methods of installation shall conform to the requirements of these regulations. Components and materials of wastewater facilities not covered in this Law, such as pumping stations, lift stations, or force mains shall be designed in accordance with these regulations, and shall be clearly shown and detailed on the plans and specifications submitted for approval. When requested, the applicant shall submit, to the Sewer Division Supervisor, Town and Village Engineer, and to the County Health Department, all design calculations and other pertinent data to supplement review of the plans and specifications. Results of manufacturer's tests on each lot of pipe delivered to the job site shall also be furnished, upon request.

D. MATERIALS FOR SEWER PIPE AND APPURTENANCES:

Pipe:

Pipe used on new sewer main extensions shall be constructed of new and unused pipe of one of the following materials. The choice of pipe for the specific application shall be as proposed by the design engineer and approved by the Sewer Division Supervisor. A list and standard drawing set showing the approved materials and methods can be found on the Ellicottville Engineering website: www.evlengineering.com:

1. Polyvinyl Chloride (PVC) Pipe – Gravity Sewer Main – Heavy Wall – ASTM D3034, ASTM F679 SDR35 – Gasketed Joints
2. Reinforced Concrete Pipe (RCP) – ASTM C76 standard – ASTM C150 Type II Portland Cement
3. Polyvinyl Chloride (PVC) Pressure Pipe – Force Sewer Main – ASTM D2241 – Minimum SDR21 wall thickness – 200psi
4. High Density Polyethylene (HDPE) Pressure Pipe – Force Sewer Main – ASTM D3035 – Minimum DR11 wall thickness – 200 psi

All other pipe materials require approval from the Town and Village Engineer prior to issuance of the Public Improvement Permit.

Fittings:

1. PVC gasketed sewer fittings conforming to ASTM F1336, ASTM F477, ASTM F679
2. Ductile Iron fittings w/ cement lining and restraints – American Made!

E. SEWER PIPE INSTALLATION:

Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected.

The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.

The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts. Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.

The public shall be protected from personal and property damage as a result of the construction work.

Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.

Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control can be affected by limiting the amount of clearing and grubbing prior to trenching, proper scheduling of the pipe installation work, minimizing time of open trench, prompt grading and seeding, and filtration of drainage.

The trench shall be excavated only wide enough for proper installation of the sewer pipe, manhole, and appurtenances. Allowances may be made for sheeting, de-watering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by sawing or by other methods as approved by the Superintendent, before trench excavation is initiated.

Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.

Open trenches shall be protected at all hours of the day with barricades, as required.

Trenches shall not be open for more than 30 feet in advance of pipe installation nor left unfilled for more than 30 feet in the rear of the installed pipe, when the work is in progress, without permission of the Sewer Division Supervisor. When work is not in progress, including overnight, weekends, and holidays, the trench shall be backfilled to ground surface.

The trench shall be excavated approximately six (6) inches deeper than the final pipe grade. When unsuitable soils are encountered, these shall be excavated to a maximum depth of 2-1/2 feet below the final pipe invert grade and replaced with select materials.

Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.

Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods.

No structure shall be undercut unless specifically approved by the Sewer Division Supervisor.

Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the sewer line be used for removal of water from the trench.

To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed but cut off no lower than one foot above the pipe crown nor no higher than one foot below final grade, and left in the trench, during backfill operations.

When the material encountered at grade in the trench is unsatisfactory to support the pipe or is otherwise harmful in the judgment of the Town/Village Engineer, the unstable or unsuitable soils shall be removed and replaced with select material or bedding stone.

All pipe materials shall be installed in accordance with the latest AWWA standards and the latest Ellicottville Engineering Department standards.

Pipe shall be laid from low elevation to high elevation. The pipe bell shall be up-gradient; the pipe spigot shall be down-gradient.

Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.

The grade and alignment shall be checked and made correct. The pipe shall be in straight alignment. Any negotiation of curves shall be at manholes, except when site conditions require alternative pipe laying procedures. These alternative procedures, including bending the pipe barrel, deflecting the joint, and using special fittings, shall require prior written approval of the plans and also written confirmation approval of need by the Town and Village Engineer after examination of the site conditions.

When a smaller sewer joins a larger one the invert of the larger sewer shall be lowered sufficiently to maintain the same hydraulic gradient. An approximate method which may be used for securing this result is to place the 0.8 depth of both sewers at the same elevation.

The migration of fines from surrounding backfill or native soils shall be restricted by gradation of embedment materials or by use of suitable filter fabric.

A. *Cleanout Installation.* Cleanouts for low pressure sewers shall be placed at intervals of approximately 400 to 500 feet, at major changes of direction, where one collection main joins another main and at the upstream end of each main branch. The design of all cleanouts shall be approved by the Town and Village Engineer.

B. *Manholes & Installation.* Design of all manholes shall be submitted to the Town and Village Engineer and shall receive approval prior to placement. Manholes shall be placed where there is a change in slope or alignment, and at intervals not exceeding 400 linear feet except as authorized by the Town and Village Engineer. The manhole shall be designed and installed in accordance with Ellicottville Engineering Department standards and ASTM C478. In addition, the following standards shall apply:

All sections shall be cast solid, without lifting holes.

Flat top slabs shall be a minimum of 8 inches thick and shall be capable of supporting a H-20 loading.

All joints between sections shall be sealed with an "O" ring rubber gasket, meeting the same specifications as pipe joint gaskets, or butyl joint sealant completely filling the joint.

All joints shall be sealed against infiltration. All metal parts shall be thickly coated with bitumastic or elastomeric compound to prevent corrosion.

Polypropylene steps shall be installed in the inside of manhole walls.

No holes shall be cut into the manhole sections closer than 6 inches from joint surfaces.

Manholes which extend above grade shall not have an eccentric top section. The top plate shall be large enough to accommodate the cover lifting device and the cover.

The elevation of the top section shall be such that the cover frame top elevation is 0.5 foot above the 100-year flood elevation (in a field), 0.5 foot above a lawn elevation, or at finished road or sidewalk grade.

When located in a travelled area (road or sidewalk), the manhole frame and cover shall be heavy duty cast iron. When located in a lawn or in a field, the manhole frame and cover may be light duty cast iron. The cover shall be 36 inches, minimum, in diameter. The mating surfaces shall be machined, and painted with tar pitch varnish. The cover shall not rock in the frame. Infiltration between the cover and frame shall be prevented by proper design and painting. Covers shall have "Sanitary Sewer" cast into them. Covers shall have lifting holes suitable for any lifting/jacking device. The lifting holes shall be designed so that infiltration is prevented.

A drop of at least 0.1 foot shall be provided between incoming and outgoing sewers on all junction manholes and on manholes with bends greater than 45 degrees.

Inverts and shelves/benches shall be placed after testing the manholes and sewers.

Benches shall be level and slope to the flow channel at about 1 inch per foot.

The minimum depth of the flow channel shall be the nominal diameter of the smaller pipe. The channel shall have a steel trowel finish. The flow channel shall have a smooth curvature from inlet to outlet.

Manhole frames, installed at grade, shall be set in a full bed of mortar with no less than two nor more than four courses of brick underneath to allow for later elevation adjustment. In lieu of brick, grade rings may be used for elevation adjustment. Grade rings shall not exceed 6 inches in depth. The total number of grade rings shall not exceed 12 inches in height, however, in no event shall more than 3 grade rings be used.

Manholes which extend above grade, shall have the frames cast into the manhole top plate. The top plate shall be securely anchored to the manhole barrel, by a minimum of six 1/2 inch corrosion resistant anchor bolts, to prevent overturning when the cover is removed. The anchor bolts shall be electrically isolated from the manhole frame and cover.

Internal drop pipes and fittings shall be PVC plastic sewer pipe in compliance with ASTM D2241. Corrosion resistant anchors shall be used to attach the drop pipe to the inside surface of the manhole barrel.

C. *Force Main Installation Notes:*

Joint preparation and assembly shall be in accordance with the manufacturer's written instructions.

Anchorage, concrete blocking, and/or mechanical restraint shall be provided when there is a change of direction of 7-1/2 degrees or greater.

Drain valves shall be placed at low points.

Automatic air relief valves shall be placed at high points and at 400 ft intervals, on level force main runs.

Air relief and drain valves shall be suitably protected from freezing.

When the daily average design detention time, in the force main, exceeds 20 minutes, the manhole and sewer line receiving the force main discharge or the sewage shall be treated so that corrosion of the manhole and the exiting line are prevented. The corrosion is caused by sulfuric acid biochemically produced from hydrogen sulfide anaerobically produced in the force main.

The force main shall terminate, in the receiving manhole, at a PVC plastic sewer pipe "T". The vertical arms of the "T" shall be twice the diameter of the force main. The upper arm shall be at least 4 feet long; the lower arm shall terminate in a PVC plastic sewer pipe 90 degree elbow in a flow channel directed to the manhole exit pipe. The "T" and its arms shall be securely fastened to the inside surface of the manhole wall using corrosion resistant anchors.

F. TESTING:

All sanitary sewers or extensions to sanitary sewers, including manholes, shall satisfy requirements of a final infiltration or exfiltration test before they will be approved and wastewater flow permitted by the Town and Village. All testing requirements shall be in accordance with applicable ASTM standards. In addition, the following testing requirements shall apply:

A. *Infiltration Testing.* Shall be performed where excessive groundwater is encountered. The infiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches.

B. *Exfiltration Testing.* Shall be performed for each section of sewer between successive manholes. The exfiltration rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches.

C. *Low Pressure Air Testing.* May be performed in lieu of exfiltration testing and shall be done in accordance with ASTM C828. The testing shall take place at 4 PSI and shall continue until the pressure reaches 3 PSI. At no time shall the pressure be increased to greater than 10 PSI. Acceptance will be based on the time it takes for the pressure to drop to 3 PSI.

D. *Vacuum Testing.* Shall be performed on all precast concrete manholes prior to backfilling in accordance with ASTM C1244. The manhole shall be brought to a vacuum of 10 inHg and the manhole will be tested based on the length of time it takes to drop to 9 inHg in accordance with ASTM C1244.

E. *Hydrostatic Testing.* Shall be performed on all force mains. The force main shall be tested at 150% of its normal operating pressure for at least 2 hours. The leakage rate shall not exceed 25 gallons per 24 hours per mile per nominal diameter in inches. Each test section shall be less than 1,000 ft.

G. DEDICATION OF SEWER LINE TO PUBLIC USE:

All sewer mains and extensions to the sewer system constructed at the Owner's expense, after final approval and acceptance by the Sewer Division Supervisor, shall become the property of the Town or Village and shall thereafter be operated, maintained and repaired by the Town and Village.

A. *Bill of Sale.* Legal transfer of the physical components of the system to the Town and Village must be by Bill of Sale executed by the Owner accurately describing the components of the system.

B. *Property Rights.* Transfer of the system shall also include the grant of property rights acceptable to the Town and Village to property surrounding the sewer system required for the operation, maintenance, repair and replacement thereof as identified on the plans. The Owner shall obtain any necessary rights from other property owners, municipalities or right-of-way holders having such interests. Generally, no acquisition of property rights is necessary for sewer facilities to be installed within the right-of-way of a state, county, or town road as long as the Owner obtains all necessary consents of such governmental entities to the placement of sewer facilities within the bounds of such roads prior to construction.

C. *Attorney's Certificate of Good Title.* The Owner shall provide within thirty (30) days of the recording of instruments conveying property rights required for the operation, maintenance, repair and replacement of the sewer system extension the certification by an attorney admitted to the practice of law within the State of New York stating that the party transferring the system by Bill of Sale and conveyance of property rights as described in this article has clear and marketable title to the property rights transferred to the Town and Village and that the grant of such rights to the Town and Village is free and clear of any prior liens or encumbrances or a title insurance policy in an amount and containing terms acceptable to the Town to the same effect. The Owner is responsible for obtaining any subordination or other agreements necessary to grant clear title to the Town and Village.

D. *Warranty and Maintenance Bond.* The Owner shall warrant the system to be free of defects for eighteen (18) months after the date of the first use of the system or its components and shall provide a cash deposit with the attorney for the Town and Village, a Letter of Credit, or a Maintenance Bond or other security in a form and amount satisfactory to the Town and Village holding the Town and Village harmless from operation, maintenance, repair and replacement of such facilities arising from defects in the design, materials, or construction of such facilities. The requirement for financial security may be waived by the Town and Village where the sponsor of the sewer system extension providing the warranty hereunder is the State of New York, a New York municipal corporation, or agencies thereof.

E. *Third Party Warranties.* The Owner will provide assignments of all warranties applicable to equipment or appurtenances to the system.

F. *Professional Expenses of the Town.* The Owner shall reimburse of the Town and Village for all expenses incurred by the Town and Village incident to the project, including, but not limited to, engineering fees and legal fees, payable as bills are rendered therefor by the Town and Village to the Owner.

G. *Engineer's Certification and Record Drawings.* The Owner shall provide the Town and Village with (a) a certification to the Town and Village by a New York licensed professional engineer that the system has been constructed in accordance with the approved plans and specifications and that it has been tested in accordance with this Law, and (b) three (3) sets of original signature paper copies of record drawings and an electronic PDF copy, designated as such, bearing the seal of the New York licensed professional Engineer, plus a full digital copy, similarly annotated, in AutoCAD or equivalent software acceptable to the Town and Village.

H. LIABILITY INSURANCE COVERAGE DURING CONSTRUCTION:

Before commencing work, the contractor performing the work shall file with the Town and Village insurance certificates for the following:

1. Workman's Compensation and Employer's Liability Insurance as required by the laws of the State of New York covering the contractor;
2. Personal Injury Liability Insurance having limits of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate (personal injury);
3. Property Damage Liability Insurance having limits of not less than \$1,000,000 for all damages arising during the life of the contract; and shall include, but not be limited to, the following designated hazards:
 - i. Premises and Operations;
 - ii. Independent Contractors;
 - iii. Completed operations and products;
 - iv. Property Damage; and
 - v. Explosion, Collapse, and Underground
4. Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than:
 - i. Bodily injury each person \$1,000,000 each occurrence \$1,000,000
 - ii. Property damage - each occurrence \$1,000,000
5. All insurance policies must provide for thirty (30) business days' notice to the Town and Village before cancellation.

SECTION 5 – SERVICE LATERALS AND CONNECTIONS

A. GENERAL:

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewer Division Supervisor.

No person shall discharge or cause to be discharged any storm cooling water or unpolluted industrial waters to any sanitary sewer. Swimming pool drains shall not be connected to any sanitary sewer.

Dry Sewers shall be designed and installed in accordance to this Law.

No person shall discharge any water into the sanitary sewer besides sanitary sewer plumbing connections that were originally planned and authorized by the Town and Village Engineer, the Sewer Division Supervisor, and/or the Building Inspector/Code Enforcement Officer. This shall include, but not be limited to, plumbing connections from gutters and downspouts, connections from garage floor drains, and connections from dry wells and french drains.

Any infiltration that is documented by the Sewer Division Supervisor as originating from a privately owned sewer lateral, shall be the responsibility of the property owner to correct in accordance with Section 8 of this law.

B. APPLICATION FOR CONNECTION:

There shall be two classes of sewer lateral permits:

(1) For residential, commercial, and institutional service,

(2) For service to establishments producing significant industrial wastes (to be discussed further in following chapter).

In either case, a permit application shall be submitted to the Sewer Division Supervisor or COE/Building Inspector in the form of a sewer tap application and building permit. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent, in the judgment of the municipal officials. A fee, for residential, commercial, institutional and industrial users, as established by the Town and Village Boards from time to time, shall accompany the application. Any user in excess of **2,500 gallons/day** shall be subject to a downstream capacity analysis/flow capacity study as/if directed by the Town/Village Engineer.

Connections to existing manholes shall be made as directed by the Sewer Division Supervisor.

C. NEW BUILDING LATERALS:

A separate and independent building lateral shall be provided for every building requiring sanitary facilities. When, however, there is a building behind a front building, the second building may use the front building's building lateral, if there is no other way to provide sanitary service to the back building.

New street laterals and/or building laterals shall not go under building basements. In like fashion, a building shall not be constructed over an existing lateral; the lateral shall be relocated after the Sewer Division Supervisor has approved plans showing the relocation.

Existing building laterals may be used in connection with new buildings only when they are found, on examination by the Sewer Division Supervisor, to meet all requirements of this local Law.

Changes of direction of 90 degrees or greater shall be made with a cleanout which extends to grade. In building laterals, said cleanouts shall be provided such that the maximum distance between cleanouts is 75 feet. The ends of all building or street laterals, which are not connected to the interior plumbing of the building, for any reason, shall be sealed against infiltration by a suitable stopper, plug, or by other approved means.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such drain shall be lifted by mechanical means and discharged to the building lateral, on approval of the Sewer Division Supervisor.

The cost of constructing the street lateral from the existing public sewer to the property line shall be at the property owner's expense; all subsequent costs and expense incidental to the installation and connection of the building lateral shall also be borne by the owner.

The property owner shall indemnify the Town and Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building lateral.

It shall be the responsibility of the property owner to maintain, repair, or replace the building lateral, as needed.

The method of connection of the building lateral to the street lateral will be dependent upon the type of sewer pipe material, and, in all cases, shall be approved by the Sewer Division Supervisor.

In general, the following rule shall apply:

- The Town and Village is only responsible for maintaining the sewer main and the sewer main tap. All repair and maintenance costs associated with the lateral shall be borne by the property owner it serves.

D. LATERALS SERVING SEVERAL BUILDINGS AND COMPLEXES:

When building laterals are to serve multiple dwelling structures, the building lateral shall be sized in accordance with the metered water use and with sound professional engineering judgment.

Where a lateral sewer is to serve a complex of industrial, commercial, institutional, or dwelling structures, special design of the building lateral system shall be required. Such lateral sewer shall be connected to the public sewer through a manhole. The Sewer Division Supervisor and Town/Village Engineer shall determine if and where this connection to the public sewer is required. If required, a new manhole shall be installed in the public sewer pursuant to these regulations and the lateral connection made and tested as directed by the Sewer Division Supervisor. Plans and specifications shall be prepared and submitted for approval pursuant to this Law.

When any street lateral is to serve a school, hospital, or similar institution, or public housing, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Sewer Division Supervisor, will receive wastewater or industrial wastes of such volume or character that frequent maintenance of said building or street lateral is anticipated, then such street lateral shall be connected to the public sewer through a manhole. The Sewer Division Supervisor shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Sewer Division Supervisor.

E. DESIGN AND CONSTRUCTION:

A. MATERIALS:

Pipe:

Pipe used on new sewer laterals shall be constructed of new and unused pipe of one of the following materials. The choice of pipe for the specific application shall be as proposed by the design engineer and approved by the Sewer Division Supervisor. A list and standard drawing set showing the approved materials and methods can be found on the Ellicottville Engineering website: www.evlengineering.com:

1. Polyvinyl Chloride (PVC) Pipe – Gravity Sewer Main - ASTM D3034, ASTM F679 SDR35 – Gasketed Joints

All other proposed pipe materials shall be approved by the Town and Village Engineer and the Sewer Division Supervisor. The materials and installation methods used during construction shall conform to the most recent standards posted on the Ellicottville Engineering website and the following criteria:

- Minimum 4" diameter residential sewer lateral – 2% minimum slope
- Minimum 6" sand bedding above and below pipe
- Tracer wire installed along length of lateral from cleanout to the building penetration

Where fixture or area drains are subject to overflow as the result of backwater from the public sewer system, accessible backwater valves shall be installed in the fixture drains of such fixtures or in the branch drains of such area drains or an accessible gate valve shall be installed in the building drain at its point of entry inside the building and downstream from any building trap. Nothing in this section shall be construed to permit area drains which are prohibited by this law or otherwise prohibited.

Backwater valves shall be designed so as to provide a positive mechanical seal against backwater, and, when fully opened, such valves shall have flow capacity not less than that of the piping in which they are installed. All bearing parts of such valves shall be of corrosion resistant material.

B. STREET LATERAL TO PUBLIC SEWER CONNECTION:

At the point of connection of a street lateral to a main sewer, a standard wye fitting and sufficient one-eighth (45 degree) bend fittings shall be used. The wye fittings shall be installed so that flow in the "arm" shall transition smoothly into the flow in the public sewer. No lateral connection shall be made to the public sewer which permits the flow into the public sewer from the lateral to enter at right angles.

The inside diameter of the fittings shall be same diameter as the street lateral inside diameter.

All connections shall be made in accordance with the most recent Ellicottville Engineering Department standards.

C. FUTURE CONNECTION LOCATIONS:

The street lateral, including the wye and eighth bend fittings, shall be connected to the main sewer at the time of constructing the main sewer, for each proposed lot for either immediate or future development. Laterals installed for future development shall be fitted a standard plug approved for use by the Sewer Division Supervisor. All sewer connections shall be via a properly installed saddle on the main sewer pipe. No portion of the lateral pipe shall protrude into the main sewer pipe. The location of all lateral connections shall be field marked with a 2 inch by 6 inch corrosion and rot resistant board. The marker board shall extend from the depth of the lateral to a minimum of two (2) feet above grade. The location of all lateral connections shall be indicated on a drawing with a minimum of three (3) tie lines indicated. Three sets of original paper copy as-built drawings shall be submitted to the Town and Village Engineer and Sewer Division Supervisor in addition to an electronic PDF copy, bearing the seal of a New York licensed Professional Engineer, plus a full digital copy, similarly annotated, in AutoCAD or equivalent software acceptable to the Town and Village prior to the issuance of a Certificate of Completion/Occupancy.

D. INSTALLATION:

All excavations required for the installation of a building or street lateral shall be open trench work unless otherwise approved by the Sewer Division Supervisor. Pipe laying and backfilling, regardless of pipe material used, shall be performed in general accordance with the most recent Ellicottville Engineering Department standards. At a minimum, the following shall be adhered to:

- The trench width shall be equal to the pipe outside diameter plus 2 ft
- There shall be a minimum of 6" of sand or #1 washed stone above and below the pipe
- Tracer wire shall be installed along all lengths of pipe
- Select granular fill shall be used for backfilling in maximum 6" compacted lifts

E. INSPECTION:

The applicant for the sewer tap application and building permit shall notify the Sewer Division Supervisor or Building Inspector when the building lateral and street lateral is ready for inspection and connection is to be made to the sewer main. The connection shall be made under the supervision of the public official.

When trenches are excavated for the laying of building lateral pipes or for laying of street lateral pipes, such trenches shall be inspected by the Sewer Division Supervisor. Before the trenches are backfilled, the person performing such work shall notify the Sewer Division Supervisor when the laying of the building lateral is completed, and no backfilling of trenches shall begin until approval is obtained from the Sewer Division Supervisor.

F. TESTING:

The street lateral, building lateral, or the combined lateral shall be tested for infiltration/exfiltration by the methods outlined in the previous chapter of this law. All service laterals that are greater than 75 feet in length or in the opinion of the Town/Village Engineer shall be tested for infiltration/exfiltration.

G. OWNERSHIP RESPONSIBILITY:

All costs associated with the provisions of this chapter shall be borne by the property owner unless specifically stated or agreed to be a cost borne by the Town and Village. The property owner shall indemnify the Town and Village from any loss or damage that may be directly or indirectly occasioned by the installation of the building and street laterals, and connections and appurtenances.

SECTION 6 – DISCHARGE RESTRICTIONS / REGULATIONS

A. GENERAL:

All users of the Town and Village POTW will comply with all standards and requirements of the Act and standards and requirements promulgated pursuant to the Act, including but not limited to 40 CFR Parts 400 – 471 – “Protection of Environment” – Effluent Guidelines and Standards

No user shall contribute or cause to be contributed, in any manner or fashion, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards, or any other National, State, or Local Pretreatment Standards or Requirements.

Without limiting the generality of the foregoing, a user may not contribute the following substances to the POTW:

(1) Any solids, liquids, or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause a fire or an explosion or be injurious, in any way, to the POTW, or to the operation of the POTW. At no time shall both of two successive readings on a flame type explosion hazard meter, at the point of discharge into the system (or at any other point in the system) be more than 25 % nor any single reading be more than 40 % of the lower explosive limit (LEL) of the meter.

Unless explicitly allowable by a written permit, prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, carbides, hydrides, and sulfides, and any other substance which the Village, the State, or the EPA has determined to be a fire hazard, or hazard to the POTW.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or otherwise interfere with the operation of the wastewater treatment facilities. Unless explicitly allowable by a written permit, such substances include, but are not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing fuel or lubricating oil, mud, or glass or stone grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 10.0, unless the POTW was specifically designed to manage such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or POTW personnel.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants (including heat), to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard.

(5) Any noxious or malodorous solids, liquids, or gases which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repair.

(6) Oils and grease - Any commercial, institutional, or industrial wastes containing fats, waxes, grease, or oils which become visible solids when the wastes are cooled to ten (10) degrees centigrade (50 degrees Fahrenheit); any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in excess of 50 mg/l or in amounts that will cause interference or pass through.

(7) Any wastewater which will cause interference or pass through.

(8) Any wastewater with objectionable color which is not removed in the treatment process, such as, but not limited to, dye wastes, and vegetable tanning solutions.

(9) Any solid, liquid, vapor, or gas having a temperature higher than 65 degrees C (150 degrees F); however, such materials shall not cause the POTW treatment plant influent temperature to be greater than 40 degrees C (104 degrees F). The Superintendent reserves the right, in certain instances, to prohibit or limit the discharge of wastes whose maximum temperatures are lower than 65 degrees C.

(10) Unusual flow rate or concentration of wastes, constituting slugs, except by Industrial Wastewater Permit.

(11) Any wastewater containing any radioactive wastes except as approved by the Superintendent, and in compliance with applicable State and Federal regulations.

(12) Any wastewater which causes a hazard to human life or which creates a public nuisance, either by itself or in combination, in any way, with other wastes.

(13) Any wastewater with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR Part 261.21.

(14) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(15) Solid waste grinders at or serving commercial establishments, institutions or industries shall not discharge into the Village POTW if there is a combined sewer overflow (CSO) on the sewer lines conveying the waste to the POTW treatment plant.

B. CONCENTRATION BASED LIMITATIONS:

No person shall discharge, directly or indirectly, into the POTW, wastewater containing any of the following substances in concentrations exceeding those specified below on either a daily or an instantaneous basis, except by permit or as provided for in this law. Concentration limits are applicable to wastewater effluents at the point just prior to discharge into the POTW ("end of pipe" concentrations).

SUBSTANCE	EFFLUENT CONCENTRATION LIMIT – MG/L
Acetone	50
Arsenic	0.2
Barium	4.0
Cadmium	0.4
Chromium, Hexavalent	0.2
Chromium, Total	1.0
Copper	3.0
Cyanide, Total	1.6
Cyanide, Free	0.4
Fluorides	4.0
Gold	0.2
Iron	5.0
Lead	0.5
Manganese	4.0
Mercury	0.2
Nickel	1.0
Phenol	4.0
Selenium	0.1

Silver	0.2
Sodium	200
Sulfide	6.0
Zinc	1.0
BOD-5	250 mg/L
TSS	250 mg/L
pH	Between 5.0 and 10
Nitrogen (N), mg/L	30 mg/L
Phosphorus (P), mg/L	10 mg/L
Oil & Grease	Less than 50 mg/L

NOTE: These values are subject to change as new standards are released and/or as substances are found to interfere with the Wastewater Treatment Plant operation.

Other substances which may be limited are:

alkanes, alkenes and alkynes

aliphatic and aromatic alcohols and acids

aliphatic and aromatic aldehydes and ketones

aliphatic and aromatic esters

aliphatic and aromatic halogenated compounds

aliphatic and aromatic nitro, cyano and amino compounds

antibiotics

benzene derivatives

chemical compounds which, upon acidification, alkalization, oxidation or reduction, in the discharge or after admixture with wastewater and its components in the POTW, produce toxic, flammable, or explosive compounds

pesticides, including algicides, fungicides, herbicides, insecticides, rodenticides

phthalates

polyaromatic and polynuclear hydrocarbons

total toxic organics, TTO, as defined in 40 CFR 433.11

toxic organic compounds regulated by Federal Pretreatment Standards

unsaturated aliphatics, including those with an aldehyde, ketone or nitrile functional group

viable pathogenic organisms from industrial processes or hospital procedures

Except where expressly authorized to do so by an applicable Pretreatment Standard, no user shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard.

Dilution flow shall be considered to be inflow.

C. GREASE AND OIL SEPARATORS:

Grease, oil, and sand interceptors shall be provided, when, in the opinion of the Sewer Division Supervisor, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for private living quarters or living units. All interceptors shall be of type and capacity approved by the Sewer Division Supervisor and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

In general, the following rules shall apply:

1. All commercial kitchens that prepare food on a regular basis shall be required to have a grease and oil separator that collects all of the effluent originating from that commercial kitchen.
2. The preferred type of grease and oil separator is an outdoor, gravity grease interceptor having a minimum capacity of 750 gallons.
3. If the above requirement is not realistic due to space constraints, a hydromechanical, indoor unit may be used that is sized according to the requirements listed on the www.evengineering.com website.

All grease and oil separators shall be cleaned and/or inspected on a regular basis – not less than once per month, and shall be cleaned whenever 25% of any chamber becomes filled with solids. All cleaning records shall be kept on the form provided by the Town and Village and shall be kept on file for inspection by the Town and Village Engineer and the Sewer Division Supervisor.

D. MODIFICATION OF LIMITATIONS:

Limitations on wastewater strength or mass discharge contained in this Law may be supplemented with more stringent limitations when, in the opinion of the Sewer Division Supervisor and Town/Village Engineer:

- (1) The limitations in this Law are not sufficient to protect the POTW,
- (2) The limitations in this Law are not sufficient to enable the POTW treatment plant to comply with applicable water quality standards or the effluent limitations specified in the POTW's SPDES permit,
- (3) The POTW sludge will be rendered unacceptable for disposal or reuse as the Town and Village desires, as a result of discharge of wastewaters at the above prescribed concentration limitations,
- (4) Municipal employees or the public will be endangered, or
- (5) Air pollution and/or groundwater pollution will be caused.

E. REJECTION OF WASTEWATER:

The Town and Village Board may reject a user's wastewater, on recommendation of the Town/Village Engineer, when it is has been determined that the wastewater contains substances or possesses characteristics which have a deleterious effect on the POTW and its processes, or on the receiving water, or which constitute a public nuisance or hazard.

SECTION 7 – SIGNIFICANT INDUSTRIAL USERS & DISCHARGE PERMITS

A. GENERAL:

As defined in Section 1, a “Significant Industrial User” is any user that meets any of the following criteria:

- All industrial users subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
- Any user discharging an average of twenty-five thousand (25,000) gallons per day or more of wastewater to the POTW;
- Any industrial user designated as a Significant Industrial User by the Town and Village Engineer, on the basis that the user has a reasonable potential, alone or in combination with other discharger(s), for adversely affecting the POTW’s operation, sludge quality, POTW treatment plant effluent discharge quality, POTW air emissions, or for violating any pretreatment standard.

Any user classified as “Significant” by the Town and Village Engineer and by the Sewer Division Supervisor shall be subject to a downstream flow capacity study as discussed in Section 5 **and** shall be required to apply for a Wastewater Discharge Permit with the Sewer Division Supervisor.

In order that the Industrial User's employees be informed of the Town and Village requirements, a notice shall be permanently posted on appropriate bulletin boards within the user's facility advising employees of the Town and Village requirements and whom to call in case of an accidental discharge in violation of this Law.

B. WASTEWATER DISCHARGE PERMITS:

Industrial users required to obtain a Wastewater Discharge Permit shall complete and file with the Sewer Division Supervisor an application in the form prescribed by the Town and Village, the application shall be accompanied by a fee, as set forth in this law. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC code of both the industry and any categorical processes.
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 6 of this Law and which are limited in the appropriate Categorical Standard, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with Standard Methods.

- (4) Time and duration of the discharge.
- (5) Average daily peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances.
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged to the POTW.
- (8) Each product produced by type, amount, process or processes, and rate of production.
- (9) Type and amount of raw materials processed (average and maximum per day).
- (10) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (11) The nature and concentration of any pollutants in the discharge which are limited by any County, State, or Federal Standards, and a statement whether or not the standards are being met on a consistent basis and if not whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable Standards.
- (12) If additional pretreatment and/or O&M will be required to meet the Standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable Pretreatment Standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and beginning routine operation).
 - (b) No increment referred to in (a) above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
 - (c) No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the established schedule. In no event shall more than 9 months elapse between such progress reports to the Superintendent.
- (13) Any other information as may deemed by the Superintendent to be necessary to evaluate the permit application.

The Sewer Division Supervisor will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Town and Village may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

The Town and Village does not have the authority to issue permits for the discharge of any wastewater to a storm sewer. This authority rests with the NYSDEC.

All Significant Industrial Users proposing to connect to or to discharge to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. Existing significant industrial users shall make application for a Wastewater Discharge Permit within 30 days after the effective date of this Law, and shall obtain such a permit within 90 days after making application.

No Significant Industrial User shall discharge wastewater to the POTW without having a valid Wastewater Discharge Permit, issued by the Sewer Division Supervisor. Significant Industrial Users shall comply fully with the terms and conditions of their permits in addition to the provisions of this Law. Violation of a permit term or condition is deemed a violation of this Law.

The Sewer Division Supervisor shall, from time to time, request wastewater discharge reports as a means of determining compliance with this Law. The Sewer Division Supervisor may require any user discharging wastewater into the POTW to file wastewater discharge reports and to supplement such reports as the Sewer Division Supervisor deems necessary. All information shall be furnished by the user in complete cooperation with the Sewer Division Supervisor.

C. PERMIT MODIFICATIONS AND CONDITIONS:

Wastewater Discharge Permits may be modified by the Sewer Division Supervisor, upon 30 days notice to the permittee, for just cause. Just cause shall include, but not be limited to:

- (1) Promulgation of an applicable National Categorical Pretreatment Standard,
- (2) Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13,
- (3) Changes in general discharge prohibitions and local limits as per this law,
- (4) Changes in processes used by the permittee, or changes in discharge volume or character,
- (5) Changes in design or capability of any part of the POTW,
- (6) Discovery that the permitted discharge causes or contributes to pass through or interference, and
- (7) Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.

Wastewater Discharge Permits shall be expressly subject to all the provisions of this Law, and all other applicable regulations, user charges and fees established by the Town and Village. Permits may contain the following:

- (1) Limits on the average and maximum rate and time of discharge, or requirements for flow regulation and equalization.
- (2) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
- (3) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.

- (4) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (6) Compliance schedules
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town and Village, and affording the Sewer Division Supervisor access thereto.
- (9) Requirements for notification of the Town and Village of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
- (10) Requirements for the notification of the Town and Village of any change in the manufacturing and/or pretreatment process used by the permittee.
- (11) Requirements for notification of excessive, accidental, or slug discharges.
- (12) Other conditions as deemed appropriate by the Town and Village to ensure compliance with this Law, and State and Federal laws, rules, and regulations.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years.

The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Sewer Division Supervisor, during the term of the permit, as limitations or requirements, as identified in the previous paragraph of this section, or other just cause exists. The User shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance.

Wastewater Discharge Permits are issued to a specific User for a specific operation, or discharge at a specific location. A Wastewater Discharge Permit shall not be reassigned, transferred, or sold to a new owner, new User, different premises, or a new or changed operation.

Wastewater Discharge Permits may be revoked for the following reasons: falsifying self-monitoring reports, tampering with monitoring equipment, refusing to allow the Sewer Division Supervisor timely access to the industrial premises, failure to meet effluent limitations, failure to pay fines, failure to pay user charges, and failure to meet compliance schedules.

D. PERMIT REPORTING REQUIREMENTS:

The reports or documents required to be submitted or maintained under this section shall include:

- (1) Baseline Monitoring Report

Within 180 days after promulgation of an applicable Federal Categorical Pretreatment Standard, a User subject to that standard shall submit, to the Sewer Division Supervisor, the information required by paragraphs (8) and (9) of Part B of this Section.

(2) 90-Day Compliance Report

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any User subject to Pretreatment Standards and Requirements shall submit, to the Sewer Division Supervisor, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by Pretreatment Standards and Requirements, and the average and maximum daily flow for these process units in the User's facility which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis, and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

(3) Periodic Compliance Reports

a) The Sewer Division Supervisor may require a compliance schedule for any industrial user. If additional pretreatment and/or operation and maintenance will be required to meet applicable standards, or for the prevention of spills, for personnel training, etc., then the industrial user or Sewer Division Supervisor shall prepare and provide a compliance schedule, pursuant to 40 CFR 403.12(b)(7) and 403.12 (c), to accomplish such pretreatment and/or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

b) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Sewer Division Supervisor, during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Sewer Division Supervisor, a report indicating the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in the permit application. At the discretion of the Sewer Division Supervisor, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Sewer Division Supervisor may agree to alter the months during which the above reports are to be submitted, however, no fewer than two reports shall be submitted per year.

c) The Sewer Division Supervisor may impose mass limitations on Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or, in other cases where the imposition of mass limitations are appropriate. In such cases, the periodic compliance report shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of discharge sampling and analysis, including the flow, and the nature and concentration, or production and mass, of pollutants contained therein, which are limited by the applicable Pretreatment Standard. All analyses shall be performed in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses.

(4) Violation Report

If sampling, performed by the user, indicates a violation of this Law and/or the User's discharge permit, the User shall notify the Sewer Division Supervisor within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Sewer Division Supervisor within 30 days after becoming aware of the violation. The User is not required to re-sample if the POTW performs monitoring of the User's discharge at least once a month for the parameter which was violated, or if the POTW performs sampling, for the parameter which was violated, between the User's initial sampling and when the User receives the results of this sampling.

(5) Other reports

The Sewer Division Supervisor may impose reporting requirements equivalent to the requirements imposed by the previous sections for users not subject to pretreatment standards.

(d) Notification of Change in Discharge: All industrial users shall promptly notify the Commissioner in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

(e) Certification: When submitting reports, notifications, or other required documents to the Control Authority and Approval Authority, an industrial user must provide a statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards and requirements are being met, and, if not, whether additional operation and maintenance and/or pretreatment is required for the industrial user to meet the pretreatment standards and requirements. This certification shall include the following statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(f) Signatory Requirements for Reports: The reports required by Section 903(b), (c), and (d) above shall include the certification statement specified in Section 903(j) above, and shall be signed in accordance with the requirements of 40 CFR 403.12(l).

(g) Record Keeping Requirements: Any industrial user subject to the reporting requirements of this Section shall maintain records of all information resulting from any monitoring activities, whether or not such monitoring activities are required by this Law. These record keeping requirements include documentation of Best Management Practices (BMP's).

Such records shall include, for all samples:

- (1) the date, exact place, method, and time of sampling, and the name(s) of the person(s) taking samples;
- (2) the dates that analyses were performed;
- (3) who performed the analyses;

(4) the analytical techniques/methods used; and

(5) the results of such analyses.

Such records shall be retained for a minimum of three (3) years by the industrial user. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, when requested by the Commissioner or Approval Authority.

(h) Provisions Governing Fraud or False Statements: The reports and other documents required to be submitted or maintained under this Law shall be subject to:

(1) the provisions of 18 USC Section 1001, relating to fraud and false statements;

(2) the provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

E. FLOW EQUALIZATION:

No person shall cause the discharge of slugs to the POTW. Each person discharging, into the POTW, greater than 100,000 gallons per day or greater than five percent (5%) of the average daily flow in the POTW, whichever is lesser, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Sewer Division Supervisor. A wastewater discharge permit may be issued solely for flow equalization.

F. MONITORING STATIONS:

All Significant Industrial Users, and other Industrial Users whose industrial waste discharge has caused or may cause Interference or Pass-Through shall install and maintain a suitable monitoring station, on their premises at their expense, to facilitate the observation, sampling, and measurement of their industrial wastewater discharge.

If there is more than one street lateral serving an Industrial User, the Sewer Division Supervisor may require the installation of a control manhole on each lateral.

The Sewer Division Supervisor may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station(s) shall be accessibly and safely located, and the Industrial User shall allow immediate access, without prior notice, to the station by the Sewer Division Supervisor, or his designated representative.

Preliminary treatment, and flow equalization facilities, or monitoring stations, if provided for any wastewater, shall be constructed and maintained continuously clean, safe, and continuously operational by the owner at his expense. Where an Industrial User has such treatment, equalization, or monitoring facilities at the time this Law is enacted, the Sewer Division Supervisor may approve or disapprove the adequacy of such facilities. Where the Sewer Division Supervisor disapproves of such facilities and construction of new or upgraded facilities for treatment, equalization, or monitoring are required, plans and specifications for such facilities shall be prepared by a licensed professional engineer and submitted to the Sewer Division Supervisor. Construction of new or upgraded facilities shall not commence until written approval of the Sewer Division Supervisor has been obtained.

No unauthorized person shall negligently break, damage, destroy, uncover, deface, tamper with, prevent access, or render inaccurate, or cause or permit the negligent breaking, damaging, destroying, uncovering, defacing, tampering with, preventing access, or rendering inaccurate to:

- i - any structure, appurtenance, or equipment which is a part of the Town and Village POTW, or
- ii - any measuring, sampling, and/or testing device or mechanism installed pursuant to any requirement under this Law except as approved by the Sewer Division Supervisor.

Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis. All monitoring and analysis requirements of the National Pretreatment Program as set forth in 40 CFR 403.12 shall apply to all industrial users of the POTW.

All measurements, tests, and analyses of the characteristics of waters and wastes required in any section of this Law shall be carried out in accordance with Standard Methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in Federal regulation, samples shall be gathered as flow proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).

G. ACCIDENTAL DISCHARGES:

Each user shall provide for protection from accidental or slug discharges of prohibited materials or discharges of materials in volume or concentration exceeding limitations of this Law or of an Industrial Wastewater Discharge Permit. Users shall immediately notify the Sewer Division Supervisor of the discharge of wastes in violation of this Law or any Permit. Such discharges may result from:

- (1) Breakdown of pretreatment equipment
- (2) Accidents caused by mechanical failure, or negligence
- (3) Other causes.

Where possible, such immediate notification shall allow the Sewer Division Supervisor to initiate appropriate countermeasure action at the POTW. The user shall prepare a detailed written statement following any accidental or slug discharge, which describes the causes of the discharge and the measures being taken to prevent future occurrences, within five (5) days of the occurrence, and the Sewer Division Supervisor shall receive a copy of such report no later than the fifth calendar day following the occurrence. Analytical results and their interpretation may be appended to the report at a date not exceeding 45 calendar days after the occurrence.

When required by the Sewer Division Supervisor, detailed plans and procedures to prevent accidental or slug discharges shall be submitted to the Sewer Division Supervisor, for approval. These plans and procedures shall be called a Spill Prevention, Control, and Countermeasure (SPCC) Plan. The plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any provision of the permit and any National Prohibitive Discharge Standard;

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

H. ACCESS TO PROPERTY AND RECORDS:

The Sewer Division Supervisor and other authorized representatives of the Town and Village, representatives of EPA, NYSDEC, NYSDOH, and/or (-Cty-) County Health Department, bearing proper credentials and identification, shall be permitted to enter upon all non-residential properties at all times for the purpose of inspection, observation, sampling, flow measurement, and testing to ascertain a user's compliance with applicable provisions of Federal and State law governing use of the Town and Village POTW, and with the provisions of this Law. Inspections of residential properties shall be performed in proper observance of the resident's civil rights. Such representative(s) shall have the right to set up, on the User's property or property rented/leased by the User, such devices as are necessary to conduct sampling or flow measurement. Guard dogs shall be under proper control of the User while the representatives are on the User's property or property rented/leased by the User. Such representative(s) shall, additionally have access to and may copy any records the User is required to maintain under this Law. Where a User has security measures in force which would require proper identification and clearance before entry into the premises, the user shall make necessary arrangements so that upon presentation of suitable identification, inspecting personnel will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

The Sewer Division Supervisor, bearing proper credentials and identification, shall be permitted to enter all private premises through which the Town and Village holds an easement for the purpose of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the Town and Village public sewer system lying within the easement. All entry and subsequent work on the easement shall be done in accordance with the terms of the easement pertaining to the private premises involved.

Nothing in this Article shall be construed as preventing any special agreement or arrangement between the Town and Village and any User of the POTW whereby wastewater of unusual strength or character is accepted into the POTW and specially treated, subject to any payments or user charges, as may be applicable. In entering into such a special agreement, the Town and Village Board shall consider whether the wastewater will:

- (1) pass-through or cause interference
- (2) endanger the public municipal employees
- (3) cause violation of the SPDES Permit
- (4) interfere with any Purpose stated in this Law

(5) prevent the equitable compensation to the Town and Village for wastewater conveyance and treatment, and sludge management and disposal

No discharge which violates the Federal Pretreatment Standards will be allowed under the terms of such special agreements.

No agreement shall be entered into without the user having been issued and presently having a permit to discharge wastes into the POTW for treatment and disposal. Additionally, the user shall be in compliance with all conditions in the permit and shall not be in arrears in any charges due to the Town and Village before the agreement is entered into. The Town and Village Board may condition the agreement.

I. LIABILITY OF PROPERTY OWNER:

During the performance, on private premises, of inspections, sampling, or other similar operations referred to in this Section, the inspectors shall observe all applicable safety rules established by the owner or occupant of the premises. The owner and/or occupant shall be held harmless for personal injury or death of the inspector and the loss of or damage to the inspector's supplies and/or equipment; and the inspector shall indemnify the owner and/or occupant against loss or damage to property of the owner or occupant by the inspector and against liability claims asserted against the owner or occupant for personal injury or death of the inspector or for loss of or damage to the inspector's supplies or equipment arising from inspection and sampling operations, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

SECTION 8 – ENFORCEMENT AND PENALTIES

A. ADMINISTRATIVE PENALTIES:

Notice of Violation:

Whenever the Sewer Division Supervisor finds that any User has violated or is violating this Law, or any Wastewater Discharge Permit, order, prohibition, limitation, or requirement permitted by this Law, the Sewer Division Supervisor may serve upon such person a written notice and fine stating the nature of the violation. Within ten (10) calendar days of the date the Sewer Division Supervisor mails the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted to the Sewer Division Supervisor, by the User. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the User of liability for any violations caused by the User before or after receipt of the Notice of Violation.

Consent Orders:

The Sewer Division Supervisor is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the User responsible for the noncompliance. Such orders shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as an administrative order.

Administrative or Compliance Orders:

When the Sewer Division Supervisor finds that a User has violated or continues to violate this Law or a permit or administrative order issued thereunder, he may issue an administrative order to the User responsible for the discharge directing that, following a specified time period, sewer and/or water service shall be discontinued, severed and abated unless the violation is corrected and that there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

The User may, within fifteen (15) calendar days of receipt of such order, petition the Sewer Division Supervisor to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Sewer Division Supervisor by registered mail. The Sewer Division Supervisor shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with this Law and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Administrative Fines:

Notwithstanding any other section of this Law, any User who is found to have violated any provision of this Law, or a wastewater discharge permit or administrative order issued hereunder, shall be fined in an amount in accordance with the most recent Sewer schedule of rates and fines per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation.

The User may, within fifteen (15) calendar days of notification of the Sewer Division Supervisor's notice of such fine, petition the Sewer Division Supervisor to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Sewer Division Supervisor by registered mail. The Sewer Division Supervisor shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the fine, or
- (3) Order the petitioner to show cause in accordance with this Law and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Cease and Desist Orders:

When the Sewer Division Supervisor finds that a User has violated or continues to violate this Law or any permit or administrative order issued hereunder, the Sewer Division Supervisor may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.

The User may, within fifteen (15) calendar days of the date the Sewer Division Supervisor mails notification of such order, petition the Sewer Division Supervisor to modify or suspend the order. Such petition shall be in written form and shall be transmitted to the Sewer Division Supervisor by registered mail. The Sewer Division Supervisor shall then:

- (1) Reject any frivolous petitions,
- (2) Modify or suspend the order,
- (3) Order the petitioner to show cause in accordance with this Law and may as part of the show cause notice request the User to supply additional information.
- (4) Seek Judicial Remedies

Termination of Permit:

Any User who violates the following conditions of this Law or a wastewater discharge permit or administrative order, or any applicable or State and Federal law, is subject to permit termination:

- (1) Violation of permit conditions or conditions of an administrative order,
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge,
- (3) Failure to report significant changes in operations or wastewater constituents and characteristics,
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling, or
- (5) Failure to pay administrative fines, fees or user charges.

Non-compliant industrial Users will be notified, by registered mail, of the proposed termination of their wastewater permit. The User may, within fifteen (15) calendar days of the date the Sewer Division Supervisor mails such notification, petition the Sewer Division Supervisor to permit continued use of the POTW by the user. Such petition shall be in written form and shall be transmitted to the Sewer Division Supervisor by registered mail. The Superintendent shall then:

- (1) Reject any frivolous petitions,
- (2) Order the petitioner to show cause in accordance with this Law and may as part of the show cause notice request the User to supply additional information.

Show Cause Hearing:

The Sewer Division Supervisor may order any User appealing administrative remedies for violations of this Law to show cause, before the Town and Village Board, why an enforcement action, initiated by the Sewer Division Supervisor, should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Town and Village Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Town and Village Board why the proposed enforcement action should not be taken. Service shall be made on any principal or

executive officer of a User's establishment or to any partner in a User's establishment. The notice of the hearing shall be served at least ten (10) calendar days before the hearing, in accordance with this Section. The Town and Village Board may itself conduct the hearing, or may designate any of its members or any officer or employee of the Town and Village to conduct the hearing:

- (1) Issue, in the name of the Town and Village Board, notices of hearings requesting the attendance and testimony of witnesses, and the production of evidence relevant to any matter involved in such hearings,
- (2) Take the evidence,
- (3) Take sworn testimony,
- (4) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town and Village Board for action thereon.

After the Town and Village Board has reviewed the evidence and testimony, it may order the user to comply with the Sewer Division Supervisor's order or fine, modify the Sewer Division Supervisor's order or fine, or vacate the Sewer Division Supervisor's order or fine.

In the event the Sewer Division Supervisor issues any administrative order, terminates the User's permit, or makes any fine as set forth in this article, and the User fails, within the designated period of time set forth, to petition the Sewer Division Supervisor, as provided in appropriate sections of this article, the User shall be deemed in default and its rights to contest the administrative order or fine shall be deemed waived.

The Sewer Division Supervisor shall have the right, within the Sewer Division Supervisor's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this Article. The Sewer Division Supervisor may utilize more than one administrative remedy established pursuant to this Article, and the Sewer Division Supervisor may hold one show cause hearing combining more than one enforcement action.

B. JUDICIAL REMEDIES:

Civil Actions for Penalties:

Any person who violates any of the provisions of or who fails to perform any duty imposed by this Law, or any administrative order or determination of the Sewer Division Supervisor promulgated under this Law, or the terms of any permit issued hereunder, shall be liable to the Town and Village for a civil penalty IAW the most current schedule of rates/fines published by the Town and Village for each such violation, to be assessed after a hearing (unless the User waives the right to a hearing) held in conformance with the procedures set forth in this Article. Each violation shall be separate and distinct violation, and in the case of continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the Town and Village attorney, or his designated attorney, at the request of the Sewer Division Supervisor in the name of the Town and Village, in any court of competent jurisdiction giving preference to courts local to the Town and Village. In addition to the above described penalty, the Sewer Division Supervisor may recover all damages incurred by the Town and Village from any persons or Users who violate any provisions of this Law, or who fail to perform any duties imposed by this Law or any administrative order or determination of the Sewer Division Supervisor promulgated under this Law, or the terms of any permit issued hereunder. In addition to the above described damages, the Sewer Division Supervisor may recover all reasonable attorney's fees incurred by the Town and Village in enforcing the provisions of this Article, including reasonable attorney's fees incurred in any action to recover penalties and damages, and the

Sewer Division Supervisor may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other relative factors as justice may require.

Such civil penalty may be released or compromised by the Sewer Division Supervisor before the matter has been referred to the Town and Village Attorney, and where such matter has been referred to the Town and Village Attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Town and Village Attorney, with the consent of the Sewer Division Supervisor.

Court Orders:

In addition to the power to assess penalties as set forth in this Article, the Sewer Division Supervisor shall have the power, following the hearing held in conformance with the procedures set forth in this Article, to seek an order:

- (1) Suspending, revoking, or modifying the violator's Wastewater Discharge Permit, or
- (2) Enjoining the violator from continuing the violation.

Any such court order shall be sought in an action brought by the Town and Village Attorney, at the request of the Sewer Division Supervisor, in the name of the Town and Village, in any court of competent jurisdiction giving precedence to courts local to the Town and Village.

The Town and Village Attorney, at the request of the Sewer Division Supervisor shall petition the Court to impose, assess, and recover such sums imposed according to this Article. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

Criminal Penalties:

Any person who willfully violates any provision of this Law or any final determination or administrative order of the Sewer Division Supervisor made in accordance with this Article shall be guilty of a Class A Misdemeanor, and upon conviction thereof, shall be punished by a fine IAW the most recent schedule of rates/fines posted by the Town and Village, or imprisonment not to exceed one (1) year or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

Any User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Law, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Law shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a

fine IAW the most recent schedule of rates/fines posted by the Town and Village per violation per day or imprisonment for not more than one (1) year or both.

No prosecution, under this Section, shall be instituted until after final disposition of a show cause hearing, if any, was instituted.

Additional Injunctive Relief:

Whenever a User has violated or continues to violate the provisions of this Law or permit or order issued hereunder, the Sewer Division Supervisor, through counsel may petition the Court, in the name of the Town and Village, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains the violation of, or compels the compliance with any order or determination thereunder by the Sewer Division Supervisor.

Any person violating any of the provisions of this Law shall, in addition to civil penalties, be liable to the Town and Village for any expense, loss, or damage occasioned to the Town and Village by reason of such violation.

Summary Abatement:

Notwithstanding any inconsistent provisions of this Law, whenever the Sewer Division Supervisor finds, after investigation, that any User is causing, engaging in, or maintaining a condition or activity which, in the judgement of the Sewer Division Supervisor, presents an imminent danger to the public health, safety, or welfare, or to the environment, or is likely to result in severe damage to the POTW or the environment, and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the Sewer Division Supervisor may, without prior hearing, order such User by notice, in writing wherever practicable or in such other form as practices are intended to be proscribed, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity; or where the giving of notice is impracticable, or in the event of a User's failure to comply voluntarily with an emergency order, the Sewer Division Supervisor may take all appropriate action to abate the violating condition. As promptly as possible thereafter, not to exceed fifteen (15) calendar days, the Sewer Division Supervisor shall provide the User an opportunity to be heard, in accordance with the provisions of this Article.

If the User is not within the geographic boundaries of the Town and Village the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in the inter-municipal agreement.

The Sewer Division Supervisor, acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment.

C. MISCELLANEOUS:

Delinquent Payments:

If there shall be any payments which are due to the Town and Village, or any Department thereof, pursuant to any Article or Section of this Law, which remain unpaid after the date of billing by the Town and Village shall be charged a penalty equal to fifteen percent (15%) of the original bill, and interest shall accrue on the unpaid

balance retroactive to the date of the original billing. The Town and Village reserve the right to levy the unpaid amount on the owner's taxes.

Upon any account becoming delinquent for payment of sewer services for a period of time exceeding 60 days, the Town and Village shall provide a mailed written notice ("Shut Off Notice") to the resident and, if different, the owner of the premises, advising both persons of the delinquency. This delinquency may be disputed by filing a written statement of the reasons for the dispute with the Town and Village. If such a dispute is filed, it will be investigated and a formal written response will be given within twenty (20) days. The termination will be deferred pending the processing of the dispute.

If a delinquent account holder is unable to pay the balance due on the account prior to the termination date, the Town and Village shall offer a reasonable installment payment agreement plan to delinquent account holders who have not previously defaulted on an installment payment agreement. Any installment payment is to be made in addition to the amount due on the delinquent customer's regular monthly bills. A payment agreement may be denied to any delinquent customer who has defaulted on prior agreements.

In the collection of user charges and other Town and Village claims and assessments, the Town and Village shall reserve the right to assess and collect reasonable attorney fees.

Performance Bonds:

The Sewer Division Supervisor may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the Sewer Division Supervisor to be necessary to achieve consistent compliance.

Liability Insurance:

The Sewer Division Supervisor may decline to reissue a permit to any User which has failed to comply with the provisions of this Law or any order or previous permit issued hereunder, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

Public Notification:

The Sewer Division Supervisor Shall provide public notification, in the daily newspaper with the largest circulation in the Town and Village, of Users which were in significant non-compliance of local or Federal pretreatment standards or requirements since the last such notice. The frequency of such notices shall be at least once per year.

Contractor Listings:

(1) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town and Village.

(2) Existing contracts for the sale of goods or services to the Town and Village held by a User found to be in significant violation with pretreatment standards may be terminated at the discretion of the Town and Village Board.

SECTION 9 – BILLS AND PAYMENTS

A. SEWER SERVICE CHARGES:

All bills are payable at any office or any pay agency as designated by the Town and Village. All invoices shall be paid in United States dollars, and may be paid by cash, check, money order, or credit/debit card if applicable.

All persons discharging or depositing wastes into the public sewers shall pay a sewer service charge proportional to the liquid volume of waste so deposited.

All bills for services furnished by the Town and Village will be based on the published Schedule of Rates of the Town and Village sewer system. All bills shall be rendered and are due and payable as noted on the bill. Each premise will be subjected to a fixed minimum charge based on the user class of the individual or facility. Any usage above the minimum will be charged at a fix/uniform rate.

The Billing Period shall be quarterly for all users.

All persons discharging or depositing wastes with concentrations in excess of the pollutant concentrations in normal sewage shall pay a surcharge of twenty-five (25) percent of the appropriate base fee for the classification they are assigned.

The Town and Village has established schedules of tapping fees for all connections to sewer main lines. Fees are in accordance with the Schedule of Rates. The sewer tapping fee is designed to be a capacity/connection fee established based on providing sewer services to the premises by the sewer system, users, the public or persons who request such services. A tapping fee shall be paid each time a new and/or updated service connection is installed.

B. MEASUREMENT OF FLOW:

The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Town and Village Water Department. In the event that a person discharging wastes into the POTW produces evidence, to the Sewer Division Supervisor, demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the Sewer Division Supervisor shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from un-metered sources, the Sewer Division Supervisor shall either direct the installation of water meters on the other sources of water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this Section shall be of a type and design acceptable to the Sewer Division Supervisor and shall be installed, maintained, and periodically tested as required by the Sewer Division Supervisor, at the owner's expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the Sewer Division Supervisor. Any person discharging wastes into the POTW may

install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the Sewer Division Supervisor, at the owner's expense.

C. MISCELLANEOUS:

Pretreatment Program Costs:

The additional charges and fees associated with the operation of the pretreatment program shall be assessed the User, and include:

- (1) reimbursement of costs of setting up and operating the pretreatment program
- (2) issuing permits
- (3) monitoring, inspections, and surveillance procedures
- (4) costs of equipment and supplies
- (5) reviewing accidental discharge procedures
- (6) construction inspections
- (7) filing appeals
- (8) application for consistent removal status as outlined in 40 CFR 403
- (9) other reasonable expenses to carry out the program to satisfy the requirements of this Law, the NYSDEC, and the Federal government

Charges for Trucked and Hauled Wastes:

The charge for treatment and disposal of trucked or hauled waste which has been introduced into the POTW shall be as established by the Town and Village Board. The manner of determining the volume dumped shall be at the discretion of the Sewer Division Supervisor.

Capital Recovery:

The Town and Village may institute an equitable procedure for recovering the costs of any capital improvements of those parts of the POTW which collect, pump, treat, and dispose of industrial wastewaters from those persons discharging such wastewaters into the POTW.

Use of Revenues:

Revenues derived from user charges and associated penalties, and hookup fees, shall be credited to the sewer fund. Monies in this fund shall be used exclusively for the following functions:

- (a) For the payment of the operation and maintenance, including repair and replacement costs of the Town and Village POTW,
- (b) For the discovery and correction of inflow and infiltration,
- (c) For the payment of interest on and the amortization of or payment of indebtedness which has been or shall be incurred for the construction or extension of the Village POTW,

(d) For the extension, enlargement, replacement of, and/or additions to the Town and Village POTW, including any necessary appurtenances.

Records and Accounts:

The Town and Village shall maintain and keep proper books of records and accounts for the POTW, separate from all other records and accounts, in which shall be made full and correct entries of all transactions relating to the POTW. The Town and Village will cause an annual audit of such books of record and account for the preceding fiscal year to be made by a recognized independent certified public accountant, and will supply such audit report to authorized officials, and the public, on request.

In conjunction with the audit, there shall be an annual review of the sewer charge system to determine if it is adequate to meet expenditures for all programs for the coming year.

Classification of old and new industrial users should also be reviewed annually.

The Town and Village shall maintain and carry insurance on all physical properties of the POTW, of the kinds and in the amounts normally carried by public utility companies and municipalities engaged in the operation of sewage disposal systems. All moneys received for losses under any such insurance policies shall be applied solely to the replacement and restoration of the property damaged or destroyed.

SECTION 10 – OTHER GENERAL REGULATIONS

A. PUBLIC DISCLOSURE OF POTW OPERATIONS:

It shall be the policy of the Town and Village (Boards) to conduct all business with full disclosure to the public.

The nature and requirements of all formal procedures for applying for a permit and for requesting a permit under this Law and for requesting a hearing shall be formulated by the Town and Village and be made available to any resident of the Town and Village upon request.

The Town and Village shall formulate procedures to make available to the public for inspection such orders, statements of policy, and interpretations used by the Town and Village in administration of this Law. No rule, regulation, or civil order shall be valid until it has been available for public inspection.

B. CONFLICTS, SEVERABILITY, EFFECTIVE DATE, AND APPLICABILITY:

The provisions of any Town and Village law in conflict with any provision of this Law are hereby repealed.

Each provision of this Law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this Law which shall nonetheless remain in full force and effect.

This law shall take effect 30 days after its filing in the office of the Secretary of State.

All Sections of this Law shall apply in all areas of the Town and Village.

Village ofEllicottville.....

Local Law No..... 2..... of the year 2009

A Local Law to require installation of snow and ice barriers on the roofs of certain buildings.

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

LOCAL LAW NO. 2 OF THE YEAR 2009

A local law to require installation of snow and ice barriers on the roofs of certain buildings.

Section 1. Purpose and Intent: There are buildings in the Village which have pitched roofs in close proximity to streets, alleys, and sidewalks. During the winter months such buildings pose a threat to pedestrians due to falling ice and snow from pitched roofs. Blocking walkways to pedestrian traffic near such buildings is not an adequate remedy since pedestrians are then forced to walk in the street. In order to provide increased protection to pedestrians from falling ice and snow, the Board of Trustees feels it is necessary to require installation of snow and ice barriers on buildings which have pitched roofs within a prescribed distance from a Village street, alley or sidewalk.

Section 2. Snow and Ice Barriers: Every owner of a building abutting upon or any part of which stands within 15 feet of the line of any public street, public alley or public sidewalk, the roof of which building pitches or slopes towards the public street, public alley or public sidewalk shall fit or provide such roof with snow and ice barriers or guards sufficient to effectually prevent the sliding of snow and ice from such building into any part of the public street, public alley or public sidewalk.

Section 3. Penalties for Offenses: Upon conviction, a violation of this local law shall be deemed an offense punishable by a fine not exceeding \$250.00. Each day that a violation continues shall be considered a separate offense.

Section 4. Effective Date: This local law shall take effect on November 30, 2009.

Village ofEllicottville.....

Local Law No..... 3 of the year 1996

A local law regulating the use and operation of snowmobiles on public highways, sidewalks and lands in the Village of Ellicottville.

Be it enacted by the Board of Trusteesof the

Village ofEllicottville..... as follows:

LOCAL LAW #3 FOR 1996

A Local Law regulating the use and operations of snowmobiles on public highways, sidewalks and lands in the Village of Ellicottville.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELLICOTTVILLE, AS FOLLOWS:

SECTION I. LEGISLATIVE INTENT: The purpose of this Local Law is to protect public health, welfare and safety by regulating the operation of snowmobiles on public highways, sidewalks and public lands in the village of Ellicottville in a manner which will be compatible with the use of such highways, sidewalks and public lands for vehicular and pedestrian travel and other uses, and which will promote the safe and proper use of snowmobiles for recreation and commerce and minimize detrimental effects of such use, on the environment.

SECTION II. DEFINITIONS:

(a) The terms, words and phrases used in this Local Law shall have the same meaning as such terms, words and phrases are defined in Section 21.05 of the Parks, Recreation and Historic Preservation Law of the State of New York, as now defined or may hereafter be defined.

(b) Whenever the village is used herein, it shall mean the village of Ellicottville, New York.

SECTION III. REGULATIONS APPLICABLE: Operation of snowmobiles on highways, sidewalks and public lands within the corporate boundaries of the Village shall be subject to the applicable provisions of Articles 21 through 27 of the Parks, Recreation and Historic Preservation Law, the rules and regulations promulgated by the Office of Parks, Recreation and Historic Preservation, together with the rules, restrictions and conditions set forth in this Local Law.

SECTION IV. OPERATION GENERALLY PROHIBITED: It shall be unlawful, except as

provided in Section v. of this Local Law, for any person to drive or operate any snowmobile on, over or across any public way or public lands, highways, roads, streets, avenues, alleys, public places, public driveways, parks, sidewalks or other property of or owned by the village. It is hereby determined that outside banks and shoulders of all Village streets and highways are non-existent, or by reason of normally prevailing snow conditions and conditions of terrain are impassable.

SECTION V. EXCEPTIONS WHEN LIMITED OPERATION EXISTS: A snowmobile may be operated on the public streets or highways of the village only under the following conditions:

(a) Emergency. In an officially declared snow emergency in the village for the purpose of emergency travel only, during the period of time when, and at locations where snow upon highways renders travel by automobiles impractical, as so declared and permitted by the Mayor of the Village, Cattaraugus County Sheriff's Department or other authorized person. A snowmobile may also be operated on a street or highway in the Village in emergency situations when the specified travel for a specific purpose is authorized or directed by a state or local police officer, fire chief, highway superintendent or executive officer of a county, town or village.

(b) Road Crossings. Snowmobiles may take a direct crossing across streets and highways in the Village, as authorized by Section 25.05 of the Parks and Recreation Law.

(c) Special Events. Snowmobiles may be operated on roadways in the Village at times and in places relating to organized special events, as defined in Section 25.11 of the Parks and Recreation Law and as authorized by the New York State Commissioner of the Office of Parks and Recreation.

(d) Roadway. A snowmobile may be operated on the roadway of the following highways or portions thereof described herein: From the Mechanic Street Village Line to Elizabeth Street; from Elizabeth Street to Monroe Street; Hughey Alley from Monroe Street East to the end of Hughey Alley; Monroe Street from Elizabeth Street to the end of Monroe Street where it joins Rockwell Avenue; All of Rockwell Avenue from Monroe Street to Mill Street; All of Mill Street from East Washington Street to the Village Line; Martha Street from Monroe Street to Mill Street.

(e) Snowmobiles which are stored at premises in the Village may be operated over the most direct route on the roadways of the village streets and highways from the place of storage to the roadways designated by subdivisions (c) and (d) or from said roadways by the most direct route to the place of storage. The sole destination of snowmobiles operating under this subdivision shall be either the roadways designated by subdivisions (c) and (d) or the place of storage. The provisions of this subdivision shall not apply to Routes 219 and 242 which are owned and controlled by the State of New York.

SECTION VI. CONDITIONS AND RESTRICTIONS: Whenever the operation of a

snowmobile is permitted in the village as provided in this chapter, the following conditions and restrictions are hereby imposed on all such snowmobile operations:

(a) Nuisance. No person shall operate a snowmobile on public or private lands at such hours, in such places, or in such a manner as to disturb the quiet or peace of the people or to interfere with or damage or cause personal injury.

(b) Financial Security. It shall be unlawful for any person to operate a snowmobile on any public lands or places of the village unless the owner or operator of such snowmobile is insured against public liability and carries with him proof of financial responsibility in the manner prescribed by the Office of Parks and Recreation and of the minimum amount as provided in Subdivision Two of Section 25.13 of the Parks and Recreation Law. Such proof shall be displayed by the owner or operator of any snowmobile upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or damage to property as a result of the operation of such snowmobile by any such owner or operator.

(c) Unattended Snowmobiles. It shall be unlawful for any owner or operator to leave or allow a snowmobile to be left unattended in operational mode or with keys in ignition on any Village highway or public place.

(d) Obedience to Vehicular Traffic Controls. Each person operating a snowmobile on any village highway shall observe all vehicular signs and signals and all other rules and regulations applicable to vehicular traffic, and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic.

(e) Direction of Operation. No person shall operate a snowmobile on a street or highway within the village except upon the right side of such street or highway and in the same direction as the highway traffic. Operation on other public places shall be only in the direction marked by appropriate route direction markers.

(f) Age of Operator. No person under the age of sixteen (16) years shall operate a snowmobile within the village, except a person ten years of age but less than sixteen years of age who has received safety training as prescribed by the N.Y.S. Commissioner of Parks, Recreation, and Historic Preservation and has received the appropriate snowmobile safety certificate issued by the said commissioner may operate a snowmobile in the same manner as a person who is sixteen years of age or older.

(g) Speed Limit. No person shall operate a snowmobile within the village at a speed greater than ten (10) miles per hour. The Village Board of Trustees hereby stipulates and determines that the operation of a snowmobile within the Village limits at a speed in excess of ten (10) miles per hour is an imprudent speed the village Board of Trustees taking into consideration all of the surrounding circumstances, specifically but not in limitation thereof, the width and general terrain of the roadways designated herein, the following purposes for which

these roadways are opened for the operation of snowmobiles, to wit: Allowing persons owning snowmobiles within the Village access to areas outside the village.

(h) No person shall park a snowmobile on the Village streets between the hours of 4:00 a.m. - 6:00 a.m. from November 1 thru April 15.

SECTION VII. VIOLATIONS:

(a) Unless otherwise specifically provided, any person who violates any provision of this Local Law, or of any law, ordinance, rule, regulation or order adopted pursuant thereto, shall be guilty of a

(1) traffic infraction, if such provision, law, ordinance, rule, regulation or order is one which regulates traffic as specified in section one hundred fifty-five of the Vehicle and Traffic Law of the State of New York, but does not relate to snowmobiles.

(2) violation, for any other offense.

(b) A traffic infraction shall be punishable as provided in paragraph (b) of section one thousand eight hundred of the vehicle and traffic law in the same manner as if the offense were a violation of the said vehicle and traffic law. A violation shall be punishable as provided in the penal law of the State of New York, except that the maximum fine may not exceed one hundred dollars (\$100.00).

SECTION VIII. SEPARABILITY: If any clause, sentence, paragraph or part of this Local Law shall be adjudged by any Court of Competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder of this Local Law .

SECTION IX. EFFECTIVE DATE: FURTHER REQUIREMENT: This Local Law shall take effect immediately upon its filing in accordance with the provisions of Section 27 of the Municipal Home Rule Law, provided however, that no snowmobile shall be operated under the provisions hereof until such time as the signs and markers are installed or constructed in accordance with the requirements of Article 25 of the Parks and Recreation Law and the rules and regulations of the New York State Office of Parks and Recreation.

Village ofEllicottville.....

Local Law No. 1..... of the year 2001

A local law amending Local Law No. 3 of the year 1996 regulating the use and operation of snowmobiles on public highways, sidewalks and land's in the Village of Ellicottville

Be it enacted by the Board of Trusteesof the Village ofEllicottville..... as follows:

LOCAL LAW #1 OF THE YEAR 2001

A Local Law amending Local Law #3 of the year 1996 regulating the use and operations of snowmobiles on public highways, sidewalks and lands in the Village of Ellicottville.

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELLICOTTVILLE, AS FOLLOWS:

Local Law #3 of the year 1996 is hereby amended to read as follows:

SECTION I. LEGISLATIVE INTENT: The purpose of this Local Law is to protect public health, welfare and safety by regulating the operation of snowmobiles on public highways, sidewalks and public lands in the Village of Ellicottville in a manner which will be compatible with the use of such highways, sidewalks and public lands for vehicular and pedestrian travel and other uses, and which will promote the safe and proper use of snowmobiles for recreation and commerce and minimize detrimental effects of such use, on the environment.

SECTION II. DEFINITIONS:

(a) The terms, words and phrases used in this Local Law shall have the same meaning as such terms, words and phrases are defined in Section 21.05 of the Parks, Recreation and Historic Preservation Law of the State of New York, as now defined or may hereafter be defined.

(b) Whenever the Village is used herein, it shall mean the Village of Ellicottville, New York.

SECTION III. REGULATIONS APPLICABLE: Operation of snowmobiles on highways, sidewalks and public lands within the corporate boundaries of the Village shall be subject to the applicable provisions of Articles 21 through 27 of the Parks, Recreation and Historic Preservation Law, the rules and regulations promulgated by the Office of Parks, Recreation and Historic Preservation, together with the rules, restrictions and conditions set forth in this Local Law.

SECTION IV. OPERATION GENERALLY PROHIBITED: It shall be unlawful, except as provided in Section V. of this Local Law, for any person to drive or operate any snowmobile on,

over or across any public way or public lands, highways, roads, streets, avenues, alleys, public places, public driveways, parks, sidewalks or other property of or owned by the Village. It is hereby determined that outside banks and shoulders of all Village streets and highways are non-existent, or by reason of normally prevailing snow conditions and conditions of terrain are impassable.

SECTION V. EXCEPTIONS WHEN LIMITED OPERATION EXISTS: A snowmobile may be operated on the public streets or highways of the Village only under the following conditions:

(a) Emergency. In an officially declared snow emergency in the Village for the purpose of emergency travel only, during the period of time when, and at locations where snow upon highways renders travel by automobiles impractical, as so declared and permitted by the Mayor of the Village or other authorized person. A snowmobile may also be operated on a street or highway in the Village in emergency situations when the specified travel for a specific purpose is authorized or directed by a state or local police officer, highway superintendent or executive officer of a county, town or village.

SECTION VI. CONDITIONS AND RESTRICTIONS: Whenever the operation of a snowmobile is permitted in the Village as provided in this chapter, the following conditions and restrictions are hereby imposed on all such snowmobile operations:

(a) Nuisance. No person shall operate a snowmobile on public or private lands at such hours, in such places, or in such a manner as to disturb the quiet or peace of the people or to interfere with or damage or cause personal injury.

(b) Financial Security. It shall be unlawful for any person to operate a snowmobile on any public lands or places of the Village unless the owner or operator of such snowmobile is insured against public liability and carries with him proof of financial responsibility in the manner prescribed by the Office of Parks and Recreation and of the minimum amount as provided in Subdivision Two of Section 25.13 of the Parks and Recreation Law. Such proof shall be displayed by the owner or operator of any snowmobile upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or damage to property as a result of the operation of such snowmobile by any such owner or operator.

(c) Unattended Snowmobiles. It shall be unlawful for any owner or operator to leave or allow a snowmobile to be left unattended in operational mode or with keys in ignition on any Village highway or public place.

(d) Obedience to Vehicular Traffic Controls. Each person operating a snowmobile on any Village highway shall observe all vehicular signs and signals and all other rules and regulations applicable to vehicular traffic, and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic.

(e) Direction of Operation. No person shall operate a snowmobile on a street or highway

within the Village except upon the right side of such street or highway and in the same direction as the highway traffic.

(f) Age of Operator. No person under the age of sixteen (16) years shall operate a snowmobile within the Village, except a person ten years of age but less than sixteen years of age who has received safety training as prescribed by the N.Y.S. Commissioner of Parks, Recreation, and Historic Preservation and has received the appropriate snowmobile safety certificate issued by the said commissioner may operate a snowmobile in the same manner as a person who is sixteen years of age or older.

(g) Speed Limit. No person shall operate a snowmobile within the Village at a speed greater than ten (10) miles per hour. The Village Board of Trustees hereby stipulates and determines that the operation of a snowmobile within the Village limits at a speed in excess of ten (10) miles per hour is an imprudent speed.

SECTION VII. VIOLATIONS:

(a) Unless otherwise specifically provided, any person who violates any provision of this Local Law, or of any law, ordinance, rule, regulation or order adopted pursuant thereto, shall be guilty of a

(1) traffic infraction, if such provision, law, ordinance, rule, regulation or order is one which regulates traffic as specified in section one hundred fifty-five of the Vehicle and Traffic Law of the State of New York, but does not relate to snowmobiles.

(2) violation, for any other offense.

(b) A traffic infraction shall be punishable as provided in paragraph (b) of section one thousand eight hundred of the vehicle and traffic law in the same manner as if the offense were a violation of the said vehicle and traffic law. A violation shall be punishable as provided in the penal law of the State of New York, except that the maximum fine may not exceed one hundred dollars (\$100.00). The Court may also require the convicted person, as a condition of the sentence in addition to any other penalty, to successfully complete a snowmobile safety course approved by the Commissioner of Parks, Recreation, and Historic Preservation of the State of New York.

SECTION VIII. SEPARABILITY: If any clause, sentence, paragraph or part of this Local Law shall be adjudged by any Court of Competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder of this Local Law.

SECTION IX. EFFECTIVE DATE; FURTHER REQUIREMENT: This Local Law shall take effect immediately upon its filing in accordance with the provisions of Section 27 of the Municipal Home Rule Law,

Village of.....Ellicottville.....

Local Law No. 2of the year 1994

A local law requiring removal of snow and ice deposit on Village sidewalks by operators of private snow removal equipment.

Be it enacted by the Board of Trusteeof the Village ofEllicottville.....as follows:

Section 1. Purpose

The Board of Trustees finds that the deposit of snow and ice upon Village sidewalks during the course of snow removal on premises adjoining Village sidewalks presents a hazard to pedestrians. The purpose of this local law is to protect the health, safety and well being of persons and property by requiring the removal of snow and ice placed on Village sidewalks during the course of snow removal on adjoining premises and by requiring the operators of vehicular snow removal equipment for hire to obtain a permit.

Section 2. Restrictions

a. It shall be unlawful for the owner or occupant of premises adjoining Village sidewalks to fail to immediately clear Village sidewalks of snow and ice which has been plowed, pushed, blown or otherwise deposited onto Village sidewalks during the course of snow removal on said premises.

b. Prior to operating vehicular snow removal equipment for hire in the Village, the owner of said equipment shall obtain from the Village Clerk a current snow removal permit. A snow removal permit will not be issued until the applicant has presented to the Village Clerk proof of motor vehicle liability insurance at least equal to the minimum insurance limits required by the laws of the State of New York. Snow removal permits shall expire on October 31 of each year.

Section 3. Penalties

Upon conviction, a violation of this local law shall be deemed an offense and punishable by a fine not exceeding \$50.00 for each offense.

Section 4. Separability

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 6. Effective Date

This local law shall take effect immediately.

Village of.....Ellicottville

Local Law No. 1 **of the year 2000**

A local law amending Local Law No. 1 of the year 1994 entitled "A local law requiring removal of snow and ice deposit on Village sidewalks by operators of private snow removal equipment."

Be it enacted by theBoard of Trustees**of the Village of**.....Ellicottville **as follows:**

LOCAL LAW NO. 1 OF THE YEAR 2000

Section 1. Section 2 of Local Law No. 1 of the year 1994 shall be amended to read as follows:

Section 2. Restrictions.

a. It shall be unlawful for the owner or occupant of premises adjoining Village sidewalks or any person who operates snow removal equipment on said premises to fail to immediately clear Village sidewalks of snow and ice which has been plowed, pushed, blown or otherwise deposited on to Village sidewalks during the course of snow removal on said premises.

b. Prior to operating vehicular snow removal equipment for hire in the Village, the owner of said equipment shall obtain from the Village a current snow removal permit for each motor vehicle to be engaged in snow removal for hire in the Village by the applicant, and operation of vehicular snow removal equipment without possessing a current snow removal permit will be a violation of this local law. A snow removal permit will not be issued until the applicant has presented to the Village proof of motor vehicle liability insurance at least equal to the minimum insurance limits required by the laws of the State of New York. The snow removal permit shall be carried in each motor vehicle engaged in snow removal for hire in the Village, and will be presented by the operator of said motor vehicle upon demand of a police officer or a Village employee.

c. Holders of snow removal permits shall provide to the Village Superintendent of Public Works a list of the names and addresses of the holder's snow removal customers within the Village,

Section 2. Section 3 of Local Law No. 1 of the year 1994 shall be amended to read as follows:

Section 3. Penalties.

Upon conviction, a violation of this local law shall be deemed an offense and punishable by a fine not exceeding \$50.00 for the first offense and \$100.00 for each offense thereafter. Upon the third offense and every offense thereafter, in addition to the fine, the violator's snow removal permit will be suspended for 15 days.

Section 3. Effective Date. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No. 4 of the year 1997

A local law Standardize Building Numbers with the 911 Emergency System

Be it enacted by the Board of Trusteesof the

EllicottvilleEllicottville..... as follows:

VILLAGE OF ELLICOTTVILLE

Local Law 4 of the year 1997

A local law to standardize building numbers with the 911 Emergency System.

Be it enacted by the Board of Trustees of the village of Ellicottville as follows:

SECTION 1. Purpose. Implementation of the County-wide 911 emergency system resulted in a re-numbering of buildings and locations in the village of Ellicottville to conform to the 911 emergency system. Since emergency services are dispatched according to the 911 emergency system building and location number, the general welfare, health and safety of the residents of the village require a standardization of building and location numbers in the village to conform with the said 911 system.

SECTION 2. Adoption of 911 Numbering System. The numbering of buildings and locations in the village of Ellicottville shall conform to the numbering system implemented by the 911 emergency system, a copy of which shall be available for review at the office of the Village Clerk, and each principal building shall have affixed to its front in some conspicuous place visible from the street, numbers at least two and one-half inches (2½") in height and corresponding proportions conforming to the said 911 emergency system with said numbers to be constructed of metal, plastic or other material approved by the village Board of Trustees.

SECTION 3. Building Numbers. No numbers shall be affixed or continue to be affixed to a building which do not conform to the said 911 emergency numbering system.

SECTION 4. Responsible Parties. The duty to remove from buildings the numbers not conforming to the said 911 system shall be with the owner and tenant of the building, severally, and the owner and the tenant shall have the duty, severally, to install and maintain the proper numbers.

SECTION 5. Penalty. Upon conviction a violation of this local law shall be deemed an offense and punishable by a fine not exceeding FIFTY DOLLARS (\$50.00) for the first offense, and ONE HUNDRED DOLLARS (\$100.00) for each offense thereafter. Each week of continued violation shall constitute a separate additional violation.

SECTION 6. Separability. Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 7. Effective Date. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No. 5of the year 2006

A local law to regulate the operation of taxicabs.

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

LOCAL LAW NO. 5 OF THE YEAR 2006

A local law to regulate the operation of taxicabs.

ARTICLE I. GENERALLY

SECTION 1-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driver means and includes any person who drives a taxicab, whether such person is the owner of such vehicle or employed by the owner.

Driver's license means and includes permission granted by the Village to the person holding such license to operate and drive upon the streets of such Village any licensed taxicab.

Owner means and includes any person owning or having control of the use of a taxicab used for hire upon the streets of the Village.

Taxicab means and includes any motor vehicle engaged in the business of carrying persons for hire, accepting a sightseeing car, whether such vehicle is operated from a street stand or subject to calls from a garage, home, or office.

Taxicab license means and includes permission granted to the holder of such license by the Village to keep and use for hire a taxicab in such Village.

SECTION 1-2. Vehicles exempted.

Vehicles operated as part of the bus transportation system or operating with permission of the Interstate Commerce Commission, ambulances, vehicles used by undertakers in the conduct of their business, and vehicles rented for the purpose of being driven by the person

renting such vehicle shall be exempt from the provisions of this article.

SECTION 1-3. Penalty for violation of this local law.

Any owner who operates or permits the operation of a taxicab which is not licensed or equipped in accordance with the provisions of this local law who operates or permits the operation of such a vehicle the license of which has been suspended or revoked, or who otherwise violates any provision or requirement of this local law shall, upon conviction, be punished by a fine not exceeding \$250.00, imprisonment for a term not exceeding 15 days, or any combination thereof. With respect to violations that are continuous with respect to time, each day the violation continues is a separate offense.

SECTION 1-4. Suspension and revocation of license.

In addition to the fine or imprisonment, or both, provided for in this local law, any licensee shall be subject to the suspension or revocation of his license upon conviction for a violation. The Board of Trustees may, at its discretion, suspend a license granted under the provisions of this article pending the determination of a charge for violation against any holder of such a license.

SECTION 1-5. Fraudulent misrepresentation by driver.

No person owning or driving a taxicab shall deceive any passenger who may ride or who may desire to ride in any such vehicle as to his destination by the shortest route, the lawful price to be charged for such ride, convey such passengers to a place other than that directed by them, or in any other way than by the shortest route.

SECTION 1-6. Lost articles.

Every driver of a taxicab shall take to the nearest police station and leave with the officer in charge any property lost or left in his vehicle, and such police officer shall issue to the driver a receipt, therefore. Such articles shall be held at police headquarters, unless sooner claimed by the owner thereof, for a period of six months. If no claim is made by the owner within that period, such articles shall be returned to the driver upon presentation of the original receipt.

ARTICLE II. OWNER'S LICENSE

SECTION 2-1. Required.

It shall be unlawful for any person to use or keep for hire within the Village any taxicab without first having obtained a license therefor. Such person shall have such license in force and effect in accordance with the provisions of this article.

SECTION 2-2. Application.

An application for an owner's license shall be made by the owner of the vehicle to the Village Clerk upon a blank form furnished by the Village clerk and shall state:

- (1) The name, residence, and age of the owner of the taxicab;
- (2)The manufacturer and type of the vehicle to be used, the serial number, the state license number, the year of manufacture, and the seating capacity of the vehicle;
- (3)Whether the vehicle has been previously licensed to operate as a taxicab and, if so, for what year and in what place;
- (4)Whether the applicant has previously held an owner's license and if such license has ever been revoked and, if so, for what cause;
- (5)The applicant's previous experience, if any, as the owner or driver of a taxicab;
- (6) Such other information as the Board of Trustees may require.

SECTION 2-3. Proof of insurance of vehicle.

No owner's license for any vehicle shall be issued until proof is furnished to the Village clerk that liability insurance in the sum of at least \$150,000.00 per person, \$300,000.00 for each accident, and \$20,000.00 for property damage is carried on each vehicle. If insurance is not carried, any license for the vehicle will be automatically revoked.

SECTION 2-4. Fees for vehicles.

The taxicab owner's license fee per annum shall be as now or hereafter established by resolution of the Board of Trustees.

SECTION 2-5. Duration.

Each taxicab owner's license shall be issued as of August 1 and shall expire on July 31 next succeeding unless sooner suspended or revoked.

SECTION 2-6. Issuance; display; change of ownership.

(a) If a taxicab has an up-to-date New York State inspection sticker and meets all other governmental requirements for use as a taxicab, then upon the approval of the approval of the application and the payment of the required license fee, the Village clerk shall issue a suitable owner's license for such vehicle of such size and form as may from time to time be prescribed by the Village Clerk. The license shall remain the property of the Village and shall be for identification purposes only.

(b) The owner shall be required to display the license in a prominent position on the interior of the car. It shall be the responsibility of the owner to maintain the license in such condition that it is readily identifiable and the particulars on the license may be read.

(c) The license holder of any taxicab shall immediately notify the Village Clerk of any change in ownership of his vehicle and shall surrender his license to the Village Clerk if such change of ownership occurs.

SECTION 2-7. Register.

The Village Clerk shall keep a register of the name of each person to whom an owner's license for a taxicab is issued in accordance with this division. This register shall also contain the license number and a description of such vehicle, together with a complete record of inspections.

SECTION 2-8. Transfer.

No taxicab owner's license shall be transferred, sold, or assigned without the written approval of the Board of Trustees, which approval shall not be unreasonably withheld. If the state registration number of any vehicle licensed as a taxicab shall be changed during the time when such vehicle is licensed by the Village, such change and the new registration number shall be immediately reported to the Village Clerk.

SECTION 2-9. Replacement of vehicle.

If a vehicle is licensed as a taxicab and the owner thereof removes such taxicab from service and substitutes another vehicle therefore, such fact shall be immediately reported to the Village Clerk. Upon request, after an inspection of the new vehicle to be used for taxicab purposes, and after surrender of the owner's license for such vehicle, a new owner's license shall be issued for such vehicle for the remainder of the license year at a fee in the amount now or hereafter established by resolution of the Board of Trustees.

SECTION 2-10. Suspension and revocation.

A taxicab owner's license may be revoked or suspended at any time at the discretion of the Board of Trustees if the vehicle licensed is used for immoral business or purposes, if the

license holder is convicted of a violation of this article, or twice convicted within a period of six months of a violation of any state law relating to the operation of taxicabs. Whenever any owner's license is revoked, the license shall be surrendered to the Village Clerk. If an owner's license is suspended, the license shall be surrendered to the Village Clerk and retained by her until the suspension period expires. If any person to whom an owner's license is issued has such license suspended on three occasions, such owner's license shall thereupon be revoked.

ARTICLE III. DRIVER'S LICENSE

SECTION 3-1. Required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the limits of the Village without such driver having first obtained, paid for and having in force and effect a driver's license under the provisions of this Article.

SECTION 3-2. Application.

Each applicant for a taxicab driver's license must comply with the following to the satisfaction of the Village Clerk:

- (1) Must first have obtained a state chauffeur's license.
- (2) Be of the age of 18 years or over.
- (3) Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Fill out on a blank form, to be provided by the Village Clerk, a statement giving his full name, residence, places of residence for five years previous to moving to his present address; age, height, color of eyes and hair; place of birth, length of time he has resided in the Village, whether a citizen of the United States, places of previous employment; whether married or single; whether he has ever been arrested or convicted of a felony or misdemeanor; whether he has been summoned to court; whether he has been previously licensed as a driver or chauffeur, and if so, whether his license has ever been revoked, and for what cause; and the number of chauffeur's license issued by the state which statement shall be signed and sworn to by the applicant and filed with the Village Clerk as a permanent record. Any false statements by the applicant for a driver's license shall be promptly reported by the Village Clerk to the district attorney of the county. The Village clerk is hereby authorized and empowered to require any additional information as she may deem necessary.

SECTION 3-3. Photograph of driver.

Every applicant for a taxicab driver's license shall file with his application three unmounted, unretouched, clear, front view photographs of himself taken with 30 days preceding the filing of his application. The photographs shall be of a size required by the Village Clerk, and one of them shall be attached to the driver's license when such license is issued. Every licensed driver shall conspicuously display in the taxicab which the driver is operating, his Village taxicab driver's license containing his photograph so that the license is clearly visible to the occupants of the vehicle.

SECTION 3-4. Annual fees; transfer.

The license fee per annum for each original taxicab driver's license and for each renewal thereof shall be as now or hereafter established by resolution of the Board of Trustees. Such licenses shall not be transferable.

SECTION 3-5. Issuance.

Upon satisfactory fulfillment of the requirements of this Article, there shall be issued to the applicant a license which shall be in such form as to contain a photograph and signature of the licensee, and blank spaces upon which a record may be made of any arrest of or serious complaint against him. All licenses shall be numbered in the order in which they are issued and shall contain the name and place of residence of the licensee and the date of issuance and expiration of the license. Any licensee who defaces, removes or obliterates any official entry made upon his license shall be punished by the revocation of his license. Driver's licenses shall be issued as of August 1, in each and every year, and shall be valid to and including July 31, next succeeding, unless previously suspended or revoked.

SECTION 3-6. Record.

There shall be kept in the office of the Village Clerk a complete record of each license issued to a driver, and of all renewals, suspensions, and revocations thereof, which record shall be kept on file with the original application of the driver for a license.

SECTION 3-7. Renewal.

The Village Clerk may renew a taxicab driver's license from year to year by appropriate endorsement thereon. A driver, in applying for a renewal of his license, shall make such application not less than 30 days next preceding its expiration upon a form furnished by the Village Clerk entitled "Application for Renewal of License," which shall be filled out with the full name and address of the applicant together with a statement of the date upon which his

original license was granted, the number thereof, and such other information as the licensing officials may deem necessary.

SECTION 3-8. Suspension and revocation.

(a) A taxicab driver's license or permit may at any time be suspended or revoked for cause after a hearing by the Village Constable. Any such suspension shall be noted on the license together with a statement of the reasons therefore. When the license or permit is suspended or revoked, a note of the revocation or suspension shall be forthwith sent to the Board of Trustees.

b) A second suspension for the same reason, or, in case, a third suspension of a driver's license, shall cause the revocation of the license. No driver whose license or permit has been revoked shall be again licensed as a taxicab driver in the Village unless upon the presentation of reasons satisfactory to the Board of Trustees.

ARTICLE IV. RATES AND CHARGES

SECTION 4-1. Schedule.

The Board of Trustees shall fix from time to time a schedule of rates for the operation of taxicabs within the Village. Such rates shall be made public by the Board of Trustees and duly posted at the Village Clerk's office. Whenever rates shall be changed by the Board of Trustees, a copy of the new rate schedule shall be mailed to each taxicab owner at the address appearing on the license of the owner. Waiting time shall be included in the schedule of rates published under this Section. The owner of each cab shall keep and maintain a schedule of rates in each cab.

SECTION 4-2. Overcharge and disputed fares.

No taxicab owner or operator shall charge or attempt to charge a higher rate of fare than is provided for by this Article, nor shall any passenger refuse to pay the property and legal fare. Whenever a passenger requests a receipt, such a receipt shall be furnished by the driver of a taxicab. The receipt shall include the name of the driver, the name of the licensed owner, and the amount of the fare collected.

SECTION 4-3. Prepayment of fares.

Every driver of a taxicab shall have the right to demand payment of the regular fare in advance and may refuse employment unless prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey an orderly person upon request anywhere in the Village unless previously engaged.

Village ofEllicottville.....

Local Law No. 7of the year 2006

A local law to regulate the operation of taxicabs.

Be it enacted by the Board of Trusteesof the Village ofEllicottville as follows:

LOCAL LAW NO. 7 OF THE YEAR 2006

A local law to regulate the operation of taxicabs.

ARTICLE I. GENERALLY

SECTION 1-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driver means and includes any person who drives a taxicab, whether such person is the owner of such vehicle or employed by the owner.

Driver's license means and includes permission granted by the Village to the person holding such license to operate and drive upon the streets of such Village any licensed taxicab.

Owner means and includes any person owning or having control of the use of a taxicab used for hire upon the streets of the Village.

Taxicab means and includes any motor vehicle engaged in the business of carrying persons for hire, excepting a sightseeing car, whether such vehicle is operated from a street stand or subject to calls from a garage, home, or office.

Taxicab license means and includes permission granted to the holder of such license by the Village to keep and use for hire a taxicab in such Village.

SECTION 1-2. Vehicles exempted.

Vehicles operated as part of the bus transportation system or operating with permission of the Interstate Commerce Commission, ambulances, vehicles used by undertakers in the conduct of their business, and vehicles rented for the purpose of being driven by the person renting such vehicle shall be exempt from the provisions of this article.

SECTION 1-3. Penalty for violation of this local law.

Any owner who operates or permits the operation of a taxicab which is not licensed or equipped in accordance with the provisions of this local law who operates or permits the operation of such a vehicle the license of which has been suspended or revoked, or who otherwise violates any provision or requirement of this local law shall, upon conviction, be punished by a fine not exceeding \$250.00, imprisonment for a term not exceeding 15 days, or any combination thereof. With respect to violations that are continuous with respect to time, each day the violation continues is a separate offense.

SECTION 1-4. Suspension and revocation of license.

In addition to the fine or imprisonment, or both, provided for in this local law, any licensee shall be subject to the suspension or revocation of his license upon conviction for a violation. The Board of Trustees may, at its discretion, suspend a license granted under the provisions of this article pending the determination of a charge for violation against any holder of such a license.

SECTION 1-5. Fraudulent misrepresentation by driver.

No person owning or driving a taxicab shall deceive any passenger who may ride or who may desire to ride in any such vehicle as to his destination by the shortest route, the lawful price to be charged for such ride, convey such passengers to a place other than that directed by them, or in any other way than by the shortest route.

SECTION 1-6. Lost articles.

Every driver of a taxicab shall take to the nearest police station and leave with the officer in charge any property lost or left in his vehicle, and such police officer shall issue to the driver a receipt, therefor. Such articles shall be held at police headquarters, unless sooner claimed by the owner thereof, for a period of six months. If no claim is made by the owner within that period, such articles shall be returned to the driver upon presentation of the original receipt.

ARTICLE II. OWNER'S LICENSE

SECTION 2-1. Required.

It shall be unlawful for any person to use or keep for hire within the Village any taxicab without first having obtained a license therefor. Such person shall have such license in force and effect in accordance with the provisions of this article.

SECTION 2-2. Application.

An application for an owner's license shall be made by the owner of the vehicle to the Village Constable upon a blank form furnished by the Village Constable and shall state:

- (1) The name, residence, and age of the owner of the taxicab;
- (2) The manufacturer and type of the vehicle to be used, the serial number, the state license number, the year of manufacture, and the seating capacity of the vehicle;
- (3) Whether the vehicle has been previously licensed to operate as a taxicab and, if so, for what year and in what place;
- (4) Whether the applicant has previously held an owner's license and if such license has ever been revoked and, if so, for what cause;
- (5) The applicant's previous experience, if any, as the owner or driver of a taxicab;
- (6) Such other information as the Board of Trustees may require.

SECTION 2-3. Proof of insurance of vehicle.

No owner's license for any vehicle shall be issued until proof is furnished to the Village Constable that liability insurance in the sum of at least \$150,000.00 per person, \$300,000.00 for each accident, and \$20,000.00 for property damage is carried on each vehicle. If insurance is not carried, any license for the vehicle will be automatically revoked.

SECTION 2-4. Fees for vehicles.

The taxicab owner's license fee per annum shall be as now or hereafter established by resolution of the Board of Trustees.

SECTION 2-5. Duration.

Each taxicab owner's license shall be issued as of August 1 and shall expire on July 31 next succeeding unless sooner suspended or revoked.

SECTION 2-6. Issuance; display; change of ownership.

(a) If a taxicab has an up-to-date New York State inspection sticker and meets all other governmental requirements for use as a taxicab, then upon the approval of the approval of the application and the payment of the required license fee, the Village Constable shall issue a suitable owner's license for such vehicle of such size and form as may from time to time be prescribed by the Village Constable. The license shall remain the property of the Village and shall be for identification purposes only.

(b) The owner shall be required to display the license in a prominent position on the interior of the car. It shall be the responsibility of the owner to maintain the license in such condition that it is readily identifiable and the particulars on the license may be read.

(c) The license holder of any taxicab shall immediately notify the Village Constable of any change in ownership of his vehicle and shall surrender his license to the Village Constable if such change of ownership occurs.

SECTION 2-7. Register.

The Village Constable shall keep a register of the name of each person to whom an owner's license for a taxicab is issued in accordance with this division. This register shall also contain the license number and a description of such vehicle, together with a complete record of inspections.

SECTION 2-8. Transfer.

No taxicab owner's license shall be transferred, sold, or assigned without the written approval of the Board of Trustees, which approval shall not be unreasonably withheld. If the state registration number of any vehicle licensed as a taxicab shall be changed during the time when such vehicle is licensed by the Village, such change and the new registration number shall be immediately reported to the Village Constable.

SECTION 2-9. Replacement of vehicle.

If a vehicle is licensed as a taxicab and the owner thereof removes such taxicab from service and substitutes another vehicle therefore, such fact shall be immediately reported to the

Village Constable. Upon request, after an inspection of the new vehicle to be used for taxicab purposes, and after surrender of the owner's license for such vehicle, a new owner's license shall be issued for such vehicle for the remainder of the license year at a fee in the amount now or hereafter established by resolution of the Board of Trustees.

SECTION 2-10. Suspension and revocation.

A taxicab owner's license may be revoked or suspended at any time at the discretion of the Board of Trustees if the vehicle licensed is used for immoral business or purposes, if the license holder is convicted of a violation of this article, or twice convicted within a period of six months of a violation of any state law relating to the operation of taxicabs. Whenever any owner's license is revoked, the license shall be surrendered to the Village Constable. If an owner's license is suspended, the license shall be surrendered to the Village Constable and retained by him until the suspension period expires. If any person to whom an owner's license is issued has such license suspended on three occasions, such owner's license shall thereupon be revoked.

ARTICLE III. DRIVER'S LICENSE

SECTION 3-1. Required.

No person shall drive a taxicab and no person shall permit anyone to drive a taxicab within the limits of the Village without such driver having first obtained, paid for and having in force and effect a driver's license under the provisions of this Article.

SECTION 3-2. Application.

Each applicant for a taxicab driver's license must comply with the following to the satisfaction of the Village Constable:

- 1) Must first have obtained a state chauffeur's license.
- (2) Be of the age of 18 years or over.
- (3) Be of sound physique with good eyesight and not subject to epilepsy, vertigo, heart trouble, or any other infirmity of body or mind which might render him unfit for the safe operation of a public vehicle.
- (4) Fill out on a blank form, to be provided by the Village Constable, a statement giving his full name, residence, places of residence for five years previous to moving to his

present address; age, height, color of eyes and hair; place of birth, length of time he has resided in the Village, whether a citizen of the United States; places of previous employment; whether married or single; whether he has ever been arrested or convicted of a felony or misdemeanor; whether he has been summoned to court; whether he has been previously licensed as a driver or chauffeur, and if so, whether his license has ever been revoked, and for what cause; and the number of chauffeur's license issued by the state which statement shall be signed and sworn to by the applicant and filed with the Village Constable as a permanent record. Any false statements by the applicant for a driver's license shall be promptly reported by the Village Constable to the district attorney of the county. The Village Constable is hereby authorized and empowered to require any additional information as she may deem necessary.

SECTION 3-3. Photograph of driver.

Every applicant for a taxicab driver's license shall file with his application three unmounted, unretouched, clear, front view photographs of himself taken with 30 days preceding the filing of his application. The photographs shall be of a size required by the Village Constable, and one of them shall be attached to the driver's license when such license is issued. Every licensed driver shall conspicuously display in the taxicab which the driver is operating, his Village taxicab driver's license containing his photograph so that the license is clearly visible to the occupants of the vehicle.

SECTION 3-4. Annual fees; transfer.

The license fee per annum for each original taxicab driver's license and for each renewal thereof shall be as now or hereafter established by resolution of the Board of Trustees. Such licenses shall not be transferable.

SECTION 3-5. Issuance.

Upon satisfactory fulfillment of the requirements of this Article, there shall be issued to the applicant a license which shall be in such form as to contain a photograph and signature of the licensee, and blank spaces upon which a record may be made of any arrest of or serious offense against him. All licenses shall be numbered in the order in which they are issued and shall contain the name and place of residence of the licensee and the date of issuance and expiration of the license. Any licensee who defaces, removes or obliterates any official entry made upon his license shall be punished by the revocation of his license. Driver's licenses shall be issued as of August 1, in each and every year, and shall be valid to and including July 31, next succeeding, unless previously suspended or revoked.

SECTION 3-6. Record.

There shall be kept in the office of the Village Constable a complete record of each license issued to a driver, and of all renewals, suspensions, and revocations thereof, which record shall be kept on file with the original application of the driver for a license.

SECTION 3-7. Renewal.

The Village Constable may renew a taxicab driver's license from year to year by appropriate endorsement thereon. A driver, in applying for a renewal of his license, shall make such application not less than 30 days next preceding its expiration upon a form furnished by the Village Constable entitled "Application for Renewal of License," which shall be filled out with the full name and address of the applicant together with a statement of the date upon which his original license was granted, the number thereof, and such other information as the licensing officials may deem necessary.

SECTION 3-8. Suspension and revocation

(a) A taxicab driver's license or permit may at any time be suspended or revoked for cause after a hearing by the Village Constable. Any such suspension shall be noted on the license together with a statement of the reasons therefore. When the license or permit is suspended or revoked, a note of the revocation or suspension shall be forthwith sent to the Board of Trustees.

(b) A second suspension for the same reason, or, in case, a third suspension of a driver's license, shall cause the revocation of the license. No driver whose license or permit has been revoked shall be again licensed as a taxicab driver in the Village unless upon the presentation of reasons satisfactory to the Board of Trustees.

ARTICLE IV. RATES AND CHARGES

SECTION 4-1, Schedule.

The Board of Trustees shall fix from time to time a schedule of rates for the operation of taxicabs within the Village. Such rates shall be made public by the Board of Trustees and duly posted at the Village Constable's office. Whenever rates shall be changed by the Board of Trustees, a copy of the new rate schedule shall be mailed to each taxicab owner at the address appearing on the license of the owner. Waiting time shall be included in the schedule of rates published under this Section. The owner of each cab shall keep and maintain a schedule of rates in each cab.

SECTION 4-2. Overcharge and disputed fares.

No taxicab owner or operator shall charge or attempt to charge a higher rate of fare than is provided for by this Article, nor shall any passenger refuse to pay the property and legal fare. Whenever a passenger requests a receipt, such a receipt shall be furnished by the driver of a taxicab. The receipt shall include the name of the driver, the name of the licensed owner, and the amount of the fare collected.

SECTION 4-3. Prepayment of fares.

Every driver of a taxicab shall have the right to demand payment of the regular fare in advance and may refuse employment unless prepaid, but no driver of a taxicab shall otherwise refuse or neglect to convey an orderly person upon request anywhere in the Village unless previously engaged.

Village ofEllicottville.....

Local Law No. 2 **of the year 2007**

A local law to amend Article II Section 2–3 of Local Law No. 7 of the Year 2006.

Be it enacted by the..... Board of Trustees..... **of the Village of**Ellicottville **as follows:**

A local law to amend Article I Section 2-3 of Local Law No. 7 of the Year 2006.

SECTION 1. Article II, Section 2-3 of Local Law No. 7 of the year 2006 entitled Proof of insurance of vehicle is hereby amended to read as follows:

No owner's license for any vehicle shall be issued until proof is furnished to the Village Constable that liability insurance in the sum of at least \$50,000.00 per person, \$100,000.00 for each accident, and \$10,000.00 for property damage is carried on each vehicle. If insurance is not carried, any license for the vehicle will be automatically revoked.

SECTION 2. This local law shall take effect immediately upon filing with the Secretary of State.

Village ofEllicottville.....

Local Law No. 2**of the year 2003**

A local law providing a four year term for the elective offices of the Mayor and Trustees.

Be it enacted by the Board of Trustees **of the**
EllicottvilleEllicottville..... **as follows:**

Section 1. The term of office of Village Mayor and all trustees shall hereafter be four years commencing at the beginning of the official year following the next general village election at which such offices are to be filled.

Section 2. This local law shall take effect immediately upon filing with the Secretary of State, provided, however, that such local law is subject to a permissive referendum if required by petition.

ARTICLE VI TRAFFIC

Section 601. Definitions

(a) The words and phrases used in this article shall for the purpose of this ordinance have the meanings respectively ascribed to them by Article 1 of the vehicle and Traffic Law of the State of New York.

(b) The following words and phrases, not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meaning respectively ascribed to them in this section for purposes of the traffic ordinances of this village.

(1) "Curb Line." The prolongation of the lateral line of a curb or in the absence of a curb, the lateral boundary line of the roadway.

(2) "Holidays." New Year's day, Memorial day, Independence day, Labor day, Thanksgiving day, and Christmas day shall be considered holidays.

(3) "Village Police Officer." The members of the Police Department of the Village of Ellicottville, as defined in Section 188 of the Village Law

Section 602. Authority to install traffic control devices. The Public Works Superintendent shall install and maintain traffic control devices when and as required under the provisions of this article to make effective the provisions thereof and may install and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York subject to the provisions of Sections 1682 and 1684 of that law.

Section 603. One Way Roadways.

(a) The roadway on the east side of the Public Square is hereby designated for one-way traffic in a southerly direction between Washington Street and the parking lot at the rear of the Manufacturers & Traders Trust Company building,

(b) The roadway on the east side of the Public Square is hereby designated for one way traffic in a northerly direction between Washington Street and the alley lying between Washington Street and Elizabeth Street.

Section 604. Prohibition of U-Turns

The turning of vehicles so as to proceed in the opposite direction is hereby prohibited at the following locations :

(a) At the intersection of Washington Street and Monroe Street,

(b) At the intersection of Washington Street and Jefferson Street.

Section 605. Through Highways; Stop and Yield Intersections

(a) Washington Street (including East & West Washington Streets) is hereby designated as a through highway and:

(1) Stop signs shall be erected at the following entrances thereto:

- a. Its eastern intersection with Elizabeth Street
- b. Mill Street
- c. Adams Street from the south
- d. Parkside Drive

(2) Yield signs shall be erected at the following entrances thereto:

- a. Adams Street from the north
- b. Madison Street from the north
- c. Park Place (Public Square) from the north
- d. Its western intersection with Elizabeth Street

(3) The State's traffic signal shall control the intersection of Washington and Jefferson Streets.

(4) The State's traffic signal shall control the intersection of Washington and Monroe Street.

(b) Elizabeth Street is hereby designated as a through highway between its intersections with Washington Street, and:

(1) Stop signs shall be erected on the following entrances thereto:

- a. Monroe Street
- b. Mechanic Street
- c. Parkside Drive

(2) Yield signs shall be erected on the following entrances thereto:

- a. Adams Street
- b. Madison Street

(3) Stop signs shall be erected at all four entrances to the intersection of Elizabeth Street with Jefferson Street from the south and Elk Street from the north.

(c) Jefferson Street is hereby designated as a through highway between its intersection with Elizabeth Street and the southerly bounds of the village, and:

(1) Stop signs shall be erected at the following entrances thereto:

- a. Martha Street from east and west

(2) Yield signs shall be erected at the following entrances thereto:

a. Park Place (Public Square) from east and west

b. The roadway on the south side of the Public Square adjacent to the public school

(d) Mill Street is hereby designated as a through highway between its intersection with Washington Street and the southerly bounds of the village and stop signs shall be erected at the following entrances thereto:

(1) Martha Street

(2) Rockwell Avenue

(3) Maple Avenue

(e) (Repealed)

(f) Stop Intersections:

(1) The intersection of Rockwell Avenue with Park Avenue is hereby designated as a stop intersection and a stop sign shall be erected on Park Avenue at its entrance to said intersection from the south.

(2) The intersection of Martha Street with Monroe Street and Wulff Avenue (Monroe Street Extension) is hereby designated as a stop intersection and stop signs shall be erected on Monroe Street at its entrance to said intersection from the north and on Wulff Avenue at its entrance to said intersection from the south.

(3) The intersection of Mechanic Street with Elk Street is hereby designated as a stop intersection and stop signs shall be erected at each entrance to said intersection.

(4) The intersection of Mechanic Street with Parkside Drive is hereby designated as a stop intersection and a stop sign shall be erected on Parkside Drive at its entrance to said intersection from the east.

(g) Yield intersections:

(1) The intersection of Martha Street with Madison Street is hereby designated as a yield intersection and yield signs shall be erected on Madison Street at its entrances to said intersection from the north and south.

Section 606. Maximum speed limit

Thirty (30) miles per hour is hereby established as the maximum speed at which vehicles may proceed within the corporate limits of this village.

Section 607. Parking, standing and stopping

(a) The provisions of this section shall apply except where it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(b) Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway where there is no adjacent curb shall be so stopped, standing or parked parallel with the right-hand edge of the roadway heading in the direction of authorized traffic movement; and no such vehicle shall be stopped, left standing or parked upon the paved or main traveled part of such highway where it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of highway opposite a standing vehicle shall be left for the free passage of other vehicles.

(c) Angle parking is hereby authorized and required in the following locations:

(1) On the east side of Jefferson Street between a point 52 feet north of the northerly curb of Washington Street and the roadway on the north side of the Public Square; and on the west side of Jefferson Street between a point 55 feet north of the northerly curb of Washington Street and Park Square.

(2) On the west side of the roadway on the east side of the Public Square, between Washington Street and the alley lying between Washington Street and Elizabeth Street

(3) On the south and east sides of Park Square between a point 150 feet north of the northerly curb line of West Washington Street and Jefferson Street.

(d) Parking of vehicles is hereby prohibited in the following locations:

(1) On the east side of Park Avenue between Maple Avenue and Rockwell Avenue.

(2) On the southerly side of Maple Avenue between Park Avenue and Mill Street.

(3) On the east side of the roadway on the east side of the Public Square between Washington Street and the Alley lying between Washington Street and Elizabeth Street,

(4) on the east side of the roadway on the east side of the Public Square between Washington Street and the parking lot at the rear of the Manufacturers & Traders Trust Company building.

(5) On the east side of Park Place for a distance of 150 feet north of the northerly curb line of West Washington Street,

(6) On both sides of the roadway on the south side of the Public Square adjoining the public school.

(7) on both sides of Madison Street south of Martha Street.

(8) On the north side of Washington Street between Jefferson Street and the roadway on the east side of the Public Square.

(9) on both sides of Jefferson Street between Martha Street and the southerly bounds of the village.

(10) on both sides of East Washington Street between Mill Street and the northeasterly bounds of the village.

(11) On both sides of Mill Street between the entrance to the railroad station

and a point 50 feet south of the railroad underpass.

(12) On both sides of the alley lying between Martha Street and Washington Street for its full length from the Public Square to Mill Street.

(13) on both sides of the public alley lying between Washington Street and Elizabeth for its full length from the Public Square to its easterly terminous.

(14) On the north side of West Washington Street between Elizabeth Street and the westerly bounds of the village, On the east side of Monroe Street from a point 82 feet north of the northerly curb line of West Washington Street and Elizabeth Street.

(e) The parking of vehicles is hereby prohibited between the hours of 8:00 A.M. and 4:00 P.M. on days when school is in session in the following locations:

(1) On the east side of Jefferson Street between Washington Street and the roadway on the south side of the Public Square,

(2) On the south side of Washington Street between Jefferson Street and the roadway of the east side of the Public Square.

(f) The parking of vehicles is hereby prohibited in the following locations, between hours of 9:00 A.M. and 6:00 P.M., except on Sundays and holidays, for a period of longer than two hours:

(1) On both sides of Washington Street between the Public Square and Mill Street.

(g) During the months of December, January, February and March of each year parking of vehicles on the highways of the village, where not otherwise prohibited, is prohibited as follows:

(1) Between the hours of 4:00 A.M. and 7:00 A.M. at the following locations:

a. Washington Street, including East and West Washington Street.

b. Jefferson Street between Washington Street and Martha Street.

c. Monroe Street. d. The alley lying between Martha Street and Washington Street, from the Public Square to Monroe Street.

e. Elizabeth Street.

(2) Between the hours of 8:00 A.M. and 11:00 A.M. on all other highways of the village.

(h) The stopping, standing or parking of vehicles, other than loading and unloading of busses, is hereby prohibited at the following locations:

(1) On the west side of the roadway on the east side of the Public Square between Washington Street and the alley lying between Washington Street and Martha Street,

(i) Parking of vehicles is hereby prohibited in the following locations, between the hours of 9:00 A.M. and 9:00 P.M., for a period longer than one hour:

(1) On both sides of Monroe Street for the distance of 100 feet southerly from the southerly curb line of Washington Street.

Section 608. Removal and storage of Vehicles

(a) Whenever any village police officer finds a vehicle standing upon a highway within this village in violation of any of the provisions of this ordinance, such officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same to a position where it is lawful for such vehicle to park.

(b) Any village police officer may cause to be removed any vehicle which is:

(1) Parked or abandoned on any highway within this village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned;

(2) Found unattended on any highway within this village where said vehicle constitutes an obstruction to traffic;

(3) Parked or abandoned on any highway within this village where stopping, standing or parking is prohibited.

(c) After removal of any vehicle as provided in this section, the officer ordering such removal may store such vehicle in a suitable place at the expense of the owner. Such owner, or person in charge of the vehicle, may redeem the same upon payment to the Village Clerk of the amount of all expenses actually and necessarily incurred in effecting such removal, such charges not to exceed \$10.00, together with any charges for storage, such charges not to exceed \$2.00 per day, or fraction thereof. The officer ordering such removal and storage shall, without delay, report such removal and disposition of such vehicle to the Village Clerk and it shall be the duty of such Clerk to ascertain, with reasonable diligence, the owner of such vehicle or the person having charge of the same and to notify him or the removal and disposition of such vehicle and the amount which will be required to redeem the same.

Section 609. Exclusion of Trucks

(a) No person shall drive, propel or operate, or cause or knowingly permit to be driven, propelled or operated any commercial vehicle, truck trailer or tractor-trailer combination having combined gross weight of vehicle plus load in excess of five tons upon any of the highways of the village, other than the following: Mechanic Street, Elizabeth Street between Mechanic Street and Monroe Street, Monroe Street between Elizabeth and Washington street, Washington Street (including East and West Washington Streets), Mill Street and Jefferson Street from Washington Street southerly to the south village line.

(b) The foregoing limitation shall not apply to any truck, trailer or tractor-trailer combination actually engaged in the picking-up or delivery of merchandise or other property along any highway from which such vehicle would otherwise be excluded by this

section.

Section 610. No person shall drive or operate, or cause or knowingly permit to be driven or operated, any vehicle (including snowmobiles as defined in Article 8 of the Conservation Law), other than municipal equipment as required for official business, or drive or ride any horse or other animal upon the sidewalk.

Section 631. Penalties

(a) It is a traffic infraction for any person to violate any of the provisions of this article,

(b) Every person convicted of a traffic infraction for a violation of the provisions of this article shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than fifteen days, or both such fine and imprisonment.

(c) Any person who violates any of the provisions of this article or who shall omit, neglect or refuse to do any act required by this article shall for each violation thereof forfeit and pay a penalty of not exceeding fifty dollars; and a violation of any of the provisions of this article shall constitute disorderly conduct, and any person violating the same shall be a disorderly person, and in default of the payment of such penalty shall be committed to the county jail for a term not exceeding one day for each dollar of the penalty imposed.

Section 641. Separability of Provisions

If any part or portion of this article shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this article as a whole or any part or portion thereof other than the part so declared to be invalid or unconstitutional.

AMENDMENT TO TRAFFIC ORDINANCE

Moved by Rev.

Robert W. Barrett

Trustee

Seconded by

Howard W. Gemmel

Trustee

BE IT ENACTED AND ORDAINED by the Board of Trustees of the Village of Ellicottville, New York, as follows:

Section 1. Subdivision (b) of Section 605 of Article VI of the ordinances of the Village of Ellicottville, enacted November 12, 1964, is hereby amended to read as follows:

(b) Elizabeth Street is hereby designated as a through highway between its intersections with Washington Street, and:

(1) Stop signs shall be erected on the following entrances thereto:

- a. Monroe Street
- b. Mechanic Street
- c. Parkside Drive

(2) Yield signs shall be erected on the following entrances thereto:

- a. Adams Street
- b. Madison Street

(3) A flashing signal shall be installed at the intersection of Elizabeth Street with Jefferson Street from the south and Elk Street from the north, with flashing red indications displayed on all four sides; and in addition thereto stop signs shall be erected at all four entrances to said intersection.

\$2. This ordinance shall take effect and be in force as provided by Section 95 of the Village Law.

BOARD OF TRUSTEES, VILLAGE OF ELLICOTTVILLE

Introduced by	Trudy Elsigan	Trustee
Seconded by	Dennis Sexton	Trustee

A local law to amend Article VI, Traffic, or the ordinances of the village of Ellicottville.

Be it enacted by the board of trustees of the village of Ellicottville as follows:

Section 1. Paragraph (3) of subdivision (b) of Section 601 of Article VI of the ordinances of the village of Ellicottville, as enacted November 12, 1964, is hereby amended to read as follows:

(3) "Village Police Officer." The members of the Police Department of the village of Ellicottville, (as defined in Section 188 of the Village law, including the Mayor, each Trustee, Street Commissioner and superintendent or Public Works of said Village).

\$2. Paragraph (3) of subdivision (b) of section is of said ordinances, 18 last amended June 8, 1970 is hereby Amended to road as follows:

(3) (A flashing signal shall be installed at) stop signs shall be erected at all four entrances to the intersection of Elizabeth Street with Jefferson Street from the south and Elk Street from the north, (with flashing red Indications displayed on all four sides; and in addition thereto stop signs shall be erected at all four entrances to aaid intersection).

\$3. Paragraph (3) of subdivision (c) of Section 607 of 'said ordinances, as enacted November 12, 1964, is hereby amended to read as follows:

03) On the south and east sides of Park Square between the tennis court) a point 150 foot north of the northerly curb line of West Washington Street and Jefferson Street.

\$4. Paragraph (5) of subdivision (d) of Section 607 of said ordinances, os enacted November 12, 1964, is hereby amended to read as follows:

(5) On the east side of Park Square (beside the tennis court) for a distance of 150 feet north of the northerly line of West Washington Street.

\$5. Subdivision (d) of Section 607 of said ordinances, As last 4mondod December 24, 1969, 19 hereby amended by adding thereto a new subdivision, to be subdivision (15), to read as follows:

(15) on the east side of Monroe Street from a point 82 foot north of the northerly curd line of Washington Street to Elizabeth Street.

\$6. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1..... of the year 1976

A local law to amend Article VI Traffic of the Ordinances of the Village of Ellicottville.

Be it enacted by theboard of trustees.....of the Village ofEllicottville.....as follows:

Section 1. Paragraph (3) of subdivision (b) of section 601 of Article VI of the ordinances of the village of Ellicottville, as enacted November 12, 1964, is hereby Amended to read as follows:

(3) Village Police Officer," The members of the Police Department of the Village of Ellicottville.

\$2. Paragraph (3) of subdivision (b) of Section 605 of said ordinances, us last amended June 8, 1970, is hereby amended to read as follows:

(3) Stop signs shall be erected at all four entrances to the intersection of Elizabeth Street with Jefferson Street from the south and Elk Street from the north,

\$3. Paragraph (3) of subdivision (c) of Section 607 of said ordinances, as enacted November 12, 1964, is hereby amended to road as follows:

(3) On the south and east sides of Park Square between a point 150 foot north of the northerly curb line or West Washington Street and Jefferson Street.

\$4. Paragraph (5) of subdivision (a) of Section 607 of said ordinances, as enactad November 12, 1964. is hereby amended to road as follows:

(5) On the east side of Park Square for a distance of 150 foot north of the northerly curb line of West Washington Street.

\$5. Subdivision (d) of Section 607 of said ordinances, as last amended December 29, 1969, is hereby amended by adding thereto a new subdivision, to be subdivision (15), to read as follows:

(15) On the east side of Monroe Street from a point 82-fest north of the northerly curb line of Washington Street to Elizabeth Street.

\$6. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No......2..... **of the year 1976**

A local law to amend Section 605 of Article VI Traffic of the Ordinances of the village of Ellicottville.

Be it enacted by the..... board of trustees..... **of the Village of**.....Ellicottville..... **as follows:**

Section 1. Subdivision (e) of Section 605 of Article VI of the Ordinances of the Village of Ellicottville is hereby repealed.

\$2. Subdivision (f) of Section 605 of said ordinances is hereby amended by adding thereto two new paragraphs, to paragraphs (3) and (4), to read as follows:

(3) The intersection of Mechanic Street with Elk Street is hereby designated as a stop intersection and stop signs shall be enacted at each entrance to said intersection.

(4) The intersection of Mechanic Street with Parkside Drive is hereby designated as a stop intersection and a stop sign shall be erected on Parkside Drive at its entrance to said intersection from the east.

\$3. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 4 **of the year 1976**

A local law to amend section 607 of Article VI , Traffic, of the Ordinances of the Village of Ellicottville.

Be it enacted by the board of trustees **of the Village of** Ellicottville **as follows:**

Section 1. Subdivision (e) of Section 607 of Article VI of the Ordinances of the Village of Ellicottville, as enacted November 12, 1964, and Subdivision (h) of said section, as added December 24, 1969, are hereby repealed.

§2. Subdivision (a) of Section 607 of said ordinance is hereby amended by adding thereto a new paragraph, to be paragraph (16), to read as follows:

(16) On the east side of Jefferson Street between Washington Street and the roadway on the south side of the Public Square.

§3. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No......4..... **of the year 1979**

A local law to amend ARTICLE VI of the Ordinance of the Village of Ellicottville

Be it enacted by theBoard of Trustees.....**of the**

Village ofEllicottville.....**as follows:**

Section 1. Article VI of the Ordinances of the Village Ellicottville accepted in 1949,1963 and 1976, with any and all amendments there for, is hereby repealed and a new ARTICLE VI is hereby added, in lieu thereof to read as follows:

SECTION 601. DEFINITIONS.

(a) The words and Phrases used in the article shall for the purpose of this ordinance have the meaning respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

(b) The following words and phrases, not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for purposes of the TRAFFIC ORDINANCE OF THE VILLAGE.

(1) "Curb Line." The prolongation of the lateral line of a curb or the absence of a curb, the lateral boundary line of the roadway.

(2) "Holidays." New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas shall be considered holidays.

(3) "Village Police Officer" the member of the Ellicottville Police Department.

SECTION 602. AUTHORITY TO INSTALL TRAFFIC CONTROL DEVICES.

The Superintendent of Public Works shall install and maintain traffic control devices when and where **as** required under the provisions of this article to make effective the provisions of this article and may install and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of Section 1682 and 1684 of that law.

SECTION 603. ONE-WAY ROADWAYS.

(a) The roadway on the east side of the public Square is Hereby designed for one-way traffic in a southerly direction between Washington Street and the parking lot at the rear of the Manufacturers and Traders Trust Company building.

(b) The roadway of the east side of Public Square is hereby designed for one-way traffic in a northerly direction between Washington Street and the parking lot at the rear of the Ellicottville Inn building.

SECTION 604. PROHIBITION OF U-TURN.

The turning of vehicles so as to proceed in the opposite direction is prohibited at the following locations;

- (a) At the intersection of Washington Street and Jefferson Street.
- (b) At the intersection of Washington Street and Monroe Street.

SECTION 605. THROUGH HIGHWAYS, STOP AND YIELD INTERSECTIONS.

(a) Washington Street (including East and West Washington) is hereby designed as a through highway and:

1) Stop Signs shall be erected at the following entrances thereto:

- (a) Its eastern intersection with Elizabeth Street
- (b) Mill Street
- (c) Adam Street from both the north and south
- (d) Parkside Drive
- (e) Madison Street from both the north and south

2) Yield Signs shall be erected at the following entrances thereto:

- (a) Park Place (Public Square) from the north
- (b) Its western intersection with Elizabeth Street

3) The State's traffic signal shall control the intersection of Washington and Jefferson Streets.

4) The State's traffic signal shall control the intersection of Washington and Monroe Street

(b) Elizabeth Street is hereby Designed as a through street for its full length and:

1) Stop signs shall be erected at the following entrances thereto;

- (a) Monroe Street
- (b) *Mechanic Street*
- (c) Parkside Drive
- (d) Jefferson Street
- (e) Elk Street
- (f) *Madison Avenue*
- (g) Adams Street

(C) Jefferson Street is hereby designated as a through highway between its intersection with Elizabeth Street and the southerly bounds of the Village, and:

1) Stop signs shall be erected at the following entrances thereto:

- (a) Martha Street from both the east and west
- (b) Elizabeth Street from both the east and west

2) Yield signs shall be erected at the following entrances thereto:

- (a) Park Place (Public Square) from the west
- (b) Milks Alley (c) Maybee Alley

(d) Mill Street is hereby designated as a through highway between its intersection with Washington Street and southerly bounds of the Village and:

1) Stop signs shall be erected at the following entrances thereto:

- (a) Martha Street
- (b) Rockwell Avenue
- (c) Maple Avenue

(e) Mechanic Street is hereby designated as a through highway between its intersection with Elizabeth Street and the northerly bounds of the Village and:

1) Stop signs shall be erected at the following entrances thereto:

- (a) Elk Street
- (b) Parkside Drive

(f) Other stop intersections:

(1) The intersection of Rockwell Avenue with Park Avenue is hereby designated as a stop intersection and a stop sign shall be erected on Park Avenue at its entrance to said intersection from the south.

(2) The intersection of Martha Street with Monroe and Wuff Avenue (Monroe Street ext.) at its entrance to said intersection from north and south.

(3) The intersection of Mechanic Street with Elk Street is hereby designated as stop intersection and stop sign shall be erected on Mechanic Street at its entrance to said intersection from the north and south.

(4) The intersection of Martha Street with Madison Street is hereby designated as a stop intersection and stop sign shall be erected on Madison Street at its entrances to said inspection from the north and south.

SECTION 606. MAXIMUM SPEED LIMIT. THIRTY (30) miles per hour is hereby established at the maximum speed at which vehicles may proceed within the corporate limits of this Village, unless otherwise posted.

SECTION 607. PARKING, STANDING AND/OR STOPPING.

(a) The provision of this section shall apply except where it is necessary to stop a vehicle to avoid conflict with other traffic or compliance with the directions of a police officer or official traffic control device.

(b) Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway where there is no adjacent curb shall be stopped, standing or parked parallel with the right-hand edge of the roadway heading in the direction of author traffic movement; and no such vehicle shall be stopped, left standing, or parked upon the paved or main traveled part of such highway, but in every event an unobstructed width of highway opposite a standing vehicle shall be left for the free passage of other vehicles.

(c) Angle parking is hereby authorized and required in the following locations:

(1) On the east side of Jefferson Street Between a point 52 feet north of the northerly curb of Washington Street and the roadway on the north side of the Public Square (commonly known as Milky Alley)

(2) On the west side of Jefferson Street between a point 55 feet north of the northerly curb of Washington Street and Park Place.

(3) On the west side of the roadway on the east side of the Public Square, between Washington Street and Milky Alley.

(d) Parking of vehicles is hereby prohibited in the following places:

(1) On the east of Park Avenue between Maple and Rockwell Avenue.

(2) On the southerly side of Maple Avenue between Park Avenue and Mill Street

(3) On the east side of the roadway on the east side of the Public Square between Washington Street and Milky Alley.

(4) On the west side of the roadway on the east side of the Public Square between Washington Street and parking lot at the rear of the Manufacturers and Traders Trust Company building.

(5) On both sides of Park Place on the west side of the Court House between West Washington Street and the parking lot at the rear of the Court House

(6) On both sides of Madison street south of it intersection with Martha Street.

(7) On the north side of Washington Street between Jefferson Street and roadway on the east side of the Public Square.

(8) On both sides of Jefferson Street between Martha Street and the southerly bounds of the Village.

(9) On both sides of East Washington street from Mill Street and the northeasterly bounds of the Village.

(10) On both side of Mill Street between the entrance to the old B&O Railway Station and the southerly bounds of the Village.

(11) On both sides of Maybee Alley for its full length from Jefferson Street to Mill Street.

(12) On both sides of Milks Alley for its full length from Jefferson Street to its easterly terminus. (13) On the west side of Adams Street Between Elizabeth Street and West Washington Street. (14) On the east side of Monroe Street from the distance of 100 feet northerly of the northerly curb of Washington Street to Elizabeth.

(15) On both sides of Mechanic Street between Elizabeth Street and Elk Street.

(16) On the south side of Martha Street between Madison Street and Monroe Street.

(e) The parking of vehicles is hereby prohibited in the following locations between the hours of 9:00AM and 4:00PM except Saturdays, Sundays and Holidays, for than two (2) hours;

(1) On both sides of Washington Street between Jefferson Street and Mill Street.

(f) The parking of vehicles is hereby prohibited between the hours of 4:00AM and 6:00AM on the following Streets from Nov. 30th to March 31:

(1) Washington Street between Jefferson Street and Mill Street.

(2) Monroe Street between Elizabeth Street and Martha Street.

SECTION 608. REMOVAL & STORAGE OF VEHICLES.

(a) Whenever and Village Police Officer finds a vehicle standing upon a highway within the Village in violation of any of the provisions of this article or of the Vehicle and Traffic Law of the State of New York, such officer is hereby authorized to move such vehicle or require the owner, driver or other person in charge of such vehicle to move the same to position where it is lawful for such vehicle to park.

(b) Any Village Police Officer may cause to be removed any vehicle which is:

(1) Parked or abandoned on any highway within the Village for the purpose of snow removal.

(2) Parked or abandoned on any highway within the Village during a snowstorm, flood, fire or other public emergency which affected that portion of the public highway upon which said vehicle is parked or abandoned.

(3) Found unattended on any highway within this Village where said vehicle constitutes an obstruction to traffic.

(4) Parked or abandoned on any highway within this Village where stopping, standing or parking is prohibited

(c) After removal of any vehicle as provided in this section, the Officer ordering such removal may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of said vehicle, may redeem the same upon payment to the Village Clerk, Police Department or such person in charge of the impound area, the amount of all expenses actually and necessarily incurred in effecting such removal.

SECTION 609. EXCLUSION OF TRUCKS.

(a) No person shall drive, propel, operate or cause to be operated or knowingly permit to be operated driven or propelled any commercial vehicle, truck trailer, or tractor-trailer combination having combined gross weight of vehicle plus load in excess of Five (5) tons upon any highway of this Village, other than the following:

- (1) Mechanic Street
- (2) Elizabeth Street between Jefferson Street and East Washington Street
- (3) Monroe Street
- (4) Washington Street (including East and West Washington Street)
- (5) Mill Street
- (6) Jefferson Street

(b) The foregoing limitation shall not apply to any truck, truck-trailer or tractor-trailer combination actually engaged in the picking up or delivery of merchandise or other property along any highway from which such vehicle would otherwise be excluded by this section.

SECTION 610. PROHIBITION TO SIDEWALKS.

(a) No person shall drive or operate or cause or knowingly permit to be driven or operated any vehicle including snowmobiles and recreational vehicles upon any sidewalk of this Village.

(b) No person shall drive or ride any horse or other animal upon any sidewalk of this Village

(c) The above provisions shall not apply to any Municipal equipment in the performance of their duties.

SECTION 640. PENALTIES.

(a) It shall be a traffic infraction for any person to violate any of these provisions of the ARTICLE.

(b) Every any person convicted of a traffic infraction from violation of the provisions of this ARTICLE shall be punished by a fine of not more than fifty (50) dollars or by imprisonment for not more than fifteen (15) days or both such fine and imprisonment.

(c) Any person who violates any of the provisions of this ARTICLE or who shall omit, neglect, or refuse to do any act require by this ARTICLE shall be subject to the same penalties as prescribed to the Vehicle and Traffic Law of the State of New York.

SECTION 641. SEPARABILITY OF PROVISIONS.

If any part or portion of this ARTICLE shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ARTICLE as a whole or any part or portion thereof, other than the part or portion so declared to be invalid or unconstitutional.

92. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1..... of the year 1981

A local law to amend local law number four of the year nineteen hundred seventy-nine

Be it enacted by the Board of Trustees of the
Village ofEllicottvilleas follows:

Section 1. Section 607, subdivision (d) of local law number four of the year nineteen hundred seventy-nine of the Village of Ellicottville, is hereby amended by adding two new paragraphs (17) and (18) to read as follows:

(17) On the south side of that portion of Parkside Drive running between Mechanic Street and the Cooperative Extension parking lot, a distance of 400 feet to the west side of said parking lot.

(18) On the west side of that portion of Parkside Drive running between Elizabeth Street and the Cooperative Extension parking lot, a distance of 400 feet to the south of said parking lot.

Section 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No......2.....**of the year 1986**

A local law to amend ARTICLE VI of the Ordinances of the Village of Ellicottville, entitled
"TRAFFIC"

Be it enacted by the.....board of trustees..... **of the**
Village ofEllicottville.....**as follows:**

Section 1. SECTION 607 Subd. d(15) of ARTICLE VI of the Ordinances of the Village of Ellicottville is hereby repealed and a new Section 607 Subd. d (15) is hereby added, in lieu thereof, to read as follows:

(15) On the east side of Mechanic Street between Elizabeth Street and Elk Street.

\$2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No.1..... of the year 1988

A local law to amend, local law. 4 1979 entitled "A LOCAL LAW TO AMEND ARTICLE VI OF THE VILLAGE OF ELLICOTTVILLE, "TRAFFIC"

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

Section 1. Section 605, THROUGH HIGHWAYS; STOP AND YIELD INTERSECTIONS, Subdivision (f), Other stop intersections; is amended as follows:

Add: (5) The intersection of Maybee Alley and Monroe Street, with Monroe Street being the through street;

(6) The intersection of Maybee Alley and Jefferson Street, with Jefferson Street being the through street;

(7) The intersection of Maybee Alley and the driveway adjacent to the present M&T Bank, with. Maybee Alley being the through street;

(8) The intersection of Hughey Alley and Monroe Street, with Monroe Street being the through street;

(9) The intersection of Hughey Alley and Jefferson Street, with Jefferson Street being the through street.

SECTION 2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1..... **of the year 1989**

A local law to amend Section 606. MAXIMUM SPEED LIMIT of the Ordinances of the Village a local law of Ellicottville entitled TRAFFIC".

Be it enacted by the Board of Trustees..... **Of the**

Village of Ellicottville **as follows:**

Section 606. MAXIMUM SPEED LIMIT

Delete the words "unless otherwise posted".

Village ofEllicottville.....

Local Law No. 2 **of the year 1990**

A local law to amend Article VI, Sections 607 (e) of the ordinances of the Village of Ellicottville entitled "Traffic".

Be it enacted by the..... Board of Trustees **of the**

Village ofEllicottville..... **as follows:**

Section 1. Article VI, Section 607 (e) of the ordinances of the Village of Ellicottville is hereby amended to read as follows:

(e) The parking of vehicles is hereby prohibited in the following locations between the hours of 9:00 a.m. and 5:00 p.m. for a period of more than two (2) hours.

(1) On both sides of Washington Street between Jefferson Street and Mill Street

(2) On both sides of Monroe Street between Maybee Alley and Hughey Alley.

Section 2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No.6 **of the year 1991**

A local law to amend Article VI. Sections 607(e) of the ordinances of the Village of Ellicottville entitled "Traffic".

Be it enacted by the Board of Trustees..... **of the Village of** Ellicottville.. **as follows:**

Section 1. Article VI, Section 607 (e) of the ordinances of the Village of Ellicottville is hereby amended to read as follows:

(e) The parking of vehicles is hereby prohibited in the following locations between the hours of 9:00 a.m. and 5:00 p.m. for a period of more than two (2) hours:

- (1) On both sides of Washington Street between Jefferson Street and Mill Street.
- (2) On both sides of Monroe Street between Maybee Alley and Hughey Alley
- (3) On the east side of Monroe Street between Maybee Alley and Martha Street,

Section 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No...... 2 **of the year 1992**

A local law to amend local law number four of the year nineteen hundred seventy nine.

Be it enacted by the..... Board of Trustees**of the Village**..... Ellicottville **as follows:**

SECTION 1. Section 608, subdivision (b) of local law number four of the year nineteen hundred seventy nine of the Village of Ellicottville, is hereby amended by adding one new paragraph (5) to read as follows:

(5) Stopped, standing, or parked on any portion of any sidewalk in the Village of Ellicottville, except under the direction of a police officer or official traffic control device.

SECTION 2. Section 510, subdivision (a) of local law number four of the year nineteen hundred seventy nine of the Village of Ellicottville, is hereby amended to read as follows:

(a)No person shall drive or operate or cause or knowingly permit to be driven or operated any vehicle including Snowmobiles and recreational vehicles upon any sidewalk of the Village, nor shall any person stop, stand or park a vehicle on any portion of any sidewalk in the Village except under the directions of a police officer or official traffic control device.

SECTION 3. This law shall take effect immediately.

Village ofEllicottville.....

Local Law No. 3**of the year 1993**

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic".

Be it enacted by theBoard of Trustees**of the Village of**..... Ellicottville..... **as follows:**

Section 1. Section 607 subdivision d (16) of Article VI of the local laws of the Village of Ellicottville is hereby repealed and a new Section 607 subdivision d (16) is hereby added, in lieu thereof, to read as follows:

(16) On the north side of Martha Street between Adams Street and the point 80 feet east of the intersection of Monroe Street.

Section 2. Subdivisions 17 and 18 are hereby added to Section 607 subdivision d to read as follows:

(17) On the west side of Elk Street for its full length from Elizabeth Street to Mechanic Street.

(18) On the south side of Elizabeth Street for its full length from West Washington Street to East Washington Street.

Section 3. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No...... 3 **of the year 1994**

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic".

Be it enacted by the Board of Trustees.**of the**
Village ofEllicottville.....**as follows:**

Section 1. Section 607 subdivision d (17) of Article VI of the local laws of the Village of Ellicottville as enacted by Local Law No. 3 of the year 1993 is hereby amended to read as follows:

(17) On the east side of Elk Street for its full length from Elizabeth Street to Mechanic Street except that parking will be allowed off the street pavement on the east side of Elk Street between the existing driveways now serving The United Church of Ellicottville.

Village ofEllicottville.....

Local Law No...... 1 **of the year 1995**

A local law to amend local law number four of the year nineteen hundred seventy-nine,

Be it enacted by theBoard of Trustees..**of the**

Village ofEllicottville.. **as follows:**

SECTION 1. Article VI of the Laws of the Village of Ellicottville entitled "Traffic" is hereby amended by adding Section 605-1 to read as follows:

Section 605-1. ONE WAY STREETS AND ALLEYS

- (a) Marshall Alley is hereby designated a one way street from its intersection with Washington Street northwesterly a distance of 200 feet and traffic in said portion of Marshall Alley shall be allowed to proceed only in a northwesterly direction.

Village ofEllicottville.....

Local Law No...... 1 **of the year 1996**

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic".

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

Section 1. Section 607 of Article VI of the local laws of the Village of Ellicottville is hereby amended by the addition of subdivision (g) to read as follows:

(g) The Village Board of Trustees may designate by resolution parking restrictions for a particular parking space or spaces on the streets of the Village, provided that a sign setting forth the restrictions shall be installed on the curbside immediately adjacent to the space subject to the restrictions.

Section 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No...... 2**of the year 1997**

A local law to amend Section 605 of Article VI of the local laws of the Village of Ellicottville entitled "Traffic",

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

SECTION 1. Subdivision (b) of Section 605 of Article VI of the Laws of the Village of Ellicottville entitled "Traffic" is hereby repealed.

SECTION 2. Subdivision (f) of said Section 605 of Article VI is hereby amended by adding the following paragraph:

(5) The intersections of Elizabeth Street with Adams Street, Madison Street, Jefferson Street, Elk Street, Monroe Street, and Mechanic Street are hereby designated as stop intersections and stop signs shall be erected at each entrance to said inter sections.

SECTION 3. This local law shall take effect immediately,

Village of.....Ellicottville.....

Local Law No..... 1 of the year2000

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic" by adding Section 611. Traffic Violations Bureau.

Be it enacted by theBoard of Trustees.....of the
Village of.....Ellicottville..... **as follows:**

LOCAL LAW NO. 1 OF THE YEAR 2000

Section 1, Section 611. Traffic Violations is hereby added to Article VI of the local laws of the Village of Ellicottville entitled "Traffic" to provide as follows:

(a) Traffic Violations Bureau - There is hereby established a Traffic Violations Bureau to assist the Ellicottville Village Court in the disposition of charges in relation to traffic violations, pursuant to Article 14-B of the General Municipal Law.

(b) Personnel of the Traffic Violations Bureau - The Village Clerk shall be in charge of the Traffic Violations Bureau and the days and hours that the Bureau Shall be open for the transaction of its official business shall be bureau determined by the Village Clerk.

(c) Jurisdiction of the Traffic Violations Bureau - The Traffic Violations Bureau is hereby authorized to dispose of violations pertaining to standing or parking prohibitions and any other non-moving violations specified by the Village Justice after a person has been notified of a violation by the affixing of a notice of violation on a vehicle parked in violation of any provisions of this Article VI of the local laws of the Village of Ellicottville or the Vehicle and Traffic Law within forty-eight (48) hours of the time of affixing of said notice.

(d) Procedure

1. A person may appear in person or by a written power of attorney in such form as shall be prescribed by the Village Justice by paying a fine established by the Village Justice and in writing, waiving a hearing in court, pleading guilty to the charge and authorizing the person in charge of the Bureau to make such a plea and pay such a fine in court.

2. The Bureau shall accept such designated fines and issue receipts therefor.

3. The Bureau shall cause a complaint to be entered against each person who does not answer within the designated time and a summons or a warrant to be issued for his arrest and appearance before the court.

4. Any person who shall have been, within the preceding twelve (12) months, guilty of a number of parking violations in excess of such maximum number as may be designated by the Court or of three (3) or more violations other than parking violations shall not be permitted to appear and to answer to a subsequent violation at the Traffic Violations Bureau, but must appear in Court at a time specified by the Bureau.

5. Nothing contained in this Article shall authorize the Traffic Violations Bureau to deprive a person of his right to counsel or to prevent him from exercising his right to appear in Court to answer to, explain, or defend any charge of a violation of a traffic law, ordinance, rule and regulation.

(e) Records and reports - The Bureau shall keep records and submit detailed monthly reports to the Village Justice of all notices or summons issued and disposed of by said Bureau and such other information to be prescribed by the Village Justice or by law and transmit with said reports all sums collected to the Village Justice.

(f) Except where otherwise specifically provided, the penalty for parking or standing violations, and for the violation of every other local law of the Village of Ellicottville regulating parking or standing of motor vehicles shall be a fine of \$25.00 for each offense. If such fine is not paid within 10 days of the offense, the penalty shall be \$35.00 and if not paid within 30 days of the offense, the penalty shall be \$50.00. The Mayor and the Board of Trustees may from time to time change these penalties by resolution adopted at a public meeting held not less than 15 days after publication in the official Village newspaper of a notice of intention to adopt same.

Section II. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No...... 1 **of the year 2003**

A local law to amend Article VI of the Local Laws of the Village of Ellicottville entitled "Traffic".

Be it enacted by the Board of Trustees**of the**
Village of.....Ellicottville.....**as follows:**

SECTION 1. Section 607 subdivision d of Article VI of the local laws of the Village of Ellicottville is hereby amended by adding the following subdivisions (19) and (20):

(19) On the north side of Rockwell Avenue between Mill Street and Monroe Street Extension,

(20) On the south side of Rockwell Avenue within 20 feet of the intersection with Park Avenue and Rockwell Avenue.

SECTION 2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No..... 3**of the year 2003**

A local law to amend Section 605 of Article VI of the local laws of the village local law to amend Section 60 Ellicottville entitled "Traffic",

Be it enacted by the Board of Trustees..... **of the Village of**.....Ellicottville..... **as follows:**

Section 1. Subdivision (f) (2) of said Section 605 of Article VI is hereby amended to read as follows:

(f) (2) The intersection of Martha Street with Monroe Street and Monroe Street Extension is hereby designated a four way stop intersection and stop signs shall be erected on Monroe Street at its entrance to the said intersection from the north and on Monroe Street Extension at its entrance to the said intersection from the south and on Martha Street at its entrances to the said intersection from the east and west.

Section 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No...... 1 **of the year 2004**

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled traffic".

Be it enacted by theBoard of Trustees.....**of the**
Village ofEllicottville **as follows:**

Section 1. Section 607 subdivision d of Article VI of the local laws of the Village of Ellicottville is hereby amended by adding subdivisions (19) and (20) to the list of places where parking of vehicles is prohibited as follows:

(19) On the west side of Fillmore Street for its full-length,

(20) On the east side of Fillmore Street from the intersection of the east bounds of Fillmore Street with the northwesterly bounds of Washington Street northwesterly for a distance of approximately 900 feet to the intersection of the east bounds of Fillmore Street with the southerly bank of the tributary to Elk Creek which crosses Fillmore Street.

Section 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No..... 1of the year 2006

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic".

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

Section 1. Section 607 subdivision d of Article VI of the local laws of the Village of Ellicottville is hereby amended to add subdivision 19. as follows:

(19) On both sides of Mill Street between Washington Street and Martha Street.

Section 2. This local law shall take effect immediately,

Village ofEllicottville.....

Local Law No. 4**of the year 2006**

A local law to amend Section 640 of Article VI of the Laws of the Village of Ellicottville entitled "Traffic".

Be it enacted by the Board of Trustees.....**of the**
Village ofEllicottville **as follows:**

SECTION 1. Section 640 Penalties of Article VI of the Laws of the Village of Ellicottville entitled "Traffic" is hereby amended to read as follows:

(a) It shall be a traffic infraction for any person to violate any of the provisions of the ARTICLE.

(b) Any person who violates any of the provisions of this Article or who shall omit, neglect, or refuse to do any act required by this Article shall be subject to the same penalties for a traffic infraction as prescribed in the Vehicle and Traffic Law of the State of New York, provided, however, that the penalty for stopping, standing or parking violations as set forth in this Article or the Vehicle and Traffic Law of the State of New York shall be the following fines:

(1) \$150.00 for stopping, standing or parking a vehicle in any area designated as a place for handicapped parking unless the vehicle bears the necessary permit or registration required by the Vehicle and Traffic Law of the State of New York for handicapped parking and such vehicle is being used for the transportation of a severely disabled or handicapped person.

(2) \$50.00 for all other parking violations provided that if the fine for such other violations is not paid or the violation contested within 10 days of the date of the violation, the fine shall be \$65.00 , and if not paid within 30 days of the date of the violation the fine shall be \$ 100,00

SECTION 2. This local law shall take effect immediately upon filing with the Secretary of State.

Village ofEllicottville.....

Local Law No. 1of the year 2007

A local law to amend Article VI of the local laws of the Village of Ellicottville entitled "Traffic".

Be it enacted by theBoard of Trustees..... of the

Village ofEllicottville as follows:

SECTION 1. Article VI of the Laws of Ellicottville entitled "Traffic" is hereby amended by adding subdivision (b) to Section 605-1 One Way Streets and Alleys to read as follows:

Section 605-1. One Way Streets and Alleys

(b) Maybee Alley is hereby designated a one way street from its intersection with the east bounds of Monroe Street easterly to its terminus and traffic on said portion of Maybee Alley shall be allowed to proceed only in an easterly direction.

SECTION 2. This local law shall take effect immediately.

Village of.....Ellicottville.....\

Local Law No...... 1 **of the year 2014**

A local law to amend local law number four of the year nineteen hundred seventy-nine.

Be it enacted by the Board of Trustees **of the**

Village of Ellicottville **as follows:**

SECTION 1. Section 605-1 entitled One Way Streets and Alleys of Article VI of the Laws of the Village of Ellicottville entitled "Traffic" is hereby amended by adding subdivision (b) as follows:

(b) Hughey Alley is hereby designated a one way street from its intersection with Monroe Street westerly to its intersection with Jefferson Street and traffic in said portion of Hughey Alley shall be allowed to proceed only in a westerly direction.

SECTION 2. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No..... 3 of the year 2016

A local law repealing Local Law No. 1 of 2014

Be it enacted by theVillage Board Of the

Village of Ellicottville as follows:

**LOCAL LAW NO:3-2016 A LOCAL LAW REPEALING
LOCAL LAW No. 1 OF 2014**

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board (“Board”) of the Village of Ellicottville, New York (“Village’) as follows:

Section 1: TITLE

This Local Law shall be known as the Local Law Repealing Local Law No. 1 of 2014.

Section 2: PURPOSE

The Board finds that it is in the best interests of the Village and its residents that Hughey Alley be returned to a two-way alley.

Section 3: REPEAL LOCAL LAW NO. 1 OF 2014.

Local Law No. 1 of 2014 is hereby repealed to return Hughey Alley to a two-way alley.

Section 4: EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York State Secretary of State.

Village of.....Ellicottville.....

Local Law No.....**5**..... **of the year 1975**

A local law regarding the employment and compensation of the village attorney.

Be it enacted by theBoard of Trustees.....**of the**

Village of.....Ellicottville..... **as follows:**

Section 1. The board of trustees of the Village of Ellicottville may employ an attorney and pay him a reasonable compensation. The board also may, from time to time, employ such village attorney to attend to any other legal matters not included in the original cor the compensation and pay him for such services. Such compensation shall be in addition to the village attorney's annual compensation and shall be a legal charge against the village. The board also may, from time to time as necessity requires, employ an attorney, other than the one regularly employed, to perform any special service for the village, and pay a reasonable compensation therefor, and the expense may be a legal charge against the village.

\$2. This local law shall take effect immediately.

(If additional space is needed, please attach sheets of the same size as this and number each)

Village of.....Ellicottville.....

Local Law No.....1.....of the year 1982

A local law To provide for the appointment of a village tree board and for the planting, maintenance and removal of trees and shrubs in the Village of Ellicottville.

Be it enacted by the.....board of trustees.....**of the Village of**.....Ellicottville.....**as follows:**

Section 1. Short title

This local law shall be known and may be cited as the "Village Tree Local Law of the Village of Ellicottville, New York."

\$2. Definition:

As used in this local law the following terms shall have the meanings indicated in this section.

1. "Tree" shall also include a shrub, bush or other woody vegetation.
2. "Street tree" shall mean tree standing within the bounds or right-of-way of a public street, highway, road, avenue, alley or other public way.
3. "Park tree shall mean a tree standing on land within a public park or other area owned by the village, whether within or without the corporate limits of the village, other than a street.
4. "Village" shall mean the Village of Ellicottville, New York.
5. "Board of Trustees" shall mean the board of trustees of the Village of Ellicottville

\$3. Grant of authority

The board of trustees may provide for the planting, trimming, protection, removal and preserving of trees and shrubs in streets, parks and other public places of the village; may prohibit any injury, defecement, mutilation or destruction of trees, shrubs or grass plots in public streets and places, parks or playgrounds; may furnish and install shade trees between sidewalk line and curb line and assess the abutting property owners for the cost thereof; may, in order to make the streets more safe for travel, to protect the pavement, sidewalks, curbs, gutters and pipes within the public street, and for the general beautification of the streets of the village, with the consent of the owner of the abutting premises, enter upon such abutting premises to plant suitable trees, Such planting work may be done by employees of the village or by Contract and such trees shall thereafter be maintained by the owner of the abutting premises.

\$4. Village tree board

- a. There is hereby created a village tree board which shall consist of five members. Of the persons first appointed the term of one shall expire at the end of the current official

year, the term of two shall expire at the end of the next official year, and the term of two shall expire at the end of the second official year after the current official Their successors shall be appointed for terms of three official years each. The tree board shall elect one of its members chairman, keep minutes of its proceedings and, subject to the approval of the board of trustees, adopt rules and regulations in respect to the conduct of its meetings and in respect to any subject matter over which it has jurisdiction.

b. It shall be the duty of the village tree board:

1. To study the problems and determine the needs of the village in connection with its tree planting program.
2. To recommend the type and kind of trees to be planted in the village.
3. To assist the officials of the village, as well as its residents, in dissemination of information regarding the selection, planting and maintenance of trees within the village, whether the same be on public or private property, and to make recommendations from time to time to the board of trustees as to desirable legislation concerning the tree program and activities of the village.
4. To hold meetings at which the subject of trees insofar as it relates to the village may be discussed by the members of the tree board, the officers and personnel of the village and any other persons interested in the village's tree program.
5. To prepare a plan for the care, preservation, pruning, planting, placing, removal or disposition of trees and shrubs in the public parks, along the public streets and in other public places of the village, and annually to present such plan to the board of trustee for its consideration, modification, approval and funding; which plan as so approved and funded shall constitute the official comprehensive village tree plan.
6. To supervise the implementation of the official comprehensive village tree plan as so approved and funded, and to carry out any other function imposed upon it by this local law or delegated to it by the board of trustees.

\$11. Tree topping

It shall be unlawful for any person, firm, corporation or public official or employee to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. If, however, a tree is severely damaged by storm or other cause, or if located under utility wires or other obstructions where other pruning practices or relocation of such wires or obstruction is not practical the village tree board may grant an exemption from the provisions of this section under such terms and conditions as it may specify.

\$12. Removal of dead or diseased tree on private property

The village tree board may require the owners of land to remove any dead or diseased tree on

private property where such tree constitutes a hazard to the life or property of the users of the public streets or other public places, or harbors insects or disease which constitutes a potential threat to other trees within the village within such reasonable time, or not less than thirty days, as may be specified in a notice served upon such owner either personally or by registered or certified mail addressed to his last known address; and upon default may cause such dead or diseased tree to be removed by the village and the cost of such removal shall constitute a lien and charge upon the real property from which such tree is removed and may be levied on the village tax roll and collected in the manner provided by law for the collection of delinquent water rents.

\$21. Review by the board of trustees

The conduct, acts and decisions of the village tree board shall be subject to review by the board of trustees, either on its own motion or by appeal by any officer of the village or by any person aggrieved by any ruling or decision of such tree board.

\$31. Penalties

Any person, firm or corporation violating any provision of this local law shall on conviction be subject to a fine of not to exceed one hundred dollars.

\$41. Separability

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by Any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances and the board of trustees hereby declares that it would have enacted this local law or the remainder thereof without the invalid part, provision or application as the case may be, had the invalidity of such provision or application thereof been apparent.

\$42. Effective date

This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....2.....of the year 1988

A local law to amend Local Law 1, 1982 entitled: A LOCAL LAW TO PROVIDE FOR APPOINTMENT OF VILLAGE TREE BOARD AND FOR THE PLANTING, MAINTENANCE AND REMOVAL OF TREES AND SHRUBS IN THE VILLAGE OF ELLICOTTVILLE.

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

Section 1: §11. Local Law 1, 1982, is amended to read as follows:

§11. Tree Topping.

a) Except as otherwise provided in §20 Permits, it shall be unlawful for any person, firm, corporation, public utility, or public employee or official, to top any tree, street tree or park tree, or any tree on public land within the Village of Ellicottville.

b) Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

Section 2: There shall be added §20 and §20A to said Local Law:

§20. Permits. Since the "Tree Forest" existing within the Village of Ellicottville, on public land, is a natural resource of the Village, and since the Village, through its Clerk and Board of Trustees, and the Village Tree Board, need to be kept informed of the condition of such "Tree Forest", and actions which may affect same, accordingly, "tree topping" as set forth in SII, shall be allowed only upon the grant of a permit therefor by the Village. Boara, after consultation with and advice from the Village Tree Board.

a) Each application for such "tree topping" permit, or "removal of dead or diseased tree" permit shall contain a plan for trimming, topping or removal of trees, if more than one tree is involved.

b) The permit shall be for a maximum term of one (1) year, and may contain such reasonable conditions pertaining to the health and welfare of the citizens of the Village as may deem appropriate under the circumstances, including a requirement that a "performance bond" be posted

c) The Village Board shall act upon such permit application within sixty (60) days of its receipt.

d) The Village Board, by resolution, may, but is not required to, set a fee for such permit application, may waive such fee, or may change or modify such fee. In the event that any fee is charged, same shall be posted in the Village Clerk's Office, and the Village Clerk is designated as the agent to collect such fee.

e) The Village Clerk shall keep a record of all such applications for permit, and permits issued.

\$20A. Emergency. In the event of a bona fide emergency, or imminent danger to life or property, the provisions of this Local Law relating to permit application shall not be applicable.

Section 3. Effective Date.

This Local Law shall be effective immediately.

Village of.....Ellicottville.....

Local Law No.....1.....of the year 1999

A local law to amend Local Law No. 1 of 1982 as amended by Local Law No.2 of 1998,

Be it enacted by theBoard of Trustees.....of the Village ofEllicottville.....as follows:

LOCAL LAW NO. 1 OF THE YEAR 1999

A Local Law To Amend Local Law No. 1 of 1982 as Amended by Local Law No. 2 of 1988,

Local Law No. 1 of 1982 as amended by Local Law No. 2 of 1988 is hereby amended to read as follows:

SECTION 1. Short title. This local law shall be known and may be cited as the "Village Tree Local Law of the Village of Ellicottville, New York."

SECTION 2. Definitions. As used in this local law the following terms shall have the meanings indicated in this section.

A. "Tree" shall also include a shrub, bush or other woody vegetation.

B. "Street Tree" shall mean a tree standing within the bounds or right-of-way of a public street, highway, road, avenue, alley or other public way.

C. "Park Tree" shall mean a tree standing on land within a public park or other area owned by the Village, whether within or without the corporate limits of the Village, other than a street.

D. "Village" shall mean the Village of Ellicottville, New York,

E. "Board of Trustees" shall mean the Board of Trustees of the Village of Ellicottville.

SECTION 3. Grant of Authority, The Board of Trustees may provide for the planting, trimming, protection, removal and preserving of trees and shrubs in streets, parks and other public places of the Village; may prohibit any injury, defacement, mutilation or destruction of trees, shrubs or grass plots in public streets and places, parks or playgrounds; may furnish and install shade trees between sidewalk line and curb line; may, in order to make the streets more safe for travel, to protect the pavement, sidewalks, curbs, gutters and pipes within the public street, and for the general beautification of the streets of the Village, with the consent of the owner of the abutting

premises, enter upon such abutting premises to plant suitable trees. Such planting work may be done by employees of the Village or by contract and such trees shall thereafter be maintained by the owner of the abutting premises.

SECTION 4. Village Tree Board.

A. There is hereby created a Village Tree Board which shall consist of five members. Of the persons first appointed the term of one shall expire at the end of the current official year, the term of two shall expire at the end of the next official year, and the term of two shall expire at the end of the second official year after the current official year. Their successors shall be appointed for terms of three official years each. The Tree Board shall elect one of its members chairman, keep minutes of its proceedings and, subject to the approval of the Board of Trustees, adopt rules and regulations in respect to the conduct of its meetings and in respect to any subject matter over which it has jurisdiction.

B. It shall be the duty of the Village Tree Board:

1. To study the problems and determine the needs of the Village in connection with its tree planting program.
2. To recommend the type and kind of trees to be planted in the Village,
3. To assist the officials of the Village, as well as its residents, in dissemination of information regarding the selection, planting and maintenance of trees within the Village, whether the same be on public or private property, and to make recommendations from time to time to the Board of Trustees as to desirable legislation concerning the tree program and activities of the Village.
4. To hold meetings at which the subject of trees insofar as it relates to the Village may be discussed by the members of the Tree Board, the officers and personnel of the Village and any other persons interested in the Village's tree program.
5. To prepare a plan for the care, preservation, pruning, planting, replacing, removal or disposition of trees and shrubs in the public parks, along the public streets and in other public places of the Village, and annually to present such plan to the Board of Trustees for its consideration, modification, approval and funding; which plan as so approved and funded shall constitute the official comprehensive Village tree plan.
6. To supervise the implementation of the official comprehensive Village tree plan as so approved and funded; and to carry out any other function imposed upon it by this Local Law or delegated to it by the Board of Trustees.

SECTION 5. Tree Topping. Except as otherwise provided in Section 9 Permits, it shall be unlawful for any person, firm, corporation, public utility, or public employee or official (other than a public employee or official acting pursuant to the direction of the Board of Trustees), to top any street tree or park tree, or any tree on public land within the Village of Ellicottville.

A. Topping is defined as the severe cutting back of limbs within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

SECTION 6. No Disturbance of Trees. No person shall plant, remove, cut, trim, spray, prune, fertilize or otherwise disturb any street tree, park tree or any other tree located at a public place without first filing an application and procuring a permit from the Village Tree Board as set forth in Section 9 herein.

SECTION 7. Village Employees and Public Utilities. Section 5 and Section 6 shall not apply to Village employees or public utilities acting in response to a bona fide emergency, or imminent danger to life or property or pursuant to the direction of the Board of Trustees.

SECTION 8. Removal of Dead or Diseased Trees on Private Property.

The Village Tree Board may require the owners of land to remove any dead or diseased tree on private property where such tree constitutes a hazard to the life or property of the users of the public streets or other public place, or harbors insects or disease which constitute a potential threat to other trees within the Village within such reasonable time, of not less than thirty days, as may be specified in a notice served upon such owner either personally or by registered or certified mail addressed to his last known address; and upon default may cause such dead or diseased tree to be removed by the Village and the cost of such removal shall constitute a lien and charge upon the real property from which such tree is removed and may be levied on the Village tax roll and collected in the manner provided by law for the collection of the delinquent water rents.

SECTION 9. Permits. Since the "Tree Forest" existing within the Village of Ellicottville, on public land, is a natural resource of the Village, and since the Village, through its Clerk and Board of Trustees, and the Village Tree Board, need to be kept informed of the condition of such "Tree Forest", and actions which may affect same, accordingly, "tree topping" as set forth in Section 5 and other disturbance of trees as set forth in Section 6, shall be allowed only upon the grant of a permit therefor by the Village Tree Board.

A. Each application for such "tree topping" permit, or "other disturbance of tree" permit shall contain a plan for trimming, topping or other actions in regard to trees.

B. The permit shall be for a maximum term of one (1) year, and may contain such reasonable conditions pertaining to the health and welfare of the citizens of the Village as the Village Tree Board may deem appropriate under the circumstances, including a requirement that a "performance bond" be posted.

C. The Village Tree Board shall act upon such permit application within (60) days of its receipt.

D. The Board of Trustees, by resolution, may, but is not required to, set a fee for such permit application, may waive such fee, or may change or modify such fee. In the event that any fee is charged, same shall be posted in the Village Clerk's Office, and the Village Clerk is designated as the agent to collect such fee.

E. The Village Clerk shall keep a record of all such applications for permit, and permits issued.

SECTION 10. Emergency. In the event of a bona fide emergency, or imminent danger to life or property, the provisions of this Local Law relating to permit application shall not be applicable.

SECTION 11 Review by Board of Trustees. The conduct, acts and decisions of the Village Tree Board shall be subject to review by the Board of Trustees, either on its own motion or by appeal by any officer of the Village or by any person aggrieved by any ruling or decision of such Tree Board.

SECTION 12. Penalties. Any person, firm or corporation violating Section 5, 6 or 8 of this Local Law shall on conviction be subject to a fine not to exceed two hundred fifty dollars (\$250.00).

SECTION 13. Separability. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances and the Board of Trustees hereby declares that it would have enacted this Local Law or the remainder thereof without the invalid part, provision or application as the case may be, had the invalidity of such provision or application thereof been apparent.

SECTION 11. Effective Date. This Local Law shall take effect immediately.

Village of Ellicottville

Local Law No. 2**of the year 1993**

A local law Regulating the cross connection of water supplies

Be it enacted by theBoard of Trustees... ..**of the**

Village of Ellicottville..... ... **as follows:**

ARTICLE I

LEGISLATIVE INTENT

The purpose of this Local Law is to safeguard potable water supplies from potential contamination by preventing back flow from a water user's system into the public water system. It is the intent of this Local Law to recognize that there are varying degrees of hazard and to apply the principle that the degrees of protection should be commensurate with the degrees of hazard. Further, it is the intent of the Village of Ellicottville, New York, to comply with the requirements of New York State Sanitary code, Part 5, Section 5-1.31 which section mandates the requirement that the supplier of water protect their water system in accordance with procedures acceptable to the Commissioner of Health. These mandated requirements are as set forth in the Cross Connection Control Manual published by the New York State Sanitary code, Part 5, Section 5-1.31 and the Cross Connection Control Manual are incorporated in this Local Law by reference as if more fully stated.

ARTICLE II

DEFINITIONS

- 1) Cross Connections. The terms "cross connection" as used in this Local Law means any unprotected connection between any part of a water system used or intended to be used as a supply of water for drinking purposes in a source or systems containing water or substance that is not or cannot be approved as equally safe, wholesome and potable for human consumption.
- 2) Approved Water Supply. The term "approved water supply" means any water supply approved by the New York State Department of Health.
- 3) Auxiliary Supply. The term "auxiliary supply" means any water supply on or available to the premises other than the approved public water supply.
- 4) Vacuum Breaker - Pressure Type and Non-Pressure Type. A vacuum breaker which can only be used for internal plumbing control and, therefore, not acceptable as a containment device.

5) Approved Check Valve. The term "approved check valve" means a check valve that seals readily and completely. It must be carefully machined to have free moving parts and assured water tightness. The face of the closure element and valve seal must be bronze, composition, or other non-corrodible material which will seal tightly under all prevailing conditions of field use.

Pins and bushings shall be of bronze and other non-corrodible, non-sticking material, machined for easy dependable operation. The closure element shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

6) Approved Double Check Valve Assembly. The term "approved double check valve assembly" means two single independently acting check valves, including tightly closing shut off valves located at each end of the assembly and suitable test connections. This device must be approved as a complete assembly.

7) Approved Reduced Pressure Zone Device. The term "approved reduced pressure zone device" means a minimum of two independently acting check valves together with automatically operated pressure differential relief valve located between the two check valves. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shut off valves located at each end of the device, and each device shall be fitted with properly located test cocks. This device must also be approved as a complete assembly.

8) Air Gap Separation. The term "air gap separation" means a physical break between a supply pipe and a receiving vessel. The air gap shall be at least double the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no - case less than one inch.

9) Water Supervisor. The term "water supervisor" means the consumer or a person on the premises charged with the responsibility of complete knowledge and understanding of the water supply piping within the premises and for maintaining the consumer's water system free from cross connections and other sanitary defects, as required by this Local Law and all other required regulations and laws.

10) Certified Back Flow Prevention Device Tester. The terms "certified flow prevention device tester" is an individual who has successfully completed a New York State Department of Health approved course in the testing of back flow prevention devices and has been issued a certificate by the New York State Department of Health.

ARTICLE III

A) Where Protection is Required. The water system shall be required to maintain a degree of protection commensurate with the degree of hazard regardless of whether the hazard is immediate or potential. To that extent, the Cross Connection Control Manual published by NYSDOH shall be used as a guide, to determine where protection is "required". It shall be the responsibility of the water user to provide and maintain such required protection devices and

such devices shall be of a type acceptable to the New York State Department of Health. Plans for the installation of protective devices must be submitted to the Superintendent of the village Water Department and the County Health Department for approval.

B) Type of Protection. The protective device required shall depend on the degree of hazard as tabulated below:

(1) Where a residential customer maintains an auxiliary water supply in addition to the public water supply, the two systems must not be interconnected. Where the two systems are interconnected, the following options will be deemed appropriate with existing New York State policies and recommendations and with this local law.

a. Disconnection of the auxiliary water supply from the public water supply. An inspection to determine compliance will be made initially and at least every three years thereafter or whenever the property is sold. The inspection may be made by the water supplier or the local building codes inspector;

b. Installation of an acceptable Reduced Pressure Zone (RPZ) device on the public water supply connection;

c. Proper abandonment of the auxiliary water supply;

d. Sampling for the auxiliary water supply to determine quality in accordance with Sections 5-1.50 and 5-1.51 of the New York State Sanitary Code. Sampling frequency will be specified by the State or local health department. Where water quality does not meet the standards, one of the first three alternatives would apply.

(2) At the service connection to any premises on which a substance that would be objectionable (but not necessarily hazardous to health if introduced into the public water supply) is handled so as to constitute a cross connection, the public water supply shall be protected by an approved double check valve assembly.

(3) At the service connection to any premises on which a substance of unusual toxic concentration or danger to health is or may be handled; but not under pressure, the public water supply shall be protected by an air gap separation or an approved reduced pressure zone backflow prevention device. If an air gap is installed, it shall be located as close as practical to the water meter, and all piping between the water meter and receiving tanks shall be entirely visible. A reduced pressure zone device when installed shall be located as close as possible to the property line.

(4) At the service connection to any premises on which any material dangerous to health, or toxic substance and toxic concentration, is or may be handled under pressure, the public water supply shall be protected by an air gap separation. The air gap shall be located as close as practical to the water meter, and any piping between the water meter and receiving tanks shall

be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected by an approved reduced pressure zone back flow prevention device and it shall be located as close as possible to the property line.

(5) At the service connection to any sewage treatment plant or sewage pumping station, the public water supply shall be protected by an air gap separation. The air gap shall be located as close as practicable to the water meter and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected by an approved reduced pressure zone back flow prevention device and it shall be located as close as possible to the property line,

C)Frequency of Inspection of Protective Devices. It shall be the duty of the water user on any premises on account of which back flow protective devices are installed, to have competent inspections made at least once a year, or more often in instances where successive inspections indicate repeated failure or where the Village Superintendent of Public Works deems necessary due to the degree of hazard. Devices shall be repaired, overhauled or replaced at the expense of the water user whenever they are found to be defective. These tests shall be performed by a qualified back flow prevention device tester and all test results will be provided to the water supplier within 72 hours after the test is made. Records of such tests, repairs and overhaul shall also be kept and made available to the water supplier and the local health department upon request. The water user shall notify the Superintendent of Public Works in advance, in writing, when the tests are to be undertaken so that he or his representative may witness the test if the Superintendent of Public Works so desires. .

ARTICLE IV

PENALTIES AND RECOURSE FOR NON-COMPLIANCE

No water service connection to any premises shall be installed or maintained by the water user, unless the water supply is protected as required by this Local Law and such other applicable local, state and federal laws, rules and regulations.

B) If any facility served by a water system denies a water department person access to their premises for the purposes of determining if protection to the public water system is necessary, then the maximum protection condition shall be imposed with the requirement that the number of devices shall equal the number of service lines.

C) The following penalties shall be applicable for a violation of this Local Law:

1. Failure to install the appropriate back flow prevention device within a prescribed time frame after first notice:

\$250.00

2. Failure to install the appropriate back flow prevention device within prescribed time frame after second notice:

Termination of Service

3. Failure to at least annually test the back flow prevention device:

\$300.00 and/or termination of water service

4. Failure to replace or repair a back flow prevention device as required:

\$1,000.00 and/or termination of water service

ARTICLE V
EFFECTIVE DATE

This Local Law shall take effect upon filing with the office of the Secretary of State.



VILLAGE OF ELLICOTTVILLE

1 Washington Street,-Ellicottville, NY 14731
Phone (716) 699-4636 / Fax (716) 699-2334

RULES AND REGULATIONS GOVERNING WATER SERVICE

Effective: October 15, 2012

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**VILLAGE OF ELLICOTTVILLE
COUNTY OF CATTARAUGUS, NEW YORK
RULES AND REGULATIONS GOVERNING WATER SERVICE**

SECTION I - DEFINITIONS

ACCEPTABLE BACKFLOW PREVENTION DEVICE:

An acceptable air gap, reduced pressure zone device or double check valve assembly as used to contain potential contamination within a facility. In order for such a device to be acceptable, it must be listed in the current New York State Department of Health list of Acceptable Backflow Prevention Devices.

AESTHETICALLY OBJECTIONABLE FACILITY:

Is one in which substances are present which if introduced into the potable water supply could be a nuisance to other water customers, but would not adversely affect human health. Typical examples of such substances are food grade dyes, hot water and stagnant water from fire lines in which no chemical additives are used.

AIR CONDITIONING SYSTEM:

Any combination of equipment whether compressor or other type, by which heat is removed from the air of temperatures which are less than 60 degrees Fahrenheit, and from which the accumulation of effluent heat is wholly or partially removed by the use of water.

AIR GAP SEPARATION:

The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or any other device and the flooded level rim of the receptacle. The differential distance shall be at least double the diameter of the supply pipe, measured vertically, and in no case shall the air gap be less than (1) inch.

AUXILIARY WATER SUPPLY/PRIVATE WELL:

Any water supply on or available to the premises other than from the public water supply system. These auxiliary supplies may include water from natural sources such as a well, spring or stream.

CONTRACTOR:

A person or entity acceptable to the Village as qualified to perform the installation of water lines and appurtenances thereto.

CURB BOX:

The point of connection between a street lateral and a building lateral.

CURB STOP:

A valve accessible for operations from the surface of the ground for interrupting flow from the service lateral/street at the curb box.

CUSTOMER:

The word "Customer", as used herein, means the owner or the tenant contracting for or using water service on a single premise; and the word "Customers" means all so contracting for and using service.

CUSTOMER'S WATER SYSTEM:

The piping used to convey water supplied by the public water supply system throughout a customer's facility. The system shall include all those parts of the piping beyond the control point of the Village. The control point is either the curb valve or the main valve located in the public right-of-way that isolates the customer's facilities from the Village water distribution system.

CROSS CONNECTION:

A connection to a water supply, the source of which is other than the water lines owned by the Village of Ellicottville. These connections are unauthorized and illegal.

DUE DATE:

The date upon which a bill or notice indicates that payment is due.

HAZARDOUS FACILITY:

A facility, in which substances may be present which, if introduced into the public water system, would or may endanger or have an adverse effect on the health of other water customers. Typical examples are laboratories, sewage treatment plants, chemical plants, hospitals and mortuaries.

INTERCONNECTION:

An interconnection is a plumbing arrangement, other than a cross connection, by which contamination might be admitted or drawn into lines connected therewith used for the conveyance of potable water.

MAINS:

Distribution pipelines which are located in streets, highways, public ways or private right-of- way, and which are used to serve the general public.

MAIN EXTENSIONS:

Extensions of distribution pipelines beyond existing facilities and exclusive of service connections.

MISCELLANEOUS FEES:

A schedule of fees established by the Village of Ellicottville for the cost of services, labor or materials as included in the RATE SCHEDULE attached to and made a part of these Rules and Regulations.

OCCUPANT:

The person actually in possession or control of any premises or part thereof.

OWNER:

The word "Owner", whenever the same appears herein, means the person, firm, corporation or association having an interest as owner, or a person, firm or corporation representing itself to be the owner, whether legal or equitable, sole or only partial, in any premises which is or is about to be supplied with water by the Village of Ellicottville; and the word "Owners" means all so interested.

PERSON:

Any individual, public or private corporation, political subdivision, Federal, State, or Local agency or entity, trust, estate or any other legal entity whatsoever. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

PUBLIC WATER SUPPLY SYSTEM:

The water supply system owned by the Village, including the source, treatment works, transmission

mains, distribution system and storage facilities serving the public. This includes the distribution system up to the connection with the customer's water system.

PREMISES:

The word "Premises", as used herein, means the property or area, including improvements thereto, which water service, is or will be provided and, as used herein, shall be taken to designate:

- a. A building under one roof owned or leased by one customer and occupied as one residence or one place of business; or
- b. A group or combination of buildings owned by one customer, in one common enclosure, occupied by one family or one organization, corporation or firm, as a residence or place of business, or for manufacturing or industrial purposes, or as a hospital, church, public or private school or similar institution, except as otherwise noted herein; or
- c. Each apartment, office or suite of offices, and/or place of business located in a building or group of buildings, even though such buildings in a group are interconnected by a tunnel or passageway, covered areaway, or patio or by some similar means or structure; or
- d. A public building devoted entirely to public use, such as
 - i. village hall, schoolhouse, fire house; or
 - ii. a single vacant lot or park or playground; or
 - iii. each house in a row of houses; or
 - iv. each dwelling unit in a row of houses; or
 - v. a dwelling unit with exclusive culinary facilities designed for occupancy and used by one person or one family (household); or
 - vi. each dwelling unit in a public housing development owned and operated by the United States of America, a municipal subdivision of the State of New York, or an agency or instrumentality of the United States or the State of New York; by a philanthropic foundation or organization or some such similar body or organization; or

operated under private ownership; or

- vii. each trailer, whether free standing or located in a trailer park area.

RATE SCHEDULE (TARIFF):

The entire body of effective rates, rentals, charges and regulations, as published by the Village of Ellicottville, are attached to and made a part of these Rules and Regulations.

REDUCED PRESSURE ZONE (RPZ) DEVICE, ACCEPTABLE:

A minimum of two (2) independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow, the pressure between these two check valves shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device. Each device shall be fitted with properly located test cocks. This device must be approved as a complete assembly.

REFRIGERATION SYSTEM:

Any combination of equipment, whether compressor or other type, by which heat is removed from the air of temperatures which are not less than 60 degrees Fahrenheit, and from which the accumulation of effluent heat is wholly or partially removed by the use of water.

SERVICE-COMMERCIAL:

Provision of water to premises where the customer is engaged in trade and/or commerce.

SERVICE-DOMESTIC:

Provision of water for office or household residential purposes, including water for sprinkling lawns, gardens (not commercial type) and shrubbery, watering livestock, washing vehicles, and other similar and customary purposes.

SERVICE-INDUSTRIAL:

Provision of water to premises for use in manufacturing or processing activities.

SERVICE LATERAL-BUILDING:

A water line owned by the property owner serving a building extending from the curb box downstream to a building.

SERVICE LATERAL-STREET:

A water line owned by or to be conveyed to the Village serving a building extending from the corporation cock located on the water main downstream to a curb box.

SERVICE - FLAT:

Provision of water to premises that is not measured.

SERVICE - METERED:

Provision of water to premises in measured quantities.

SERVICE - MULTIPLE:

Provision of water through one meter installation to more than one premises (see Section VI, Item 7).

SERVICE - PRIVATE FIRE PROTECTION:

Provision of water to premises exclusively for fire protection.

SERVICE - PUBLIC FIRE PROTECTION:

The furnishing of service through public fire hydrants.

SERVICE - PUBLIC OR MUNICIPAL:

Provision of water to a municipal subdivision of the State of New York or agency thereof or to other similar public bodies.

SERVICE - TEMPORARY:

A service for uses which are not permanent.

SERVICE LINE CONNECTIONS:

The pipe, valves and other facilities by means of which the Village of Ellicottville conducts water from its distribution mains to the curb valve to be located at the curb line or property line of the premises, and specifically includes the corporation stop or other means of connection to the main, the service line connection to the corporation stop and extending to the point of connection to the curb valve, the curb stop, the services box and such other facilities.

SERVICE LINE EXTENSION:

The pipe, valves and other facilities by means of which water is conducted from the curb valve to the premises, and specifically includes the service line extending from a point of connection to the curb valve to a point inside the walls of the premises or meter box, where approved, a stop cock or approved valve on the line at this point, connections for the inlet and outlet sides of the meter, a stop and waste cock on the outlet side of the meter and such other facilities.

SUPPLIER OF WATER:

The owner or operator of a public water supply.

SUPERINTENDENT:

The individual designated by the Village as the administrator of and is in responsible charge of the Public Water Supply System of the Village or a portion thereof or his representative.

TENANT:

The word "Tenant", whenever the same appears herein, is anyone other than the owner occupying the premises and obtaining water from the mains of the Village of Ellicottville.

TAPPING FEES:

A fee which shall not exceed an amount based upon some or all of the following fee components:

- a. Capacity Part - A fee which may not exceed an amount based upon the real cost of labor, material, equipment and handling, including overhead costs, incurred by the Village in providing

water system related services to premises served by the water system, users, the public or persons who request such services. These facilities will include those required to provide service such as mains, hydrants and pumping stations as well as those that will provide future service. The fee may be scaled to the level of service involved.

- b. Connection Fee – The one time application fee to offset the Village’s expenses to process an application for a connection of a building/street lateral to the public water system. The fee which may not exceed an amount based upon the cost of distribution facilities required to provide service such as mains, hydrants and pumping stations. These facilities will include those that provide existing service and or those that will provide future service. The fee will cover the cost of the plan review, permit issuance, materials and labor expended by the Village in connection with the application and inspection of the work. The fee may be scaled to the level of service involved.
- c. Special Purpose Part - Fees for special purpose facilities applicable only to a particular group of customers, or serving a particular purpose and/or serving a specific area, based upon the cost of such facilities, including but not limited to booster pump stations and fire service facilities. These facilities will include those that provide existing service and/or those that will provide future service. Special purpose charges will be accessed as part of a tapping fee only on a case by-case basis and only based upon the cost of those facilities necessary to service the needs of the particular customer in question.

WATER SUPPLY:

The public water supply of the Village of Ellicottville.

WATER FACILITY or WATER FACILITIES or WATER SUPPLY SYSTEM or WATER SYSTEM:

Means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, storing, supplying, transmitting, treating or distributing water, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals,

aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification plants or other treatment plants or works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, storage, treatment or distribution of water.

VILLAGE:

The word "Village", whenever the same appears herein, means Village of Ellicottville, a municipal corporation of the State of New York located in the County of CATTARAUGUS.

ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ANSI	American National Standards Institute
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
C	Celsius
CSA	Canadian Standards Association
F	Fahrenheit
G	Grams
ISO	International Organization for Standardization
L	Liter
MG	Milligram
MM	Millimeter
NPT	National Pipe Thread
NSF	National Sanitation Foundation
NYCRR	Official compilation of the Codes, Rules and Regulations of the State of New York
NYSDOT	-New York State Department of Transportation
OD	Outside Diameter
PE	Polyethylene
PPI	Polypropylene Pipe Institute
PPM	Parts per Million
PSI	Pounds per Square Inch
PVC	Polyvinyl Chloride
SDR	Standard Dimension Ration
SIDR	Standard Inside Dimension Ratio
UL	Underwriters Laboratories

SECTION II – GENERAL PROVISIONS

1. The purpose of this part is to provide for the beneficial use of the Village water facilities through the regulation of connection and water use, as well as to provide for the equitable recovery of the costs of the water facilities. This part shall apply within the corporate limits of the Village and to persons and properties outside of the Village, who are, by contract or agreement with the Village, users of the water facilities. The property within the Village boundaries, and persons or properties located outside the Village who are users shall constitute the service area of the Village Water Facilities.
2. The Village of Ellicottville maintains its principal office at the Village Hall, 1 Washington Street, P.O. Box 475, Ellicottville, New York 14731. Unless otherwise provided or directed, all communications related to these Rules and Regulations shall be delivered to such office address.
3. The headings and table of contents used herein are for convenience and reference only and shall not define, describe, limit or control the scope or meaning of the provisions of these regulations.
4. All applications, contracts, agreements, notices and any other forms required in connection with the regulations prescribed herein shall be in the form and shall contain such general conditions, provisions and terms as the Village board shall approve. Copies of all such forms shall be on file at the office of the Village of Ellicottville.
5. The confidentiality of user information and data submitted as necessary for any application, record, report, plan, or other document required by these regulations shall be governed by the state Freedom of Information Law (sections 84 through 90 of the Public Officers Law of the state of New York) and by other applicable state or federal statutes and regulations. Any requests by a user to keep specific data and information confidential must be made in writing at the time of submission.

6. If any provision, paragraph, word, section or article of these regulations is invalidated by any court, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.
7. The occupancy of any building or any water service connection and user service connection lawfully existing on the date of the adoption of these regulations shall be permitted to continue without change; except that any repairs, replacements, reconstruction or construction thereafter shall be performed in compliance with these regulations, and also excepting as is otherwise provided in the Village code, the Building Code of the State, the Plumbing Code of the State, the Property Maintenance Code of the State, the Fire Code of the State and the State Sanitary Code or other applicable law or regulation.
8. The provisions of these regulations shall not be deemed to nullify or modify any provisions of local, state or federal laws and regulations.

SECTION III - CONDITIONS OF SERVICE

1.0 GENERAL:

The Village of Ellicottville will furnish water and services only in accordance with the currently prevailing and as hereafter revised Rates, Rules and Regulations of the Village of Ellicottville, which Rates, Rules and Regulations are made a part of every application, contract, and agreement of license entered into between the property owner or customer and the Village of Ellicottville.

These Rates, Rules and Regulations Governing Water Service are applicable alike to the main or basic service system and districts herein and to the other public and private systems and districts therein that may be connected to the system, except as otherwise set forth.

The Village of Ellicottville hereby reserves the right, so often as it may deem necessary, to alter, amend, and/or repeal the Rates and/or these Rules and Regulations, or any part thereof;

and in whole or in part to substitute new Rates, Rules and Regulations, which altered, amended and/or repealed said new Rates, Rules and Regulations shall forthwith, become and thereafter be a part of every such application, contract, agreement or license for water service in affect at the time of such alteration, amendment and/or adoption.

2.0 CONNECTION TO THE PUBLIC WATER SUPPLY:

Any person or entity with a Village of Ellicottville main water line available to their premises as determined by the Superintendent shall access this main water line in accordance with prevailing Village ordinances.

SECTION IV - APPLICATION FOR SERVICE AND CONTRACTS

1.0 APPLICATION FOR WATER SERVICE:

A written application, prepared on the form furnished by the Village of Ellicottville, must be submitted to the Village of Ellicottville for the purpose of requesting water service; said application must be signed by the owner or tenant of the premises or the owner or tenant's duly authorized agent.

When the Village of Ellicottville has agreed to provide water service through a separate meter and separate service line to a residential dwelling unit in which the owner does not reside, the owner shall be liable to pay the tenant's bill for service rendered to the tenant if the Village of Ellicottville notifies the owner and the tenant within 30 days after the bill first becomes overdue. Such notification shall be provided by first class mail to the address of the owner provided to the Village of Ellicottville by the owner and to the billing address of the tenant respectively.

Nothing herein, shall be construed to require the Village of Ellicottville to terminate service to the tenant provided that the owner shall not be liable for any service which the Village of Ellicottville provides to the tenant 90 or more days after the tenant's bill first becomes due unless the Village of Ellicottville has been prevented by court order from terminating service to that tenant.

The Village of Ellicottville will make every attempt to notify the owner as soon as permissible under the law of any delinquency of a tenant who has been provided service through a separate meter and separate service line. In the event that a tenant has vacated a unit without notice to the Village of Ellicottville, the Village of Ellicottville will continue to exert every effort to collect any delinquent water bills due and owing at the time of the vacation of the premises. Provided however, that the owner shall be requested to render any assistance to the Village of Ellicottville by providing the Village of Ellicottville with a forwarding address of the tenant or other appropriate information as to the tenant's whereabouts. Notwithstanding such assistance, the owner will be responsible for payment in accordance with the preceding paragraph.

Before any application for water service made by a tenant will be approved, the owner of the premises shall provide to the Village of Ellicottville an address where the owner will accept mail for the purposes set forth in this section. It shall be the responsibility of the owner to notify the Village of Ellicottville of any change of address within 30 days of the occurrence of such change.

2.0 APPLICATION - A CONTRACT:

The application for water service shall be a binding contract on both the customer and the Village of Ellicottville. Rates for water service shall accrue from the date the water supply service has been completed and water is available to the premises, with respect to the work and responsibilities of the Village of Ellicottville.

3.0 CONTRACTS WITH DELINQUENTS:

No agreement will be entered into by the Village of Ellicottville with any applicant for water service, whether owner or tenant, until all arrears for water, rents, bills for meter repairs or other charges, due from applicant and/or owner at any premises now or theretofore owned or occupied by him, shall have been paid or until satisfactory arrangements for payment of such unpaid bills shall have been made. Such payments shall include the minimum charge for each

month the service was suspended.

4.0 SPECIAL CONTRACTS:

The Village of Ellicottville may require, prior to approval of services, special contracts other than applications under the following conditions:

- a. If the construction of an extension and/or other facilities is necessary;
- b. For providing temporary service, including water service for building or other special purposes. Water for building purposes shall be used only from a temporary metered connection approved by the Village of Ellicottville, and shall not be permitted for flow into the house fixtures. See attached Schedule of Rates;
- c. For standby or fire protection service;
- d. For connections with other qualified utilities or political subdivisions; if deemed necessary by the Village of Ellicottville.

5.0 GOVERNMENTAL REGULATIONS A PART OF CONTRACT:

All contracts for water service shall be subject to the following provision. The contract shall at all times be subject to such changes or modifications as may be directed by action of the Legislature of the State of New York or any other regulatory body.

6.0 INDIVIDUAL LIABILITY FOR JOINT SERVICE:

Two or more parties who join to make application for service shall be jointly and severally liable and shall be sent one single periodic bill to the person designated by the parties at the time the application for service is made.

7.0 CONDITION OF PLUMBING SYSTEM:

The piping and fixtures on the property of the customer are assumed to be in satisfactory condition at the same time service facilities are connected and water furnished; and the Village of Ellicottville, therefore, will not be liable in any case for any accidents, breaks or leakage that in

any way are due to the connection with the supply of water, or failure to supply the same, or for the freezing of piping and fixtures of the customer, nor for any damage to the property which may result from the usage or non-usage of water supplied to the premises.

SECTION V - CHARGES

1.0 GENERAL:

Charges are as defined in the Schedule of Rates.

SECTION VI - SERVICE CONNECTIONS

1.0 SERVICE LINE EXTENSION:

The Village of Ellicottville reserves the right to defer the installation of service connections during inclement weather until such times as, in the judgment of the Village of Ellicottville, conditions are suitable for an expeditious and economical installation.

The Village of Ellicottville reserves the right to determine the size and the kind of the service line connection.

- a. Back Flow Preventers Required – The purpose of this article is to safeguard the potable water supply of the Village from potential contamination by preventing the backflow from a water user’s system into the public water system and to comply with the requirements of the New York Sanitary Code; Part 5, Section 5-1.31 and the applicable Local Law, codes or ordinances governing such installations. The Superintendent shall be responsible for the protection of the water distribution system from contamination due to the backflow of contaminants into the public water supply. If in the judgment of the Superintendent a backflow prevention device is required in accordance with the requirements referenced herein, the Superintendent shall give notice in writing to said customer at the premises. The customer shall install such approved device or devices at their own expense; any failure, refusal, or inability on the part of the customer to install such device shall immediately constitute a ground for discontinuing water service to the premises until

such device or devices have been properly installed. The customer's water system shall be open for inspection by the Superintendent at all reasonable times.

- b. It shall be the duty of the customer at any premises where backflow prevention devices are installed to have certified inspections and operational tests made at least once a year. In those instances where the Superintendent deems the hazard to be great enough, he or she may require certified inspections at more frequent intervals. Certified inspections and operational tests must also be made when any backflow prevention device is to be installed, repaired, overhauled or replaced, in addition to the requirement of an annual certified inspection and operation test. All inspections and tests shall be at the expense of the customer and shall be performed by the device manufacturer's representative, Village personnel, or by a certified tester approved by the Superintendent. The Superintendent shall make available the names, addresses and telephone numbers of these persons who are certified as testers for the backflow prevention devices. The customer shall notify the Superintendent in advance, in writing, when the tests are to be undertaken so that he or she may witness the tests if the Superintendent so desires. These devices shall be repaired, overhauled or replaced at the expense of the customer whenever said devices are found to be inadequate. Records of tests, repairs and overhauls shall be kept and made available to the Superintendent. Copies of all testing and maintenance records shall be sent to the Superintendent immediately after the work is performed. The failure, refusal or inability on the part of the customer to obtain such certified inspections and operational tests shall immediately constitute grounds for discontinuing water service to the premises until such inspections and tests have been properly conducted.
- c. Maintenance: All service lines between the curb box and the meter shall be maintained by the property owner without expense to the Village of Ellicottville for

repairs, renewals or replacements. Any leaks in such service lines must be repaired immediately by the owner or occupant of the premises. The Village of Ellicottville reserves the right to discontinue service to any owner who fails to make any repairs required for a continuous period of five days after notice of an obligation to make such repairs is served on the owner by first class mail or posted at the address of the owner provided to the Village of Ellicottville. Provided that, if the Village of Ellicottville, in its discretion, determines that an emergency situation exists the customer's service will be suspended pursuant to Section VIII (4.0) until repairs are completed by the owner.

When meter boxes are located at the curb, the riser pipes and connections therein will be installed by and at the expense of the customer, and no customer or workman shall alter, change or in any way tamper with the meter box, meter, or piping and connections therein without authorization from the Village of Ellicottville. In cases where services are frozen, the thawing out of the service pipe shall be done by the customer at his own expense. To avoid a recurrence of freezing, the Village of Ellicottville will make an examination of customer's service pipe and, if the same is not at a depth of four feet as required, the Village of Ellicottville shall have the right to require it to be relocated before service is resumed.

- d. Installation: the service line extension, and all required appurtenances, shall be installed by the customer at his expense. The installation shall be in accordance with the following requirements:

2.0 GENERAL:

The installation shall include a connection of the service line to the curb stop extension of the service line from the curb stop to a point within the building wall or facilities housing the meter, the installation of a stop cock or compression valve, without waste, the same size as the service line on the street side and

immediately before the meter, a stop and waste cock on the outlet side of the meter, an approved backflow preventer if applicable, and all facilities inside the building to be located so as to be readily accessible, protected from freezing and to provide proper drainage for the piping in the building, the installation to include also such facilities as are hereinafter set forth. The installation shall be made by skilled and qualified workmen. The Contractor for the customer shall provide the Village of Ellicottville sufficient time in advance, not less than twenty-four (24) hours, when the service line extension will be installed, in order to permit the Village of Ellicottville sufficient time to schedule its work and install the service line connection.

- a. **Material and Size** - The material for all service lines two inches in size and under shall be first quality soft copper service tubing, Type K, copper pipe "I.P." size, as manufactured in accordance with Federal Specification W-T799 and its latest revisions or Polyethylene (PE) pressure pipe with a minimal pressure class rating of 200 p.s.i., manufactured and installed in accordance with AWWA Standard C901- 02. All service lines over two inches in size shall be ductile iron pipe, or PVC manufactured in accordance with the Specifications of the American Water Work Standards Association Number A21.2 or A21.6, and shall have bell and spigot or mechanical joint ends, the latter type joints to be in accordance with American Standards Association Specification A2 1.11; the pipe to be the Class required for the particular service.

- b. **Installation and Testing Requirements**

- 1. **Installation** - The service line extension must be laid in a straight line, at right angles to the street where possible, and at a depth to provide not less than 4 feet cover, and as necessary to secure proper alignment and avoid obstacles. The bottom of the trench shall be excavated so as to conform to the curvature of the pipe and afford good bearing surface.

Where rock is encountered, the excavation shall be carried below the bottom of the pipe for the distance required and the excavation backfilled with earth or clay well tamped to the proper grade. PE service lines shall be embedded with sand and a tracer wire (14 gauge insulated copper detection wire) attached to the PE pipe and stubbed up at the curb box and water service line inside the building.

No service pipe shall be laid in the same trench with gas pipe, drain or sewer pipe, or any other facility of another public service company or within three feet thereof, nor within three feet of any open excavation or vault.

The joints in pipe laid underground shall be made with a mechanical coupling of a design and material satisfactory to the Village of Ellicottville, no soldered joint shall be used, and no joints shall be made within a distance of less than five feet from the exterior wall of the premises. All pipes passing through foundation or bearing walls shall be provided with suitable sleeves and the annular space between the sleeve and the pipe made watertight. The sleeves shall be the size specified by the Village of Ellicottville. The installation of the service lines shall be in complete accordance with the Standard Specifications of the Village of Ellicottville as contained herein with respect to such work.

2. Hydrostatic Tests - No service line shall be covered until the service line is filled with water and subjected to a hydrostatic test, this test to be observed by a representative of the Village of Ellicottville.

The line shall be slowly filled with water, all air expelled and the maximum pressure in the Village of Ellicottville system allowed to develop in the service line. All pipe, fittings, valves and joints shall be carefully examined during the

test. All materials found defective shall be removed and replaced with sound and satisfactory materials and all leaks completely eliminated.

The Village of Ellicottville exercises the right to require that the small service line be subjected to a hydrostatic test of 200 lbs. for 2 hours, and will require such a test on all service line extensions, including fire protection lines, the test pressure in no case in connection with this increased pressure test to be less than 200 pounds.

3. Inspection - The Village of Ellicottville shall be notified when the installation is completed and prior to backfilling, so that the service line can be subjected to the aforesaid hydrostatic test in the presence of a representative of the Village of Ellicottville and an inspection made of both workmanship and materials. The notice shall include such data as the location, the name of the owner and tenant and the time the work will be ready for inspection.

Water will not be supplied through the service line extension or any related part thereof or through any service or supply line which has not been inspected in the open trench and approved by the Village of Ellicottville. This regulation applies to both original installation and repairs. The Village of Ellicottville may charge a fee for the inspection of an original installation and a fee for each additional trip necessary to complete the inspection, said fees to be the charges in effect at the time of said inspection work and made a part of the Schedule of Rates and Fees. If the inspection indicates failure to comply with the requirements, water service will not be granted until the proper remedial measures have been taken.

3.0 MAINTENANCE - SERVICE LINE EXTENSION:

All service lines shall be maintained in satisfactory condition by the customer; and all valves, meters and

appliances furnished and owned by the Village of Ellicottville and on the property of the customer shall be protected properly and cared for by said customer. When repairs, renewals or replacements or other necessary work are required on the aforesaid facilities of the customer, the customer shall employ, without delay, competent tradesmen to do the work, all said work shall be done at the expense of the customer.

The operation or use of the curb stop shall be subject to control by Village of Ellicottville employees only.

4.0 LENGTH OF SERVICE LINE:

The Village of Ellicottville will exercise the right, in cases where the length of the service line extension exceeds 100 feet to inspect and approve the service line and in all cases where deemed advisable, to require the customer to construct, at his own expense, a watertight brick or concrete or other approved meter pit provided with a suitable cover and constructed in accordance with a plan furnished by the Village of Ellicottville, said meter pit to be constructed at the property or curb line and to be used for the housing of the meter required for the service of the premises.

5.0 PENALTY FOR PLACING OBSTRUCTIONS:

If obstructions are placed over, in or around water meters or curb boxes in such manner as to prevent normal access to or operation of the water meter, curb stop or to result in damage to the water meter, curb box, curb stop or service line, the Village of Ellicottville reserves the right to remove any obstruction to the water meter, curb stop, curb box or service line. In the event of such removal, the Village of Ellicottville will not be liable for any damage occasioned as a consequence of the process of removal of any obstruction. The customer may also be subject to any expense incurred by the Village for such in accordance with the Schedule of Rates.

Prior to laying new cement sidewalks, making changes in the grade or other changes in sidewalk construction, the customer shall notify the Village of Ellicottville, in order that the Village of Ellicottville may relocate the curb box and the meter box, if any, at the proper grade. If such notice is not given and the

box or boxes are covered or cemented over, thereby necessitating additional expense to the Village of Ellicottville for finding and relocating the same, the customer shall be billed for such additional expense and the Village of Ellicottville will, under no circumstances, be responsible for damage to the sidewalk.

Before service will be renewed, the customer shall pay to the Village of Ellicottville the expense incurred in shutting the water off and in turning it on again, including the cost of necessary trenching and backfilling, of cutting and replacing pavement, sidewalk or curbing, of any municipal permit or permits for opening the pavement.

6.0 ONE SERVICE CONNECTION FOR EACH CUSTOMER:

- a. A water street lateral and curb box, including a curb box and curb stop, shall be required for each premises where the total quantity of water delivered and furnished is to be billed and metered to a single customer.
- b. A service line will be used to supply a single customer only, and no premises supplying a single customer shall have more than one service connection except where impossible or impracticable to furnish an adequate water supply service thereto through one service connection; in which event, the Village may agree to the installation and use of more than one such connection. The provision by the Village of separate services at the request of the property owner shall not relieve a property owner of ultimate liability for the charges therefor as provided by law.
- c. The owner will be responsible to install the water service from the curb stop into the premises. A valve shall be located just inside the structure, at the point of entry of the street lateral, adjacent to and ahead of the meter to permit control of the water supply.

7.0 SINGLE SERVICE LINE WITH TWO OR MORE CUSTOMERS:

- a. *The Village of Ellicottville acknowledges that prior to the passage of these regulations*

customers may have been allowed connection of two or more customers through a single service line, this section is designed to deal with those customers. However, as is set forth in Section 6.0 above, no future customers will be allowed to connect in this manner.

Where two or more customers are supplied through a single service line, any violation of the Rules of the Village of Ellicottville by either or any of said customers shall be deemed to be a violation as to all; and unless said violation is corrected after reasonable notice, the Village of Ellicottville may take such action as may be taken for a single customer, except that such action shall not be taken until the innocent customer who has not violated the Village of Ellicottville's Rules had been given notice and a reasonable time to attach his service pipe to a separately controlled service connection.

- b. In the event that an owner is servicing multiple premise dwellings from a single service line with one meter, the account shall be the responsibility and remain in the name of the owner. The Village of Ellicottville may establish a separate water account for each of the separate tenant dwellings and apply a flat rate fee or service connection charge for each of the separate units or accounts in accordance with the Schedule of Rates.
- c. If, the quantities of water furnished to the premises are to be separately and individually metered and billed by the Village to several occupants thereof, then a separate water meter, including a proper valve without waste, the same size as the service line on the street side and immediately before the meter, and a stop and waste cock or valve on the outlet side and immediately after the meter in accordance with SECTION VII-METERS contained herein, shall be installed for the delivery of water to each occupant. All meters, unless otherwise indicated, will be furnished, installed and inspected by the Village of Ellicottville, subject to the fees currently in effect, and will remain the property of the Village of Ellicottville and be accessible to and subject to its own control and

maintenance. The Village of Ellicottville shall establish a separate water account for each of the separate tenant dwellings.

All service lines between the curb box and the meter(s) shall be maintained in satisfactory condition by the property owner(s) without expense to the Village of Ellicottville; and all valves, meters and appliances furnished and owned by the Village of Ellicottville and on the property of the customer shall be protected properly and cared for by said customer.

8.0 OTHER SERVICE LINE EXTENSION REQUIREMENTS:

The Village of Ellicottville reserves the right to require any owner to install on or in conjunction with his service line, at their own expense, such valves, stop cocks, check valves, relief valves, pressure regulating valves, air chamber, tank, float valve or other apparatus of approved design, when and where, in its opinion, the conditions may require it for the safeguarding and protection of the Village of Ellicottville's property or the water supply.

Should the use of water through a service line connection become excessive during period of peak use, and cause a substantial decrease in pressure in the distribution system of the Village of Ellicottville to the extent that normal water service to other customers is impaired, the Village of Ellicottville exercises the right to require the installation of the properly designed and adequate storage and other required facilities on the system of the premises involved.

The said facilities shall include all piping, valves, fittings, storage structures, pumps, automatic controls and such other appurtenances as are required to permit the storage of water and delivery periods of peak use on the premises, and thereby avoid direct use from the system of the Village of Ellicottville during such periods. The basic design for such system shall be subject to approval by the Village of Ellicottville.

When steam boilers take a supply of water directly from the service pipe, depending upon the hydraulic or hydrostatic pressure in the pipe system of the Village of Ellicottville for their supply under working pressure, it will be at the risk of the parties making such attachments, as the Village of Ellicottville will not be responsible for any accidents to which such devices are subject.

House boilers for domestic use in all cases must be provided with vacuum valves to prevent collapsing when water is shut off from the distributing pipes. The Village of Ellicottville will in no case be responsible for accidents or damages resulting from failure to observe this rule or due to conditions in the distribution pipes, or from the imperfect action of any such valves, or due to such other causes.

9.0 CHANGES IN LOCATION OF SERVICE LINE CONNECTION:

The customer shall pay for the cost of relocation of all service line connections made at his request or for his convenience. All changes or altering of the location of the service line will be subject to all conditions and requirements referred to in Section II of these regulations.

10.0 RENEWAL OF SERVICE LINE:

Where renewal of a service line from the street main to the curb stop is found necessary, the Village of Ellicottville will renew said service in the same location as the old one if possible. If the property owner or customer, for his own convenience, desires the new service line at some other location and agrees to pay all expenses of such relocation in excess of the cost of laying the service line in the same location as the old service line and cutting off and disconnecting the old service line, the Village of Ellicottville will lay the new service line at the location desired.

11.0 USE OF CURB STOPS:

Curb stops at the curb line shall not be used by the customer for turning on or shutting off the water supply. The control of water supply by the customer shall be by means of a stop cock located, in general, just inside the building wall. Curb stops are for exclusive use and operation by employees of the Village of Ellicottville.

SECTION VII – METERS

1.0 GENERAL:

All meters, unless otherwise indicated, will be furnished, installed and inspected by the Village of Ellicottville, subject to the fees currently in effect, and will remain the property of the Village of Ellicottville and be accessible to and subject to its own control and maintenance.

2.0 SIZE OF METER:

The Village of Ellicottville reserves the right in all cases to stipulate the size and type of meter to be installed on each service line and to require the installation of a larger size meter in any case where the peak use of water places any meter under undue or unusual strain and/or exceeds the recommended meter capacity, and reserves the right to charge any fees currently in effect for the larger meters.

The minimum size of a meter installed shall be the same size as the service line, except that, on 3/4 - inch or 1-inch line serving a domestic customer, a 5/8 inch meter may be installed.

3.0 LOCATION:

The location for the meter shall be subject to the approval of the Village of Ellicottville, shall be at a convenient and accessible point, shall permit control of the entire supply and shall allow proper protection of the meter from the freezing or other harm.

No fixture shall be attached to, or any branch made in the service pipe between the meter and the street main. In cases where there is not a practical place to place the meter within the building, the Village of Ellicottville may require the property owner to construct inside the property line, a brick or concrete or approved meter pit with a suitable cover or a similar type of approved meter box, such installations to be made in accordance with a plan furnished or approved by the Village of Ellicottville.

The design of the meter pit shall permit adequate access to the meter its ready installation or removal.

4.0 INSTALLATION OF METER:

- a. All piping, fittings, valves, check valves, gauges, bolts, nuts, meter pit structures, manholes or other accessories or materials, and the labor for installing the same, used in connection with meter settings within the property line of the premises, shall be at the expense of the customer. The customer shall employ for this work the services of skilled tradesmen, qualified and approved by the Village of Ellicottville, who shall cooperate with the Village of Ellicottville and install the piping and appurtenances in accordance with the dimensions and requirements for each specific case, so that the meter or meters can be properly installed and connected by the Village of Ellicottville.
- b. The customer shall furnish and install on the service line a wheel handle round way stop cock or gate valve, without waste, the same size as the service line on the street side and immediately before the meter, and a stop and waste cock or valve on the outlet side and immediately after the meter. A suitable check valve may be furnished and installed by the customer at a point between the stop and waste cock or valve and the meter. When a check valve is installed, a safety valve shall be furnished and installed by the customer at a convenient point in the house piping to relieve excess pressures due to heating of water. The customer will also furnish and install a back flow preventer if applicable in accordance with the regulations contained herein.
- c. Meter bypasses shall not be allowed unless otherwise approved by the Village.
- d. For all services over 2 inches, where there is a demand or necessity for uninterrupted water service, in order to eliminate inconvenience to both the customer and the Village of Ellicottville when repairs to or replacement of the meter is necessary, the Village of Ellicottville may, at its option, require the installation of a battery of two lines on the one service line, with a combined capacity approximately equal to the capacity of the single line requested. Such installations shall be properly valved to control or put any single line

out of service and permit its removal without interruption of service through the remaining meter or meters.

5.0 MAINTENANCE CARE AND RESPONSIBILITY FOR DAMAGE:

The Village of Ellicottville will maintain all meters and remotes at its expense, except meters and remotes for which the customer is liable and responsible for all damage while located on their premises. In the event of the injury to or nonworking of the meter and/or remote, the customer shall promptly notify the Village of Ellicottville. The Village of Ellicottville will furnish and set another meter and/or remote to replace those frozen or damaged by such causes, and the cost of the repairs shall be billed to the customer in accordance with the Schedule of Rates.

The Village reserves the right to remove and replace any meter at any time as part of a maintenance program or for any other reason.

6.0 METER TESTS:

All meters will be accurately tested before installation and thereafter periodically tested.

Should the customer at any time doubt the accuracy or correctness of the meter measuring water delivered to the customer's premises, the Village of Ellicottville will make a test of the accuracy of the meter. A customer may require the meter to be sealed in his presence before removal, which seal shall not be broken until the test is made in his presence. If the meter tested is found to be accurate within the limits herein specified, the customer will be charged a fee as set forth in the Schedule of Rates. If the meter tolerances are outside the appropriate limits, the test will be made at no charge to the owner. When making such request, the customer shall agree to the basis of payment currently in effect.

A report of such test shall be made to the customer and a complete record of such tests shall be kept by the Village of Ellicottville. Rates for testing meters will be furnished by the Village of Ellicottville.

In the event the meter so tested is found to have an error in registration in excess of four percent (4%), the cost of the test will be borne by the Village of Ellicottville and the advance fee will be refunded. The bill, based on the last reading of such meters, shall be corrected accordingly. This correction shall apply prospectively.

The Village of Ellicottville reserves the right to remove and test any meter at any time at its own expense and, if such meter is found to be inaccurate, to substitute another meter of the same size in its places, either permanently or temporarily.

7.0 CHANGES IN LOCATION OF METERS:

The customer shall pay for the cost of relocation of all meters made at his request or for his convenience.

8.0 SEALS:

No seal placed by the Village of Ellicottville for the protection of any meter, valve, fitting or other water connection shall be tampered with or defaced. It shall not be broken except upon authorization from the Village of Ellicottville or in the presence of a Village of Ellicottville representative. Where the seal is broken, the Village of Ellicottville reserves the right to remove the meter for test at the expense of the customer. A fee will be charged for broken seals in accordance with the Schedule of Rates.

9.0 LEAKS:

Customers are urged to give careful attention to their plumbing and fixtures and make immediate correction of any leaks. No allowance will be made by the Village of Ellicottville for water used, lost, stolen or otherwise wasted through the water meter.

10.0 READING AND REGISTRATION OF METERS:

- a. Reading of meters shall be taken periodically at the option of the Village of Ellicottville; the official water meter shall be the only one read by the Village. The quantity recorded by the meter shall be taken to be the amount of water passing through the meter, which amount will be conclusive on both the customer and the Village of Ellicottville, except when the meter has been found to be registering inaccurately or has ceased to register. In

such cases, the quantity may be determined by the average registration of another meter for a period of at least 20 days, or of the same meter for a period of at least 29 days after it has been repaired, tested and requested; or the quantity consumed during a previous corresponding period may be used as a basis for settlement.

- b. Any and all additional meters desired by the property owner shall be installed on the house or outlet side of the official water meter, and all such additional meters shall be furnished, installed and maintained by the property owner (s) at their own expense.

11.0 ACCESS TO METERS:

The Village of Ellicottville shall have access at all reasonable times to meters, service connections and other property owned by it on customer's premises for the purpose of maintenance, operation and meter readings. The failure of any customer to permit reasonable access shall be sufficient cause for discontinuance of service.

Should the Village of Ellicottville's agent empowered to read meters and/or remotes, be unable to obtain access for a meter reading if necessary, the customer may be notified of his default by leaving a notice on the premises that customer must arrange for access for the Village of Ellicottville meter reader within five days. Should customer fail to make such arrangements for meter reading during meter reader's normal working hours (7:00 A.M. - 2:30 P.M.) within a thirty day period, a notice shall be given either by registered mail or by delivery to an adult member of customer's household on the premises. Said notice shall advise water service will be discontinued five days after mailing or service of the notice, unless customer has ceased to be in default under the terms of these Rules and Regulations.

12.0 NOTIFICATION RELATIVE TO CONDITION OF METER:

The customer shall notify the Village of Ellicottville of damage to or of the nonworking of the meter, or of the breaking of the seal or seal wire, as soon as he is cognizant of such a condition.

13.0 MINIMUM CHARGE:

Every meter installed is subject to a fixed minimum charge in accordance with the Schedule of Rates.

Such minimum shall be nonabatable for a nonuser of water and noncumulative against subsequent consumption. In the case of fractional bills, charges and allowances shall be prorated.

14.0 METER REMOVAL:

If the Village of Ellicottville is required to remove a meter at the request of a customer, the customer will be charged according to the Schedule of Rates.

SECTION VIII - SERVICE

1.0 BY CUSTOMER:

Any customer may terminate his service contract with the Village of Ellicottville by reason of moving permanently away from the premises, and have his water service discontinued upon giving no less than three (3) days' notice to the Village of Ellicottville, and upon the lapse of a reasonable time to permit the Village of Ellicottville to take final meter readings and attend to other details in connection with such discontinuance of service. The customer shall remain liable for water furnished to the premises until a final reading is taken.

When a customer temporarily suspends service, water shall not again be furnished to such person until the minimum meter charge has been paid for the period of nonuse, provided such period charged shall not exceed four quarters or one year. This charge shall be in addition to any other charge due from the customer.

Discontinuance of service by the Village of Ellicottville for nonpayment of a bill or violation of these rules shall not cancel the application for service nor constitute a waiver of this rule.

2.0 BY VILLAGE OF ELLICOTTVILLE:

Service under application may be discontinued for any of the following reasons:

- a. For the use of water for or in connection with, or for the benefit of, any other premises or purposes than those described in the application;
- b. For willful waste of water through improper or imperfect pipes, fixtures or otherwise;

- c. For failure to maintain in good order the service lines and fixtures owned by the applicant;
- d. For molesting or in any other way interfering with any service pipe, meter, meter box, curb stop, curb box or with any seal on any meter or other fixtures and appliances of the Village of Ellicottville;
- e. In case of continued vacancy of the premises;
- f. For refusal of reasonable access to the premises for purposes of inspecting the piping; fixtures and other water system appliances therein, or for reading, caring for, repairing or removing meters and/or remotes;
- g. For the neglecting or refusing to make or renew advance payments where required or for nonpayment of water service, or for any other charge accruing under the application;
- h. For making any cross connection between a pipe or fixture carrying water furnished by the Village of Ellicottville and a pipe or fixture carrying water from any other source;
- i. For resale of water except where subject to a special agreement;
- j. For premises where the demand for water is greatly in excess of past average of seasonal use, or where such excessive demands for water by the premises are or may be detrimental or injurious to, or make inadequate, or in any way impair water service furnished to other customers;
- k. For premises where apparatus, appliances or equipment using water is dangerous, unsafe and not in conformity with laws or ordinances;
- l. For fraud or abuse;
- m. For violation of these Rules and Regulations or other requirements governing the supply of water furnished by the Village of Ellicottville.

3.0 RENEWAL OF SERVICE AFTER DISCONTINUANCE:

Service may be renewed under a proper application when the conditions under which such service was discontinued are corrected and upon the payment of all proper charges of amounts provided in the schedule of rates of rules of the Village of Ellicottville due from the applicant.

4.0 SUSPENSION OF SERVICE DUE TO EMERGENCY:

The Village of Ellicottville shall have the right, as necessity may arise in case of breakdown, emergency or for any other unavoidable cause, to cut off the water supply temporarily in order to make necessary repairs, connections, meet any emergency, and to do such other work. The Village of Ellicottville will use all reasonable and practical measures to notify the customer of such discontinuance of service. In such cases, the Village of Ellicottville shall not be liable for any damage or inconvenience suffered by the customer or any claim against it any time for interruption in service, lessening of the supply, inadequate pressure, poor quality of water or for any other causes beyond its control; and such temporary shutoff of the water supply shall not entitle the customer to any abatement or deduction in or from the water service charges, nor the refund or any portion of such service charges paid in advance during or for the time of such shutoff. When a supply of water is to be temporarily cut off, notice will be given, when practicable, to all customers affected by the shutting off, stating the probable duration of the interruption of service and also the purpose for which the shutoff is made. Nothing in these Rules contained, however, shall be construed as a guarantee, covenant or agreement of the Village of Ellicottville to give notice of any shutoff due to emergencies or otherwise.

SECTION IX - PUBLIC FIRE SERVICE

1.0 MAINTENANCE:

All fire hydrants will be maintained by the Village of Ellicottville at its own cost and expense, provided that any expense for repairs caused by carelessness or negligence of the employees of the particular municipality or the member of the fire department thereof shall be paid for by the municipality.

2.0 ALLOWABLE USE:

Only persons authorized by the Village of Ellicottville shall take water from any public fire hydrant except for fire purposes or for the use of the fire department in case of fire; no public fire hydrant shall be used for sprinkling streets, flushing sewers or gutters or for any other than fire purposes, except with the approval and issuance of a permit by the Superintendent, said permit being subject to revocation at any time.

If prior approval has not been granted and a fire hydrant or hydrants are used by a fire department, municipality, or any others, such party or parties shall notify the Main office of the Village of Ellicottville of such use immediately in order to allow the Village of Ellicottville's checking the condition of the hydrant or hydrants.

3.0 CHANGE OF LOCATION:

Whenever a municipality or person or persons desire a change in the location of any fire hydrant, the Village of Ellicottville, upon written request will make such change if determined feasible, at the expense of the municipality or person or persons, making such request subject to the right of the Village of Ellicottville to refuse relocation because of size of main, pressure, condition of distribution system or other reasonable causes. **The Village of Ellicottville will not approve changes which will compromise the fire protection of property within the area of the original hydrant.**

4.0 INSPECTION:

Upon request of the duly authorized officials of the Village of Ellicottville or any municipality serviced by the Village of Ellicottville, the Village of Ellicottville will make inspections at convenient times and at reasonable intervals to determine the condition of fire hydrants located within said municipalities. Such inspection shall be made by a representative of the Village of Ellicottville and a duly authorized representative of the municipality requesting the inspection.

SECTION X - PRIVATE SERVICE

1.0 APPLICATION FOR PRIVATE FIRE PROTECTION SERVICE:

A written application prepared on the form furnished by the Village of Ellicottville must be submitted to the Village of Ellicottville for the purpose of requesting a special connection for private fire protection service. The application shall be accompanied by accurate plans showing the proposed fire protection system. **No fire protection facilities involving the use of Village of Ellicottville water shall be installed at any time and any changes in or additions to said fire protection facilities shall be made without prior approval by the Village of Ellicottville and the local Fire Department.**

2.0 APPROVAL OF APPLICATIONS:

The application does not bind the Village of Ellicottville to approve the requested special connection. It is the customer's responsibility to provide an engineering study of each proposed installation to determine whether such a connection is reasonable and practical, and whether such a connection will in any way endanger the general water service in the vicinity; the Village of Ellicottville reserves the right to refuse approval of an application. The Village of Ellicottville further reserves the right to make an approval, subject to the installation of adequate storage facilities and related appurtenances on the premises, if found necessary in order to permit maintenance of adequate water service to other customers.

3.0 TERMS AND CONDITIONS:

The final approval of an application and furnishing of private fire protection service will be subject to the execution of a contract between the owner and the Village of Ellicottville, containing the following terms and conditions and containing such other terms and conditions as are found necessary.

- a. That the Village of Ellicottville, by its representative, shall have the right to enter the premises of the applicant at any reasonable time for the purpose of making such inspections as may be deemed necessary, and shall have the right to attach any testing devise or use any means which it may elect to ascertain the condition of the pipe and appurtenances and uses made of the same.
- b. That the service connection from the street main up to and including the curb stop or valve and control box and control valve shall be installed at the expense of the customer and shall be maintained by the Village of Ellicottville; that all other pipe, fixtures and appurtenances shall be installed in accordance with the requirements set forth relative to service line and/or water main extensions and maintained in good condition by and at the expense of the applicant. In such instances where the service connection is approved to provide fire protection service and other metered service, always being subject to a design satisfactory

to the Village of Ellicottville, the control valves on the fire service line may be installed on the property of the premises at the approved locations.

- c. All private fire systems shall be designed to the current NFPA standards governing these systems.
- d. That all fixtures and openings (other than the controlling valves) shall be kept closed and sealed and not open or used except in times of fire.
- e. That the applicant agrees the Village of Ellicottville shall not be considered in any manner an insurer of property or persons, or to have undertaken to extinguish fire or to protect any person or property against loss or damage by fire or otherwise.
- f. That the applicant does not contemplate uses of fixtures other than herein stated. If a supply for use other than extinguishment of fire is desired by the applicant, the same shall be taken only through a service pipe connected with the street main of the Village of Ellicottville and not connected directly or indirectly with the service pipe contemplated by this application. Where it suits the convenience of the Village of Ellicottville to allow dual domestic service-fire connections for a particular customer the Village of Ellicottville shall have the discretion to consider alternate designs, which employ a single service pipe connected with a street main, on a case by case basis. Any waste or use of water for purposes other than the extinguishment of fire through this connection shall be deemed a violation of the terms and conditions of this application and the rules and regulations of the Village of Ellicottville.
- g. That the applicant shall furnish, attach and make a part hereof, an accurate drawing showing the pipes, valves, hydrants, tank openings and appurtenances contemplated in this application. Such drawings must also show any other water supply system and pipelines and appurtenances which may exist on the premises. There is no connection between such other supply and pipes connected to the Village of Ellicottville's mains.
- h. That the rights and obligations of the applicant hereunder shall be further subject at all

times to the Rates, Rules and Regulations of the Village of Ellicottville that now exist or which may hereafter be adopted.

- i. That the applicant agrees to obtain in advance the approval of the Village of Ellicottville for any change, alteration, addition or deduction contemplated in the fixtures, openings and uses herein specified.
- j. That the Village of Ellicottville has the right to discontinue or disconnect said service pipe and terminate the application, upon written notice given 15 days in advance by the Village of Ellicottville to the applicant, for failure to pay and bill when due or for any violation or any of the terms and conditions of this application, or for any violation of its rules.
- k. In case of an emergency the Village of Ellicottville has the right to shut off all or any part of its facilities and discontinue the service without notice in order that the Village of Ellicottville can make repairs, alterations or additions to existing facilities. Further, the Village of Ellicottville will interrupt services without notice to prevent possible contamination through cross connected facilities of the applicant or to prevent negligent or willful waste of water through the facilities of the applicant.
- l. The entire installation, from the street main and including the hydrant, shall be installed at the expense of the customer.

4.0 GENERAL CONDITIONS - PRIVATE FIRE HYDRANTS:

The private fire hydrant or fire hydrants installed on a separate fire service main will be subject to flat charges under Flat Rates - Private Fire Service, subject to a special contract and to the rules and regulations controlling such service.

Such connections, where allowed, are to be used solely for the extinguishment of fire and for no other purpose, except upon written consent of the Village of Ellicottville; and any violation of this provision shall be cause for the cancellation of the contract and discontinuance of the service.

SECTION XI - RESPONSIBILITY FOR FIRE SERVICE

1.0 LIABILITY:

The Village of Ellicottville, by the provision of public or private fire service or water service of any kind does not warrant that it will provide any special pressure, capacity, or facilities other than can be supplied by the ordinary and changing operating conditions of the Village of Ellicottville, as the same exist from day to day. The Village of Ellicottville does not assume any liability to any party for injury to persons or property as a consequence of fire, lack of water, failure to supply water pressure or capacity or for any malfunction of Village of Ellicottville owned equipment.

SECTION XII - BILLS AND PAYMENTS

1.0 PLACE OF PAYMENT:

All bills are payable at any office or any pay agency as designated by the Village of Ellicottville. All invoices shall be paid in United States dollars, and may be paid by cash, check or money order.

2.0 BASIS FOR PREPARATION OF BILLS:

All bills for services furnished by the Village of Ellicottville will be based on the published Rate Schedule of the Village of Ellicottville. All bills shall be rendered and are due and payable as noted on the bill.

Each premise will be subjected to a fixed minimum charge for each meter, based on the applicable Rate Class in accordance with the Rate Schedule. Such minimum charge shall be nonabatable for a nonuser of water, and noncumulative against subsequent consumption. In case of fractional bills covering less than the billing period, minimum charges and allowances of water shall be prorated. The charges for the use of water in excess of the quantities allowed for each Rate Block will be in accordance with the Meter Rates, as set forth in the Rate Schedule, the allowances of water for the minimum charges to be deducted from the quantities set forth in applying the meter schedule.

3.0 BILLS RENDERED AND DUE:

The Village of Ellicottville will make regular meter readings either monthly or quarterly, at its option, and bills will be rendered as soon as practicable after the reading of the respective meters.

All bills are due and payable by the Due Date as required by these Rules and Regulations. Payment of the bill after the Due Date will incur such penalty added to the bill as is currently in effect.

If bills are not paid within the required period during which the gross amount shown thereon applies, a delinquent notice may be served by mail, telephone calls, or in person to the effect that, unless the bill is paid within the number of days currently allowed, service will be discontinued.

If service is thus discontinued, it will not be restored until all unpaid bills and charges, including the posting, termination and reconnect charges, are paid or satisfactory arrangements made for payment.

The Village of Ellicottville may mail or deliver the bills and notices to the customer at his address given in the application for service and the Village of Ellicottville shall not be responsible for the delivery thereto. Failure to receive bills will not be an excuse for nonpayment.

Any check received by the Village of Ellicottville in payment of any bill due the Village of Ellicottville, which check is returned unpaid by the drawee bank for any reason, shall be charged against the account involved and, in addition, charges shall be made against said account for cost of handling, for each call for collection and for any other costs involved, such charges to be as currently in effect.

4.0 DELINQUENT ACCOUNTS – NOTICES AND FEES:

Any account that is delinquent in the payment of water charges for a period in excess of thirty (30) days shall be considered delinquent. All invoices issued by the Village that remain unpaid after the due date shall be charged interest, and such interest shall be charged until such charges are paid in full and shall be added to the amount due at ten percent (10%) to the amounts unpaid from the first through the thirtieth day after the due date, and one and one-half percent (1.5%) shall be added to the amounts that remain unpaid for each succeeding month. Upon any account becoming delinquent for payment of water services, the Village of Ellicottville shall provide a mailed written notice (“Shut Off Notice”) to the resident and, if different, the owner of the premises, advising both persons of the delinquency. This

delinquency may be disputed by filing a written statement of the reasons for the dispute with the Village of Ellicottville. If such a dispute is filed, it will be investigated and a formal written response will be given within twenty (20) days. The termination will be deferred pending the processing of the dispute.

If payment is not rendered to the Village of Ellicottville within ten (10) days of the Shut Off Notice, the Village of Ellicottville shall post a notice of the delinquency at the residence of the delinquent account ("Posting"), advising the resident of the date that the water services will be terminated. A **charge for posting** in the amount currently in effect will be added to the delinquent account at this time. If the Village of Ellicottville receives no response to the Posting, water service will be disconnected on the day previously indicated on the Posting. A termination notice will be posted at the delinquent residence advising the delinquent account holder of the requirements for reconnection, and of the **termination charge** in the amount currently in effect that was added to the delinquent account at that time. In order for water service to be reconnected, a **reconnection charge** in the amount currently in effect must also be paid in addition to the total balance due on the account. This payment must be made in cash or money order at the offices of the Village of Ellicottville.

If a delinquent account holder is unable to pay the balance due on the account prior to the termination date, the Village of Ellicottville shall offer a reasonable installment payment agreement plan to delinquent account holders who have not previously defaulted on an installment payment agreement. Any installment **payment is to be made in addition to the amount due on the delinquent customer's regular monthly bills**. A payment agreement may be denied to any delinquent customer who has defaulted on prior agreements.

Normal hours for service reconnections by the Village of Ellicottville are 7:00 a.m. to 2:30 p.m. Monday through Friday. In case of an emergency, after-hours reconnection services may be requested. A special additional charge according to the Schedule of Rates for after-hours service will be levied. **This**

charge, in addition to the amounts specified above, must be paid in cash and in advance prior to restoration of service.

4.1 ASSESSMENT OF ATTORNEY FEES:

In the collection of user charges and other Village of Ellicottville claims and assessments, the Village of Ellicottville shall reserve the right to assess and collect reasonable attorney fees.

SECTION XIII - CROSS CONNECTION AND INTERCONNECTIONS

1.0 PROHIBITION OF CROSS CONNECTIONS:

No cross connection between the mains or piping systems supplied by the Village of Ellicottville and any other systems of water supply shall be permitted. (See Section VI).

All customers now having or maintaining any cross connections must discontinue use immediately.

2.0 RIGHT TO DISCONTINUE WATER SERVICE:

In addition to any or all other grounds for discontinuance of service, the Village of Ellicottville shall have the right to discontinue water service without notice, relative to cross connections, under the following circumstances:

- a. Failure on the part of the customer to discontinue the use of and separate physically all objectionable cross connections and interconnections, if so directed;
- b. Receipt by the Village of Ellicottville of an order from health authorities or plumbing inspectors to discontinue service to a premises on the ground of violation of Village of Ellicottville Rules and Regulations regarding cross connections, or on the ground of dangers of health because of the existence of cross connections or inter connections on their premises.

SECTION XIV - REGULATION FOR AIR CONDITIONING SYSTEMS

1.0 GENERAL:

The following regulations shall apply to all water-cooled equipment installed on the premises for the

purpose of reducing the dry-bulb temperature or decreasing the absolute humidity of air whether for comfort, air conditioning, refrigeration, processing or whatever other purposes.

2.0 PERMIT REQUIRED:

No one shall place into operation or use any equipment for air conditioning or refrigeration which requires a supply of water from the system of the Village of Ellicottville without first having secured a written permit therefore from the Village of Ellicottville.

3.0 APPLICATION FOR PERMIT:

A written application prepared in the form furnished by the Village of Ellicottville must be submitted to the Village of Ellicottville for the purposes of requesting a permit as set forth under the item "Permit Required", said application to be subject to fees as are required at the time of the application, which application together with the Rules and Regulations of the Village of Ellicottville shall regulate and control the use and operation of any equipment for air conditioning or refrigeration, said application is to be submitted at least one month before such use is planned, and including and accompanied by such information as may be requested by the Village of Ellicottville.

4.0 WATER USE AND CONSERVATION:

Systems with a capacity in excess of 2-1/2 tons per 24 hours shall not use water directly (or indirectly, except when used with conservation equipment) from the public supply. All such systems shall be equipped with evaporative condensers, cooling towers, spray ponds, or other water conservation equipment, the piping in connection therewith to be arranged so as to prevent any back siphonage into the public water supply system. Systems with a total capacity not exceeding 2-1/2 tons (per 24 hours) may use water directly from the public supply at a rate not exceeding 2.0 gpm per ton if the water temperature is 75 degrees Fahrenheit, provided they are equipped with an automatic regulating valve which will (1) stop the flow of water when the refrigerating machine is shut down, and (2) throttle the flow of water down to the momentary requirements of the system. All systems having total capacities exceeding 2-1/2 tons (per 24 hours) shall be equipped with evaporative condensers, cooling towers, spray ponds

or other water-cooling equipment, unless otherwise approved. This equipment shall be of sufficient capacity to insure conformance with the requirements in the following table for making-up water when operating under full loading at maximum summer temperatures:

MAXIMUM ALLOWABLE WATER USE	
Water Hardness-p.p.m.	Maximum Use – g.p.m./ton
0 – 139	0.1
140 – 199	0.15
200 – 254	0.2
255 – 339	0.3
340 – 424	0.4
425 and over	0.5

5.0 SANITARY PROTECTION:

a. GENERAL PROHIBITION

- 1. No person shall perform any act or grant any permit or approval which may result in the contravention of the standards for water quality as contained in 10 NYCRR Part 170 and 6 NYCRR Parts 700-706, inclusive.**

b. SPECIFIC PROHIBITIONS

Without limiting the generality of the general prohibitions contained in 6 NYCRR Part 701 of this law:

- Cemeteries.* No interment of a human body shall be made within a 250 foot linear distance of the wells.
- Chloride salt.* No chloride salt shall be stored within a 500 foot linear distance of the wells except in weatherproof buildings or watertight vessels.
- Herbicides and Pesticides.* No pesticides or herbicides shall be stored,

discharged, applied or allowed to remain within a 500 foot linear distance of the wells unless a permit to do so has been obtained from the appropriate State agency having jurisdiction.

4. *Human excreta and sewage.*

(i) No privy, privy vault, pit or other receptacle of any kind for either temporary storage or the permanent deposit of human excreta or sewage shall be constructed, located, placed, maintained or allowed to remain within a 250 foot linear distance of the wells.

(ii) No human excreta or sewage shall be deposited or spread upon or beneath the surface of the ground within a 250 foot linear distance of the wells.

(iii) No sewage or polluted liquid of any kind shall be discharged or allowed to flow on or beneath the surface of the ground within a 250 foot linear distance of the wells, except in watertight pipes connected to a sewage disposal system or treatment works for which a permit has been granted by the appropriate State agency having jurisdiction over such facility. No such watertight pipe shall be located within a 15 foot linear distance of the wells.

5. *Junkyards.* No junkyard shall be located within a 250 foot linear distance of the wells.

6. *Radioactive material.* No radioactive material shall be disposed of by burial in soil within a 500 foot linear distance of the wells and not within a 500 foot to a 1,000 foot linear distance of the wells unless authorization has been obtained from the appropriate State agency and such burial is in accordance with provisions of Part 16 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the

State of New York.

7. *Refuse.* No refuse shall be deposited on or beneath the surface of ground within a 250 foot linear distance of the wells.
8. *Refuse disposal area.* No refuse disposal area shall be located within a 500 foot linear distance of the wells.
9. *Toxic substances.* No container used for the storage of toxic substances shall be buried beneath the surface of the ground within a 500 foot linear distance of the wells.
10. *Trespassing.* No trespassing shall be allowed upon the property of the Village of Ellicottville upon which the wells are located and no person or persons shall enter in or upon such property except the person or persons authorized to enter said property by the Village of Ellicottville.

c. GENERAL REQUIREMENTS

1. Discharge connections for the disposal of waste waters shall be in strict accordance with the applicable rules and regulations of State and local health regulatory bodies.
2. Cooling waters which are to be reused for other purposes shall be provided with free above-the rim discharge before entering other equipment; otherwise, permission shall be obtained in writing from the Village of Ellicottville approving the proposed connections and use.
3. On installations other than those described, there shall be a physical break between the public water supply piping - the piping of the installation, so arranged as to make

impossible backsiphonage to the public water supply system, this requirement being in accordance with the regulations prohibiting cross connections.

6.0 REVOCATION OF PERMIT:

Any permit which is issued under these regulations may be revoked by the Village of Ellicottville for any one of the following reasons:

- a. Failure of the holder of the permit to discontinue using water for the purpose covered by the permit, immediately upon notice to do so, issued by the Village of Ellicottville during the emergency or to forestall in an impending emergency.
- b. Alterations, changes of equipment or piping, improper operation or lack of maintenance which results in conditions that (1) are hazardous to the potable water supply either within the premises or in supply mains or (2) use unnecessary waste of water.
- c. The use of water to exceed the quantities approved.

7.0 EXISTING INSTALLATIONS:

The existing installations, that is, such installations as were in operation prior to the effective date of these Rules and Regulations, shall not be subject to these requirements, except where the use of water in connection therewith seriously impairs water service to other consumers in the area and except where modifications are planned in existing equipment and related facilities.

Application shall be submitted and permits obtained for all modifications.

Existing installations that result in impairment of water service in the area shall be modified to permit conservation of water, failure to remedy such condition being subject to the penalty hereinafter set forth.

8.0 PENALTIES:

Failure to comply with these regulations shall be sufficient cause to discontinue water service.

The Village of Ellicottville exercises the right to refuse to issue permits to anyone who is guilty of any prior

violations of these Rules and Regulations.

SECTION XV – GENERAL

1.0 INSPECTION:

Authorized employees of the Village of Ellicottville, identified by proper badges, shall have access to the customer's premises at all reasonable hours, for the purpose of turning water on or off; inspection, repair and/or replacement of service lines and service line extensions; inspection, setting, reading, repairing and removal of meter; and for any other justifiable purposes.

The Village of Ellicottville shall have the power to make such excavations as are required for the proper execution of the work.

2.0 TURN-ON CHARGE:

Where there is no delinquent bill, water will be turned off and on without charge for consumers who wish to discontinue or renew water service. Notwithstanding the termination of water service each customer will still be responsible to pay a basic minimum charge. When water service has been terminated because of an unpaid bill or violation of the terms or the application of rules of the Village of Ellicottville, a reconnect charge, according to the Schedule of Rates must be paid in cash, check or money order before water service is restored.

3.0 INTERFERENCE WITH VILLAGE'S PROPERTY:

No workman, owner, tenant or other unauthorized person shall turn the water on or off at any corporation, curb stop or break the seals, disconnect or remove the meter, or otherwise interfere with the Village of Ellicottville's property, without the express consent of the Village of Ellicottville.

For unauthorized operation of street valve, curb stop, service valve or other service connection, the person owning the premises served by the line connected to said street valve, curb stop, service valve or other service connection shall be charged in accordance with the Schedule of Rates.

4.0 SERVICE OF NOTICES:

All notices and bills relating to the Village of Ellicottville or its business shall be deemed to have been properly served if left upon the premises of the customer or if mailed to the customer, directed to, or left at his address as shown on the records of the Village of Ellicottville. Failure on the part of the customer to receive a notice or a bill following proper service by the Village of Ellicottville shall not excuse the customer for payment of all amounts due, including penalties for late payment.

The Village of Ellicottville will send all such notices and bills to the address given on the application for water supply until a notice of change has been filed with the Village of Ellicottville by the applicant.

All notices of general character, affecting or likely to affect a large number of customers, shall be deemed to have been properly given or served if advertised in the newspaper designated by the Village of Ellicottville.

5.0 COMPLAINTS:

Complaints relative to the character of the service furnished or the reading of meters or of bills rendered must be made in writing and delivered to the main office of the Village of Ellicottville.

6.0 SERVICE NOT GUARANTEED:

Nothing in these Rules and Regulations, nor any contract, nor representation, verbal or written, of the Village of Ellicottville or any of its employees shall be taken or construed in any manner to constitute a guarantee to furnish a given quantity of water through any service connections, whether for domestic, commercial, industrial, manufacturing or other general uses, or for public or private fire protection purposes, or for any other special purposes; but the Village of Ellicottville will at all times and under all conditions endeavor to maintain the efficiency of its service.

7.0 RESTRICTION OF SUPPLY:

The Village of Ellicottville reserves the right to restrict the supply of water in case of scarcity or whenever the public welfare may require it, and to reserve a sufficient supply of water at all times in its reservoirs to

provide for fire and other emergencies.

8.0 WATER HAMMER:

No use of water will be permitted which may or does cause water hammer.

9.0 ACTS OF VILLAGE OF ELLICOTTVILLE EMPLOYEES AND/OR OTHERS:

No agent or employee of the Village of Ellicottville shall have the power or right to bind the Village of Ellicottville by any promise, agreement, or representation contrary to these Rules and Regulations.

10.0 MISCELLANEOUS WORK AND SERVICE FURNISHED BY THE VILLAGE OF ELLICOTTVILLE:

The cost of repair and/or restoration of Village of Ellicottville facilities damaged due to the actions of others, including the cost of lost water, shall be paid for by those responsible. The cost of the work and any miscellaneous services furnished by the Village of Ellicottville set forth in these Rules and Regulations shall be determined based on the Schedule of Rates.

All bills for such work and services furnished by the Village of Ellicottville, based on the Schedule of Rates and methods of computing charges in accordance with the aforesaid schedules, shall be rendered by the Village of Ellicottville and be due and payable by the Due Date. The Village of Ellicottville, if necessary, will take appropriate legal action to recover all monies due if payment is not made.

11.0 TAPPING FEES:

The Village of Ellicottville has established schedules of tapping fees for all connections to main water lines. Fees are in accordance with the attached Schedule of Rates.

12.0 AVAILABILITY - RULES AND REGULATIONS:

Copies of these Rules and Regulations Governing Water Service including the Schedule of Rates may be obtained at the office of the Village of Ellicottville. Copies are available for review at the office of the Village of Ellicottville at all times during regular working hours.

Single copies of summary of the Rules and Regulations and of the Schedule of Rates are available at

no cost. All conditions referenced in the Rules and Regulations to Water Main Extensions are the same as those in Section XVI - Water Main Extensions of the Rules and Regulations Governing Water Service, the separate publications being prepared for the convenience of the public, relations to a phase of operation that is constantly of interest and being applicable to all new work as relates to water main extensions.

SECTION XVI - WATER MAIN EXTENSIONS

1.0 APPLICATION FOR EXTENSION:

Unless otherwise indicated, a written application on the form furnished by the Village of Ellicottville must be submitted to the Village of Ellicottville for the purpose of requesting approval of a water line extension and water service. Said application is to be signed by the owner or owners, and is subject to the terms and conditions included herein. Which application, together with the Rules and Regulations of the Village of Ellicottville, shall regulate and control the installation of water line extensions and the furnishing of water service therefrom.

2.0 LEGAL REQUIREMENTS TO BE MET

The Owner and the Village are subject to federal, state and county laws and regulations relating to the construction of new water mains or water system extensions whose application varies depending upon the circumstances and whose requirements must be complied with including the following:

- a. *New York State Environmental Quality Review Act.* As early as possible, the Village has to determine whether an Environmental Assessment Form needs to be prepared for the proposed action. The extension of water service to "approved subdivisions", not otherwise requiring the preparation of an Environmental Assessment Form, is exempt.

- b. *Cattaraugus County Sanitary Code and New York Public Health Law.* The Cattaraugus County Department of Health must approve the plans and specifications.

- c. *Village Requirements.* The requirements of the Village are set forth in this law. Additional requirements may need to be satisfied depending upon the Owner's particular proposal to implement the provisions and purposes of the law; such requirements may not be evident to the Village at the time of the initial review of the design to be submitted by the Owner under §502 of this Article but may arise as design, construction and testing of facilities progresses.

3.0 RESPONSIBILITY FOR COST:

The entire cost of the water main extension, including the cost of fire hydrants and other appurtenances and facilities, shall be borne by the developer.

4.0 DESIGN

- a.. *Submissions to the Village.* The Owner who desires to construct a new water main or a water system extension must submit the following to the Village:
1. Three prints of plans and specifications.
 2. Cattaraugus County Department of Health *Application for Approval of Water Distribution System* partially completed with information specific to the water system extension. The Superintendent will supply related Village information on the form, will sign this application and will forward it to the Cattaraugus County Health Department.
- b. *Standards.* Drawings to scale bearing the stamp of a New York licensed engineer are required. Such plans and specifications shall include without limitation the location, size, nature and specifications of all physical components of the system (e.g. water lines, valves and associated equipment) the location and construction of all access roads, the location of any easements or other property rights to be provided to the Village, a surveyor's description of the property rights required for the operation, maintenance and repair and

replacement of the water system extension and such other information as is deemed necessary by the Village or its engineers. Design of the system must include, without limitation, adequate means of ingress and egress to the entire system for its operation, maintenance, repair and replacement. Where deemed necessary by the Village, provision must be made for roads of sufficient hardness to support vehicular traffic.

- c. *Review.* The Village and its engineers will review the materials submitted. The Owner must provide information and general cooperation with the Village as is necessary to effectuate the review.
- d. *Approval.* The Village will either approve the Owner's plans and specifications, reject them in whole, or return them with comments for needed modifications. The Owner's engineer shall consult closely with the Village's staff during the review by the Village and the Cattaraugus County Department of Health. After the approval of the plans and specifications by the Cattaraugus County Health Department and the Village and the proof of liability insurance required by this Article are filed with the Village, construction may begin.

5.0 CONSTRUCTION

- a. *Inspection.* During construction, the Village may have inspectors on the site from time to time, and the Owner shall make the site of the construction freely available to them. Such inspectors function solely to advise the Superintendent on the progress of construction. Their presence does not imply knowledge of or approval of any aspect of the construction, nor shall they have any responsibility to advise the Owner or the Owner's agents with respect to the construction.
- b. *Testing.* Upon completion of construction, the Owner shall cause the system must be tested as set forth in this Article and other applicable laws and regulations by the

Owner's engineer who shall witness such testing.

6.0 MATERIALS FOR WATER PIPE AND APPURTENANCES

- a. Pipe used on new water mains or water system extensions shall be constructed of new and unused pipe of one of the following materials. The choice of pipe for the specific application shall be as proposed by the design engineer and approved by the Water Superintendent:
 1. Ductile iron pipe manufactured in accordance with AWWA Standard C150 and C151 of Class 52 barrel thickness. The pipe shall be tyton joint type with the joint meeting the requirements of AWWA Standard C111. The pipe shall be cement mortar lined and double seal coated inside and out with a bituminous coating of at least 1 mil thickness in accordance with AWWA Standard C104.
 2. Polyvinyl chloride (PVC) pipe manufactured in accordance with AWWA Standard C900, being Pressure Class 200, DR 14. The pipe shall be marked by the manufacturer with the manufacturer's name, the DR rating, and the pressure rating. The pipe shall be certified for use with potable water by NSF and shall be so marked with the seal of the agency. The outside dimensions of the pipe shall conform with the outside dimensions of ductile iron pipe.
- b. Mainline fittings:
 1. Shall be compact fittings manufactured of ductile iron in accordance with AWWA Standard C153, Class 350.
 2. Shall be cement mortar lined and seal coated inside and out with an approved bituminous coating at least 1 mil thick in accordance with AWWA Standard C104.
 3. All fasteners used on these fittings shall be flouro-carbon coated such as SC-1 fasteners as manufactured by StandCote, or approved equal.

4. Mechanical joint restraints shall be installed in accordance with AWWA C600.
 5. Mechanical Joint Restraints shall be Megalug by EBAA Iron Sales, Inc., or approved equal.
- c. Gate Valves shall be resilient wedge with non-rising stem, having parallel seats and a cast iron body and shall conform to AWWA Specification C509, and the following supplemental details:
1. Valve Gates: Cast iron encapsulated with resilient material.
 2. Type of Stem Seal: O-ring (2).
 3. Ends are to be mechanical joint.
 4. Two inch (2") operating nut.
 5. Mainline and hydrant auxiliary valves shall have resilient seat.
- d. Valve Boxes shall be of three piece, Buffalo style cast iron construction, screw type with threads integrally cast with the box.
1. Coating: Two (2) coats of asphaltic coating.
 2. Extensions: If needed for abnormally deep valve installations.
 3. Lid: The word WATER shall be cast in the lid.
- e. Hydrants used in the work shall conform to AWWA Standard C502 and the following:
1. Compression type with valve opening equal to 5% inches.
 2. Cast iron body, fully bronze mounted.
 3. Two (2) 2 1/2 inch hose connections with national standard threading (NST thread).
 4. One (1) 4" pumper connection (4.72x6 TPI).

5. The operating stem nut shall be a five-sided (pentagon) 1½" nut to open right (clockwise) of one piece bronze construction.
6. The boot (base) shall be mechanical joint with a 6" inlet diameter.
7. Hydrant shall be factory painted red.
8. Traffic model with breakaway flange.
9. Nozzle caps shall be securely fastened to the barrel with chain.

A dirt (weather) shield shall be provided to protect the operating mechanism from grit buildup and corrosion due to moisture.
10. Hydrant shall be draining.
11. Manufacturer:
 - a. Kennedy Guardian Hydrant (K81A)
 - b. Mueller Centurion Fire Hydrant

7.0 WATER PIPE INSTALLATION

- a. Local utilities shall be contacted to verify construction plans and to make arrangements to disconnect all utility services, where required to undertake the construction work. The utility services shall later be reconnected. The work shall be scheduled so that there is minimum inconvenience to local residents. Residents shall be provided proper and timely notice regarding disconnection of utilities.
- b. The construction right-of-way shall be cleared only to the extent needed for construction. Clearing consists of removal of trees which interfere with construction, removal of underbrush, logs, and stumps, and other organic matter, removal of refuse, garbage, and trash, removal of ice and snow, and removal of telephone and power poles, and posts. Any tree which will not hinder construction shall not be removed, and shall be protected from damage by any construction equipment. Debris shall not be burned, but hauled for disposal in an approved manner.
- c. The public shall be protected from personal and property damage as a result of the construction work.

- d. Traffic shall be maintained at all times in accordance with applicable highway permits. Where no highway permits are required, at least 1/2 of a street shall be kept open for traffic flow.
- e. Erosion control shall be performed throughout the project to minimize the erosion of soils onto lands or into waters adjacent to or affected by the work. Erosion control work shall be implemented following the guidance provided in the New York State Guidelines for Urban Erosion and Sediment Control of the latest revision. If the project is large enough to require a State Pollutant Discharge Elimination Permit (SPDES) for the storm water runoff from the construction activity as required by NYSDEC regulations, a Storm Water Pollution Prevention Plan shall be prepared and filed with the Village and a Notice of Intent (NOI) shall be filed with NYSDEC prior to any work be completed.
- f. The trench shall be excavated only wide enough for proper installation of the water pipe and appurtenances. Allowances may be made for sheeting, de-watering, and other similar actions to complete the work. Roads, sidewalks, and curbs shall be cut, by sawing, before trench excavation is initiated.
- g. Under ordinary conditions, excavation shall be by open cut from the ground surface. However, tunneling or boring under structures other than buildings may be permitted. Such structures include crosswalks, curbs, gutters, pavements, trees, driveways, and railroad tracks.
- h. Open trenches shall be protected at all hours of the day with barricades.
- i. Trenches shall not be open for more than 50 feet in advance of pipe installation nor left unfilled for more than 50 feet in the rear of the installed pipe, when the work is in progress, without permission of the Superintendent. When work *is* not in progress, including overnight, weekends, and holidays, the trench shall be backfilled to ground surface.
- j. The trench shall be excavated as necessary to allow for the final design pipe line and grade. When unsuitable soils are encountered, these shall be excavated and replaced with select materials.
- k. Ledge rock, boulders, and large stones shall be removed from the trench sides and bottom. The trench shall be over-excavated at least 12 inches for five (5) feet, at the transition from rock bottom to earth bottom, centered on the transition.

- l. Maintenance of grade, elevation, and alignment shall be done by some suitable method or combination of methods approved by the Superintendent. All water mains and extensions shall be installed with a minimum depth of earth cover of 4.5 feet, unless specifically directed by the Superintendent.
- m. No structure shall be undercut unless specifically approved by the Superintendent.
- n. Proper devices shall be provided, and maintained operational at all times, to remove all water from the trench as it enters. At no time shall the water line be used for removal of water from the trench.
- o. To protect workers and to prevent caving, shoring and sheeting shall be used, as needed. Caving shall not be used to backfill the trench. Sheeting shall not be removed but cut off no lower than one foot above the pipe crown and no higher than one foot below final grade, and left in the trench, during backfill operations.
- p. The pipe barrel shall be adequately supported, along its entire length.
- q. When the material encountered at grade in the trench is unsatisfactory to support the pipe or is otherwise harmful in the judgment of the Superintendent, the unstable or unsuitable soils shall be removed and replaced with select material or bedding stone.
- r. Ductile iron pipe shall be laid in accordance with AWWA Standard C600. Unless conditions require bedding as determined by the design engineer or the Superintendent, the trench shall have a flat bottom of sound earth which shall provide the pipe good bearing for its full length. Bell holes shall be hand excavated to allow the pipe to be supported for its full length. If the trench is in rock, the pipe shall be installed with a minimum of 6 inches of clean, washed No. 1 stone bedding beneath the entire length of the pipe barrel.
- s. If PVC pipe is approved for the work, it shall be installed in accordance with AWWA Standard C605. The trench shall be over excavated to allow at least 6 inches of clean washed No. 1 stone bedding beneath the entire length of the pipe barrel.
- t. In the case of PVC pipe, or in a rock trench condition, clean, washed No. 1 stone bedding shall be placed over the laid pipe to a depth of at least six (6) inches. Care shall be exercised so that stone is packed under the pipe haunches. Care shall be exercised so that the pipe is not moved during placement of the crushed stone.

- u. Clean earth fill free of debris and any stones larger than 4 inches shall be hand placed and compacted to a depth of at least 12 inches over the top of the pipe bell to provide proper pipe embedment prior to machine backfilling being allowed to begin.
- v. The remaining portion of the trench above the pipe embedment shall be backfilled in one foot lifts which shall be firmly compacted. Compaction near/under roadways, driveways, sidewalks, and other structures shall be done with select backfill compacted to 95% of the maximum moisture-density relationship, as determined by ASTM Specification D 698, Method D. Ice, snow, or other frozen material shall not be used for backfill.
- w. All main extensions shall be of such length as to provide access to each premise to be served and shall be constructed across the entire frontage of the lot(s). The applicant shall construct the water service connections for each parcel within the approved development or extension.
- x. Prior to beginning installation of the water mains and appurtenances, the applicant shall provide the following:
 - 1. Name of the contractor, including an address and phone number, who will installing the water mains and appurtenances;
 - 2. Shop drawings indicating that all materials utilized meet Village specifications;
 - 3. Minimum five (5) business days advance written notice of the starting date of construction.

8.0 TESTING

- a. After installation is complete, the applicant shall conduct hydrostatic testing. The hydrostatic testing shall be conducted in accordance with the procedures outlined in AWWA C600 for ductile iron pipe, and AWWA C605 for PVC pipe. The hydrostatic testing shall be performed by the applicant while under the observation of the Water Superintendent or his approved agent. Only Village personnel shall operate existing water valves.
- b. If the main should fail the hydrostatic test, the necessary corrective measures shall be

taken and the tests repeated until satisfactory results are obtained.

- c. After the line has satisfactorily passed the hydrostatic testing the line shall be flushed with a sufficient volume of water to achieve a minimum velocity of 2.5 feet per second in the main. The flushing shall continue until the line is, in the opinion of the Water Superintendent or his agent, clear of all dirt and debris.
- d. After flushing is completed, the line shall be disinfected in accordance with AWWA C651 of the latest revision. After disinfection is complete, samples shall be taken at locations approved by the Superintendent for bacteriological testing.
- e. The applicant shall arrange for the bacteriological testing to be performed by the Cattaraugus County Health Department or an approved commercial laboratory. The results shall be given, in writing, to the Village and the Cattaraugus County Health Department. Should the results prove satisfactory, the line will be approved to be placed in service when all other requirements of this local law are met.

9.0 DEDICATION OF WATER SYSTEM TO PUBLIC USE

All water mains and extensions to the water system constructed at the Owner's expense, after final approval and acceptance by the Superintendent, shall become the property of the Village and shall thereafter be operated, maintained and repaired by the Village.

- a. *Bill of Sale.* Legal transfer of the physical components of the system to the Village must be by Bill of Sale executed by the Owner accurately describing the components of the system.
- b. *Property Rights.* Transfer of the system shall also include the grant of property rights acceptable to the Village to property surrounding the water system required for the operation, maintenance, repair and replacement thereof as identified on the plans including street laterals but excluding building laterals. The Owner shall obtain any necessary rights

from other property owners, municipalities or right-of-way holders having such interests. Generally, no acquisition of property rights is necessary for water facilities to be installed within the right-of-way of a state, county, town, or village road as long as the Owner obtains all necessary consents of such governmental entities to the placement of water facilities within the bounds of such roads prior to construction.

- c. *Attorney's Certificate of Good Title.* The Owner shall provide within thirty (30) days of the recording of instruments conveying property rights required for the operation, maintenance, repair and replacement of the water system extension the certification by an attorney admitted to the practice of law within the State of New York stating that the party transferring the system by Bill of Sale and conveyance of property rights as described in this article has clear and marketable title to the property rights transferred to the Village and that the grant of such rights to the Village is free and clear of any prior liens or encumbrances or a title insurance policy in an amount and containing terms acceptable to the Village to the same effect. The Owner is responsible for obtaining any subordination or other agreements necessary to grant clear title to the Village.
- d. *Warranty and Maintenance Bond.* The Owner shall warrant the system to be free of defects for eighteen (18) months after the date of the first use of the system or its components and shall provide a cash deposit with the attorney for the Village, a Letter of Credit, or a Maintenance Bond or other security in a form and amount satisfactory to the Village holding the Village harmless from operation, maintenance, repair and replacement of such facilities arising from defects in the design, materials, or construction of such facilities. The requirement for financial security may be waived by the Village where the sponsor of the water system extension providing the warranty hereunder is the State of New York, a New York municipal corporation, or agencies thereof.

- e. *Third Party Warranties.* The Owner will provide assignments of all warranties applicable to equipment or appurtenances to the system.
- f. *Professional Expenses of the Village.* The Owner shall reimburse of the Village for all expenses incurred by the Village incident to the project, including, but not limited to, engineering fees and legal fees, payable as bills are rendered therefor by the Village to the Owner.
- g. *Engineer's Certification and Record Drawings.* The Owner shall provide the Village with (a) a certification to the Village by a New York licensed professional engineer that the system has been constructed in accordance with the approved plans and specifications and that it has been tested in accordance with this Law, and (b) three (3) sets of original signature paper copies of record drawings, designated as such, bearing the seal of the New York licensed professional Engineer, plus a full digital copy, similarly annotated, in AutoCAD or equivalent software acceptable to the Village.

10.0 LIABILITY INSURANCE COVERAGE DURING CONSTRUCTION PERIOD

Before commencing work, the contractor performing the work shall file with the Village insurance certificates for the following:

- a. Workman's Compensation and Employer's Liability Insurance as required by the laws of the State of New York covering the contractor;
- b. Personal Injury Liability Insurance having limits of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate (personal injury);
- c. Property Damage Liability Insurance having limits of not less than \$1,000,000 for all damages arising during the life of the contract; and shall include, but not be limited to, the following designated hazards:

- i. Premises and Operations;
 - ii. Independent Contractors;
 - iii. Completed operations and products;
 - iv, Property Damage; and
 - v. Explosion, collapse and underground;
- d. Comprehensive automobile liability (including non-owned and hired automobiles) having limits of not less than:
- i. Bodily injury each person \$1,000,000 each occurrence \$1,000,000
 - ii. Property damage - each occurrence \$1,000,000
- e. All insurance policies must provide for thirty (30) business days' notice to the Village before cancellation.

SCHEDULE OF RATES AND FEES

(a) Effective Term of Schedule.

The schedule attached hereto and made a part hereof sets forth the rates, fees and other charges applicable to the provision of water and related services by the Village of Ellicottville to all premises, owners, users and other persons, as of the date set forth therein, and continuing thereafter, until amended.

APPENDIX A: TAP AND CONNECTION FEES

The Tap Fee and the Connection Fee approved on October 15, 2012.

TAP AND CONNECTION FEES		
Effective October 15, 2012		
DESCRIPTION	Service Line Connection Fee	Total
Service Lines		
3/4, 1 inch service	\$1,000.00	\$1,000.00 *(Plus the cost of the meter)
1-1/4 inch to 8 inch	The Connection Fee will be \$1,000, plus the actual cost of labor, materials, equipment and restoration from the main to the curb box or valve box at the customer's property line in excess of the Connection Fee.	Actual cost of labor, materials, equipment and restoration (See Note 1)
Over 8 inch service	The Connection Fee will be \$1,000, plus the actual cost of the labor, materials, equipment and restoration from the main to the curb box or valve box at the customer's property line which will be subcontracted and paid by the owner.	Connection to be subcontracted. (See Note 1)
Sanitary Sewer		
4 inch to 12 inch	\$1,750.00 (See Note 1)	Actual cost of labor, materials, equipment and restoration (See Note 1)
Over 12 inch service	The Connection Fee will be \$1,750, plus the actual cost of the labor, materials, equipment and restoration which will be sub-contracted and paid by the owner.	Connection to be sub-contracted. (See Note 1)
Note 1: Contractor or owner to provide all permits, and inspection fees.		

APPENDIX B: MISCELLANEOUS CHARGES

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APPENDIX C: WATER RATES SCHEDULE

WATER RATES SCHEDULE
Effective: October 15, 2012

Water Meter Rates [Cubic Feet (Cu/Ft)]					
Rate Class	Description	Rate Block	Cost per Cubic Ft.	Cost per K cu/ft.	Minimum Charge
301	Residential	0 to 1,604 cu/ft.	\$ -	\$ -	\$ 30.59
		=/> 1,605 cu/ft.	\$ 0.01907	\$ 19.07107	NA
303	Residential Senior Rate	0 to 1,604 cu/ft.	\$ -	\$ -	\$ 15.30
		=/> 1,605 cu/ft.	\$ 0.00954	\$ 9.53865	NA
304	Commercial	0 to 8,020 cu/ft.	\$ -	\$ -	\$ 152.94
		=/> 8,021 cu/ft.	\$ 0.01907	\$ 19.06983	NA
305	2 Dwelling units/1 premise	0 to 3,208 cu/ft.	\$ -	\$ -	\$ 61.18
		=/> 3,209 cu/ft.	\$ 0.01907	\$ 19.07107	NA
309	4 Dwelling units/1 premise	0 to 6,416 cu/ft.	\$ -	\$ -	\$ 122.36
		=/> 6,417 cu/ft.	\$ 0.01907	\$ 19.07107	NA
310	Industrial	0 to 8,020 cu/ft.	\$ -	\$ -	\$ 152.95
		=/> 8,021 cu/ft.	\$ 0.01907	\$ 19.07107	NA
311	3 Dwelling units/1 premise	0 to 4,812 cu/ft.	\$ -	\$ -	\$ 91.77
		=/> 4,813 cu/ft.	\$ 0.01907	\$ 19.07107	NA
317	Residential Flat Rate	NA	NA	NA	\$ 30.59

Water Meter Rates [Gallons (Gal)]					
Rate Class	Description	Rate Block	Cost per Gallon	Cost per K Gallon	Minimum Charge
318	2 Dwelling units/1 premise	0 to 24,000 Gal	\$ -	\$ -	\$ 61.18
		=/> 24,001 Gal	\$ 0.00255	\$ 2.54917	NA
320	Residential Senior Rate	0 to 12,000 Gal	\$ -	\$ -	\$ 15.30
		=/> 12,001 Gal	\$ 0.00128	\$ 1.27500	NA
321	3 Dwelling units/1 premise	0 to 36,000 Gal	\$ -	\$ -	\$ 91.77
		=/> 36,001 Gal	\$ 0.00255	\$ 2.54917	NA
322	Industrial	0 to 60,000 Gal	\$ -	\$ -	\$ 152.95
		=/> 60,001 Gal	\$ 0.00255	\$ 2.54917	NA
323	Commercial	0 to 60,000 Gal	\$ -	\$ -	\$ 152.95
		=/> 60,001 Gal	\$ 0.00255	\$ 2.54917	NA
324	Residential	0 to 12,000 Gal	\$ -	\$ -	\$ 30.59
		=/> 12,001 Gal	\$ 0.00255	\$ 2.54917	NA
329	4 Dwelling units/1 premise	0 to 48,000 Gal	\$ -	\$ -	\$ 122.36
		=/> 48,001 Gal	\$ 0.00255	\$ 2.54917	NA

Village of Ellicottville

Local Law No. 2 of the year 2013

A local law to amend Local Law No. 3 of the Year 2012 entitled "A Local Law Setting Forth the Rules and Regulations Governing Water Service"

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

1. The Water Rate Schedule which is Appendix C to Local Law No. 3 of the Year 2012 is hereby amended to establish water meter rates as set forth in the schedule attached hereto and entitled "Appendix C: Water Rates Schedule".
2. This Local Law shall take effect immediately.

Appendix C: Water Rate Schedule
Village of Ellicottville
Water Meter Rates

Rate Class	Description	Rate Block	Cost per Cubic Ft	Cost per K Cubic Ft	Minimum Charge
301	Residential	0 to 1,604 cu/ft => 1,605 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$32.12 NA
303	Residential Senior Rate	0 to 1,604 cu/ft => 1,605 cu/ft	\$ - \$0.01001	\$ - \$10.01180	\$16.07 NA
304	Commercial	0 to 1,604 cu/ft => 1,605 cu/ft	\$ - \$0.0202	\$ - \$20.02350	\$90.00 NA
306	Commercial	0 to 4,812 cu/ft => 4,813 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$125.00 NA
308	Commercial	0 to 8,020 cu/ft => 8,021 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$200.00 NA
305	2 Dwelling units 1 premise	0 to 3,208 cu/ft => 3,209 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$64.24 NA
309	4 Dwelling unit 1 premise	0 to 6,416 cu/ft => 6,417 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$128.48 NA
310	Industrial	0 to 8,020 cu/ft => 8,021 cu/ft	\$ - 0.02002	\$ - \$20.02350	\$200.00 NA
311	3 Dwelling 1 premise	0 to 4,812 cu/ft => 4,813 cu/ft	\$ - \$0.02002	\$ - \$20.02350	\$96.36 NA
317	Residential Flat Rate	NA	NA	NA	\$32.12

Village Of Ellicottville
Water Meter Rate

Rate Class	Description	Rate Block	Cost per Gallon	Cost per K Gallon	Minimum Charge
318	2 Dwelling units 1 premise	0 to 24,000 Gal => 24,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$64.24 NA
320	Residential Senior Rate	0 to 12,000 Gal => 12,001 Gal	\$ - \$0.00134	\$ - 1.34000	\$16.07 NA
321	3 Dwelling units 1 premise	0 to 36,000 Gal => 36,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$96.36 NA
322	Industrial	0 to 60,000 Gal => 60,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$200.00 NA
323	Commercial 5/8" & 3/4" meter	0 to 12,000 Gal => 12,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$90.00 NA
325	Commercial 1" & 1 1/2" meter	0 to 36,000 Gal => 36,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$125.00 NA
326	Commercial 2" & larger	0 to 60,000 Gal => 60,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$200.00 NA
324	Residential	0 to 12,000 Gal => 12,001 Gal	\$ - \$0.00267	\$ - \$2.67000	\$32.12 NA
329	4 Dwelling units	0 to 48,000 Gal	\$ - \$0.00267	\$ - \$2.67000	\$128.48 NA

Local Law Filing

Village ofEllicottville.....

Local Law No......2..... **of the year 1991.**

A local law REGULATING SOLID WASTE MANAGEMENT AND RECYCLING IN THE VILLAGE OF ELLICOTTVILLE

Be it enacted by the..... BOARD OF TRUSTEES.....**of the**

Village of ELLICOTTVILLE..... **as follows:**

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

SECTION 1. FINDINGS

The Board of Trustees of the Village of Ellicottville finds that:

(a) The current collection and disposal of garbage and waste is not adequate to meet the Village of Ellicottville's long term solid waste disposal needs.

(b) Continued use for landfills for solid waste disposal poses a threat to human health and safety through increased risk of ground water pollution and other environmental, health and safety hazards.

(c) Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources, and reduce the required capacity of existing and proposed resource facilities.

(d) The New York Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992 for separating solid waste into recyclable, reusable or other components for which economic markets for alternate uses exist.

(e) Methods of solid waste management emphasizing source reduction, recovery, conversion, and recycling of solid wastes are essential to the long range preservation of health, safety, and well-being of the public, to the economic markets for alternate uses exist.

(f) Cattaraugus County Legislature has passed a local law number 1-1990, effective January 1, 1991 that establishes fees for the disposal of solid waste. Since this fee was not in the budget of the Village of Ellicottville it must be assessed to affect only those who are using the service of the village waste disposal.

SECTION 2. DEFINITIONS.

Whenever used in this local law, or in the rules and regulations duly adopted by the Board of Trustees, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following words shall have the respective meanings hereinafter set forth:

A. "Ashes" shall mean all substances or material which remain after combustion.

B "Garbage" shall mean all organic waste material, both animal and vegetable

C. "Paper" shall mean waste paper, cardboard, cardboard boxes and containers.

D. "Refuse" shall mean all other waste material not otherwise specifically defined.

E. "Trash" shall mean all discarded material not suitable for further use.

F. "Vehicle" shall mean a motor vehicle designed or adapted for use in the removal of garbage and trash.

G. "Person" shall mean an individual, trust, firm, joint stock company, corporation, partnership, association or any interstate body.

H. "Storage" shall mean the containment of waste, garbage or refuse for a period of over 60 days, in such a manner as not to constitute disposal of such waste.

I. "Waste" means any garbage, refuse, trash, sludge and all other waste material not otherwise specifically defined.

J. "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment or an injection well.

K. "White Goods" shall mean washing machines, clothes dryers, refrigerators, freezers and all other similar types of materials that are of recyclable value.

L. "Hazardous Waste" means a waste or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may;

- (1) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or:
- (2) Poses a substantial present or potential hazard human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed,
- (3) All those chemicals, waste, oils, and/or all those articles or materials listed under Section 27-0903 of the NYS Environmental Conservation Law drawn up by the Commissioner of the DEC.

M. "Distinctively Labeled Bag" shall mean a plastic or other bag of such size and design as may be determined by the Board of Trustees containing a distinctive imprint or label, to be used for the collection and disposal of non-recyclable garbage and trash in the Village of Ellicottville.

N. "Authorized Agent" shall mean a person who has been designated to issue distinctively labeled bags on behalf of the Village and to pay the necessary fees therefore

O. "Person in Charge" shall mean a natural person, association, partnership, firm or corporation that occupies, manages, uses or controls premises.

P. "Recyclables" means those items or materials appearing on the official list of mandatory recyclable materials as adopted by the Board of Trustees.

Q. "Yard Waste" shall mean grass clippings, leaves, cuttings from shrubs, hedges and trees, but excluding tree and brush stumps.

SECTION 3. PROHIBITED DISPOSAL OF GARBAGE AND TRASH.

A. Public Property.

No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon any sidewalk, street, alley, lane, gutter or any public ground in the Village or into any stream or upon the banks of any stream running through or adjacent to said Village.

B. Private Property.

No person shall place, throw or deposit or cause to be placed, thrown or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon the private property of another person.

C. Burning or Burying.

No person shall bury or openly burn or cause to be buried or openly burned any garbage, refuse, papers, trash, hazardous waste and/or materials within the Village limits.

SECTION 4. RESTRICTIONS ON USE OF VEHICLES.

The collection, removal and carrying of garbage, refuse, trash, paper, hazardous waste and/or materials and ashes on any highway, street, alley, or land of the Village must be done in covered, water-tight vehicles which shall be in accordance with the rules and regulation of the Board of Health. No garbage, papers, trash, refuse, hazardous waste and/or materials or ashes shall be spilled or scattered along the streets or public places and the vehicles used for the collection and transportation of such material shall not be allowed to stand or tarry along the public streets for a longer time than shall be reasonably necessary for the loading of the same.

SECTION 5. GARBAGE AND RECYCLABLES FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for non-residents of the Village of Ellicottville to purchase or otherwise use the distinctively labeled bags for the purpose of depositing garbage and trash in the Village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 6. PERMITTING DISPOSAL OF MATERIALS FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for any resident of the Village, owner, leasee or person in control of real property within the village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 7. DEPOSIT OF MATERIALS INTO TRASH RECEPTACLES LOCATED ON VILLAGE PROPERTY RESTRICTED.

It shall be a violation to place any materials into a trash receptacle located on Village property unless such waste was generated at that location. Permitted waste would include picnic waste.

SECTION 8. RE-USE OF DISTINCTIVELY LABELED BAGS PROHIBITED.

It shall be a violation to re-use, or permit to be re-used, a distinctively labeled bag that has previously been placed at the curb, or street side, for collection.

SECTION 9. MATERIALS SUBJECT TO MANDATORY RECYCLING.

For the purpose of being able to react promptly to recycling requirements of Cattaraugus County and the State of New York, the Board of Trustees is hereby empowered to adopt by resolution an official list of mandatory recyclable materials. Said list may be changed from time to time by resolution of the Board. Failure to recycle materials on this official list, except where otherwise excepted by this local law, shall be a violation of this local law.

SECTION 10. PREPARATION OF WASTE MATERIAL FOR COLLECTION.

No person shall dispose of waste material except as follows:

(a) Waste material shall be prepared for collection in accordance with Sub-Sections (1) through (7) of this section.

(1) Each person will dispose of nonrecyclable solid waste in distinctively labeled plastic bags sold by the Village of Ellicottville. All recyclable materials will be prepared and separated into reusable plastic containers or clear plastic bags and set at the curb with the solid waste for pick up. The Village of Ellicottville may also make available a "recycling center" for those who do not wish to set their recyclables at the curb.

(2) Aluminum and metal cans shall be separated from nonrecyclables and other recyclables. Aluminum and metal cans so separated shall be clean of contents, have their labels removed, and placed in containers.

(3) Clear glass bottles shall be separated from nonrecyclables and other recyclables. Glass bottles so separated shall be clean of contents, with caps, paper wrappings lids and all other metals removed and placed in separate containers.

(4) Newsprint shall be separated from nonrecyclables and other recyclables and placed at curbside in securely tied bundles or placed in sufficiently strong brown paper bags. Such bundles shall not exceed 25 pounds in weight. In the event of inclement weather, such bundles shall be placed in clean containers or in disposable clear plastic bags of at least 1.5 mil thickness and sufficiently strong to contain the materials enclosed. When filled, each such bag weigh no more than 25 pounds,

(5) Plastic containers shall be separated from non recyclables and other recyclables. Plastic containers shall be clean of contents with caps and lids removed and placed in separate containers.

(6) Large appliances shall be prepared for collection by dismantling in such a way that they will not be a hazard to the public. In this respect, doors shall be removed before placing at the curb for collection.

(7) Garbage and rubbish shall be separated from recyclables and other nonrecyclables and placed in containers.

SECTION 11. RULES AND REGULATIONS PERTAINING TO MATERIALS PREPARATION,

The Board of Trustees is hereby empowered to adopt by resolution rules and regulations pertaining to solid waste management in regard to materials preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound management of this local law. The provisions of this local law shall incorporate by reference such rules and regulations that may be changed from time to time by resolution of the Board.

Failure to comply with said rules and regulations, except where otherwise excepted in this local law, shall constitute a violation of this local law.

SECTION 12. RECYCLING EXCEPTIONS.

The provisions for recycling waste need not be complied with when the person contracts with a private disposal service and said private disposal service permits waste of all types to be mixed together in a dumpster or other suitable container which will then be properly disposed of by the private disposal service.

SECTION 13. ALTERNATE DISPOSAL METHODS ALLOWED.

Nothing in this local law shall be deemed to prohibit any person from contracting with a private hauler for removal of waste and recyclables. Nothing in this local law shall be deemed to prohibit any person from disposing or causing to be disposed of waste and recyclables at a landfill or transfer station operated by the County of Cattaraugus, their duly designated representative, or with a private firm properly authorized to dispose of these materials.

SECTION 14. USE OF DISTINCTIVELY LABELED BAGS.

It shall be the responsibility of all persons residing within the Village to separate all non-recyclable garbage and trash from recyclables, and to place and seal non-recyclables in a distinctively labeled bag sold by the Village of Ellicottville or its authorized agent. No person shall use any bag other than Village-operated solid waste program. No person shall duplicate or imitate any distinctively labeled bag issued by the Village of Ellicottville. No person shall give, sell or issue in any manner a duplicated or imitated distinctively labeled bag. Any prohibited action of this section shall constitute a violation of this local law.

SECTION 15. AUTHORIZED AGENTS.

Any person operating a place of business within the Village of Ellicottville may apply to become an authorized agent to issue distinctively labeled bags on behalf of the Village of Ellicottville. Such authorized agent shall pay to the Village of Ellicottville the designated collection fee established by the Village. Each agent may add a service charge not to exceed the fee set for this purpose by the Board of Trustees. All fees shall be set by resolution of the Board of Trustees and may be changed by resolution from time to time

SECTION 16. PRESUMPTION CONCERNING DEPOSITING OF WASTE IN NON DISTINCTIVELY LABELED BAGS OR OTHER MEANS.

In the case where waste is deposited in bags or containers that are not the distinctively labeled bags, it shall be presumed that such waste is the responsibility of the person, or persons, that may be identifiable by inspection of the contents of the container or bag. In the event that identification cannot be determined by said inspection, it will be presumed that the waste is the responsibility of the occupants, or the owner the other buildings or real property where such placement has been made. If placement is made on a public or private right-of-way, the closest private real property will be deemed to be the location of the violation.

SECTION 17. FEE SCHEDULE.

The Board of Trustees shall establish by resolution the user collection fee which shall be applicable to all users of the Village-operated solid waste management program. Fees may be

imposed for both recyclable as well as non recyclable materials but shall not be in excess of what is needed to operate the waste management program. Said fees may be changed from time to time by resolution of the Board of Trustees.

SECTION 18. UNCONSTITUTIONALITY OR ILLEGALITY CLAUSE.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

SECTION 19. ENFORCEMENT AND PENALTIES.

A. The provisions of this local law shall be enforceable by any peace officer, any police officer, or any agent duly authorized by resolution of the Board of Trustees.

B. A person convicted of violating any provision of this local law shall be guilty of a violation which is punishable as follows:

(1) For a first conviction, by a fine of \$25.00, or imprisonment for 15 days or both.

(2) For a second conviction, within one year, by a fine of \$50.00, or imprisonment for 15 days or both.

(3) For a third conviction within one year, by a fine of \$100.00, or imprisonment for 15 days or both.

(4) For a fourth and all subsequent convictions within one year, by a fine not less than \$250.00 nor more than \$500.00, or imprisonment for 15 days, or both.

SECTION 20. EFFECTIVE DATE.

A. This local law shall be effective immediately upon filing with the Secretary of State.

B. An adjustment and education period of one-month from the effective date of this local law is hereby established. During this one month period, any violation of this local law shall not be subject to the penalties set forth in Section 17, but shall be handled as follows, at the discretion of the enforcement officer or his/her agent:

(1) Verbal warning and corrective instructions to the violator, or

(2) Written warning and corrective instructions to the violator, or

(3) Meeting with the violator to determine the reason for such violation and to educate or assist such person in compliance.

C. Any person, however, who has been in violation three times and has been dealt with each time pursuant to subparagraphs 1, 2, or 3 of paragraph B of Section 18 herein, shall, upon a fourth or subsequent violation within the one month adjustment and education period, be fined no less than \$50.00 nor more than \$100.00 or imprisonment of 15 days, or both.

Local Law Filing

Village ofEllicottville

Local Law No1..... **of the year 2021.**

A local law REGULATING SOLID WASTE MANAGEMENT AND RECYCLING IN THE VILLAGE OF ELLICOTTVILLE

Be it enacted by the**BOARD OF TRUSTEES****of the**

Village of.....**ELLICOTTVILLE**..... **as follows:**

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

SECTION 1. FINDINGS

The Board of Trustees of the Village of Ellicottville finds that:

(a)The current collection and disposal of garbage and waste is not adequate to meet TheVillage of Ellicottville's long-term solid waste disposal needs.

(b)Continued use for landfills for solid waste disposal poses a threat to human health and safety through increased risk of ground water pollution and other environmental, health and safety hazards.

(c)Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources, and reduce the required capacity of existing and proposed resource facilities.

(d)The New York Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992 for separating solid waste into recyclable, reusable or other components for which economic markets for alternate uses exist.

(e)Methods of solid waste management emphasizing source reduction, recovery, conversion, and recycling of solid wastes are essential to the long-range preservation of health, safety, and well-being of the public, to the economic markets for alternate uses exist.

(f) Cattaraugus County Legislature has passed a local law number 1-1990, effective January 1, 1991 that establishes fees for the disposal of solid waste. Since this fee was not in the budget of the Village of Ellicottville it must be assessed to affect only those who are using the service of the village waste disposal.

SECTION 2. DEFINITIONS

Whenever used in this local law, or in the rules and regulations duly adopted by the Board of Trustees, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following words shall have the respective meanings hereinafter set forth:

A. "Ashes" shall mean all substances or material which remain after combustion.

- B. "Authorized Agent" shall mean a person who has been designated to issue distinctively labeled bags on behalf of the Village and to pay the necessary fees therefore.
- C. Electronic Waste, also known as e-waste shall include any discarded electronic equipment including but not limited to electronic waste shall include, but not be limited to: (1) computers, including desktop, portable, laptop, and notebook computers, tablets, netbooks and ultra-compact laptops; (2) hard-copy devices, including printers, fax machines, scanners, digital copiers, multifunction devices, stand-alone copier machines, modems, personal computer upgrade components, sound cards, external storage and external hard drives; (3) keyboards and mice; (4) computer displays, including cathode ray tube (CRT) monitors and all flat-panel types; (5) televisions, including CRT portable, table and console models and VCR/DVD combination products; flat-panel televisions, including liquid-crystal displays (LCD), plasma televisions, organic light-emitting diode (OLED) televisions, and flat-panel TV combination products; projection televisions, including rear projection televisions; and black and white televisions; and (6) handheld devices, including portable, handheld wireless telephones, cell phones, personal digital assistants, smartphones, pagers, but not handheld televisions, portable MP3 players, iPods, digital cameras and camcorders; and (7) microwave ovens; and (8) batteries of any kind.
- D. "Family" for purposes of this local law is a household or domestic establishment constituting a single housekeeping unit occupied by one or more persons living together.
- E. "Garbage" shall mean all organic waste material, both animal and vegetable.
- F. "Hazardous Waste" means any discarded substance or combination of substances, which because of its quantity, concentration or physical, chemical or infectious characteristics may;
- (1) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or:
 - (2) Poses a substantial present or potential hazard human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed,
 - (3) All those chemicals, waste, oils, and/or all those articles or materials listed under Section 27-0903 of the NYS Environmental Conservation Law drawn up by the Commissioner of the DEC.
 - (4) Ignitable substance, such as, but not limited to, paint thinners, solvent-based cleaners, degreasers (e.g., acetone, xylene) and gasoline.
 - (5) Corrosive substances, such as, but not limited to batteries, containers of battery acid or metal-cleaning bath sludges (e.g., sodium hydroxide or sulfuric or hydrochloric acid).
 - (6) Reactive substance, such as, but not limited to cyanide metal-plating sludges or any waste that will react violently with water or which generates toxic gases, vapors or fumes (e.g., sodium metal).
 - (7) United States Environmental Protection Agency determined toxic wastes based upon testing for toxicity, corrosivity, leachability or pyrality under guidance documents adopted

or published by the United States Environmental Protection Agency.

(8) Toxic wastes, such as sludges from solvent recovery, solvents and the industry-specific wastes listed in the regulations of the Commissioner of the New York State Department of Environmental Conservation.

(9) any infectious medical waste, subject to the provisions of the New York State Health Law as classified as infectious waste.

G. "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment or an injection well.

H. "Paper" shall mean waste paper, cardboard, cardboard boxes and containers.

I. "Person" shall mean an individual, trust, firm, joint stock company, corporation, partnership, association or any interstate body.

J. "Person in Charge" shall mean a natural person, association, partnership, firm or corporation that occupies, manages, uses or controls premises.

K. "Recyclables" means those items or materials appearing on the official list of mandatory recyclable materials as adopted by the Board of Trustees.

L. "Refuse" shall mean all other waste material not otherwise specifically defined.

M. "Residential Dwelling Unit" for purposes of this local law is a building or portion thereof that provides complete housekeeping facilities for one family with its own sleeping, cooking, and toilet facilities but shall not be construed to include a hotel, lodge, bed and breakfast or other such use of a transient nature, or which pursuant to Village Law is not serviced by the Village solid waste collection and disposal system.

N. "Suitable Receptacle" – a rodent proof rigid plastic, or metal container, with a lid sealed sufficiently to prevent vapor emissions and tight enough to prevent rodent intrusion, and no more than 40 gallons. (The intent of this limitation is to require a receptacle which will prevent garbage spread through the Village and prevent rodents from feeding on waste.) The 40 gallon limit might be extended up to 64 gallons provided it is in a tote with a metal lift bar determined by the Village to be compatible with the Village's refuse services collection trucks.

O. "Storage" shall mean the containment of waste, garbage or refuse for a period of over 60 days, in such a manner as not to constitute disposal of such waste.

P. "Trash" shall mean all discarded material not suitable for further use.

- Q. "Vehicle" shall mean a motor vehicle designed or adapted for use in the removal of garbage and trash.
- R. "Waste" means any garbage, refuse, trash, sludge and all other waste material not otherwise specifically defined.
- S. "White Goods" shall mean washing machines, clothes dryers, refrigerators, freezers and all other similar types of materials that are of recyclable value.
- T. "Yard Waste" shall mean grass clippings, leaves, cuttings from shrubs, hedges and trees, but excluding tree and brush stumps.

SECTION 3 PROHIBITED DISPOSAL OF GARBAGE AND TRASH AND OTHER SUBSTANCES.

A. Public Property.

No person shall place, throw, deposit or discard, or cause to be placed, thrown, deposited, or discarded any garbage, refuse, papers, trash, hazardous waste, white goods, and/or material or ashes upon any sidewalk, street, alley, lane, gutter or any public ground in the Village or into any stream or upon the banks of any stream running through or adjacent to said Village, unless expressly authorized by this local law.

B. Private Property.

No person shall place, throw, discard, or deposit or cause to be placed, thrown, discarded, or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon the private property of another person.

C. Burning or Burying.

No person shall bury or openly burn or cause to be buried or openly burned any garbage, refuse, papers, trash, hazardous waste and/or materials within the Village limits.

D. Commercial Premises, and Multi-family Dwellings Must Procure their Own Solid Waste and Recyclable Collection. All Commercial properties, and residential structures with more than three units, must procure their own private pick-up. No curb side placement of Solid Waste or Recyclables is permitted by them, unless part of a Site Plan approved by Village Planning Board.

SECTION 4. PERMITTABLE CURBSIDE DISPOSAL OF GARBAGE, RECYCLABLES, YARD WASTES, AND WHITE GOODS

- A. All disposing, discarding, or curbside placement of materials not expressly authorized by this local law is prohibited.

- B. All disposition of any Hazardous Waste, Toxic Waste or Electronic Waste in the Village is strictly prohibited
- C. Garbage, Rubbish and Trash. The Village Board of Trustees shall designate days for the removal of solid waste from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curblin in front of the premises occupied, or owned by him, all Garbage Rubbish and Trash not containing Hazardous Waste, White Goods, Yard Waste, or Electronic Waste. Solid waste collected from the lot owned or occupied by any person in a Suitable Receptacle. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of solid waste from the curblin, all totes and receptacles utilized to dispose of the property shall be removed from the curblin, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- D. RECYCLABLES. The Village Board of Trustees shall designate days for the removal of Recyclable, from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him all recyclables meeting the definitions of the mandatory recyclable list adopted by the Village BOARD OF Trustees, and posted on the Village official webpage. Recyclables collected from the lot owned or occupied by any person in Suitable Receptacles. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that all occupants of their premises comply with this requirement. Within 24 hours of the collection of recyclables waste from the curblin, all totes and receptacles utilized to dispose of the property shall be removed from the curblin, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- E. YARD WASTE. The Village Board of Trustees shall designate days for the removal of Yard Waste from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 72 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him. Yard Waste to be placed at the curb line for pickup shall be limited so that it will not contain any tree branches and trunk materials from shrubs that are longer than four feet in length and wider than 6 inches in diameter. 4. Any brush and leaves collected from a property within the Village and handled by a licensed landscape contractor for hire, shall be removed and disposed of by the hired contractor, and shall not be discarded at the curb line. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of Yard Waste from the curb line, all totes and receptacles utilized to dispose of the property shall be removed from the curb line, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- F. WHITE GOODS. The Village Board of Trustees shall designate days for the removal of

White Goods from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him all garbage and rubbish and trash not containing Hazardous Waste, White Goods, Yard Waste, or Electronic Waste. Solid waste collected from the lot owned or occupied by any person him in receptacles or plastic bags properly closed with a twist tie or string. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of White Goods waste from the curb line, all totes and receptacles utilized to dispose of the property shall be removed from the curb line, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel

SECTION 4. Solid Waste Generation Fee .

A. Every residential dwelling unit in the Village will be subject to the solid waste generation fee for solid waste collection and disposal and any unpaid solid waste generation fee for solid waste collection and disposal shall be a lien against the real property on which the residential dwelling unit is located and shall be enforced by whatever legal or equitable means available to the Village of Ellicottville.

B. The initial solid waste generation fee for solid waste collection and disposal shall be \$30.00 per quarter payable in advance for each residential dwelling unit. However, the quarterly rate for a residential dwelling unit which is occupied by at least one permanent full time resident, who is 65 years of age or older, or who is a military veteran with DD214 showing proof of an honorable discharge, either of whom is either the owner or tenant of the residential dwelling unit shall be \$15.00 per quarter payable in advance, and further provided that any person claiming eligibility for the \$15.00 per quarter fee shall be required to annually present to the Village Clerk satisfactory proof of eligibility for such quarterly solid waste generation fee.

C. The solid waste generation fee for solid waste collection and disposal shall be included on the sewer bill for the sewer service.

D. The Village Board of Trustees may from time to time by resolution modify the amount of the solid waste generation fee for solid waste collection and disposal to reflect the known costs of the solid waste collection and disposal service.

E. The solid waste generation fee set forth in this local law shall become effective on August 1, 2020.

SECTION 5. RESTRICTIONS ON USE OF VEHICLES.

The collection, removal and carrying of garbage, refuse, trash, paper, hazardous waste and/or

materials and ashes on any highway, street, alley, or land of the Village must be done in covered, water-tight vehicles which shall be in accordance with the rules and regulation of the Board of Health. No garbage, papers, trash, refuse, hazardous waste and/or materials or ashes shall be spilled or scattered along the streets or public places and the vehicles used for the collection and transportation of such material shall not be allowed to stand or tarry along the public streets for a longer time than shall be reasonably necessary for the loading of the same.

SECTION 6. GARBAGE AND RECYCLABLES FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 7. PERMITTING DISPOSAL OF MATERIALS FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for any resident of the Village, owner, leasee or person in control of real property within the village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 8. DEPOSIT OF MATERIALS INTO TRASH RECEPTACLES LOCATED ON VILLAGE PROPERTY RESTRICTED

It shall be a violation to place any materials into a trash receptacle located on Village property unless such waste was generated at that location. Permitted waste would include picnic waste.

SECTION 9. MATERIALS SUBJECT TO MANDATORY RECYCLING.

For the purpose of being able to react promptly to recycling requirements of Cattaraugus County and the State of New York, the Board of Trustees is hereby empowered to adopt by resolution an official list of mandatory recyclable materials. Said list may be changed from time to time by resolution of the Board. Failure to recycle materials on this official list, except where otherwise excepted by this local law, shall be a violation of this local law.

SECTION 10. PREPARATION OF WASTE MATERIAL FOR COLLECTION.

No person shall dispose of waste material except as follows:

(a) Waste material shall be prepared for collection in accordance with Sub-Sections (1) through (7) of this section.

(1) Each person will dispose of nonrecyclable solid waste in a Suitable Receptacle as defined above. All recyclable materials will be prepared and separated into reusable plastic containers or clear plastic bags and set at the curb with the solid waste for pick up. The Village of Ellicottville may also make available a "recycling center" for those who do not wish to set their recyclables at the curb.

(2) Aluminum, clear glass bottles, and metal cans shall be separated from nonrecyclables

and other recyclables. Aluminum, and metal cans so separated shall be clean of contents, have their labels removed, and placed in containers.

(3) Clear glass bottles shall be separated from nonrecyclables and other recyclables. Glass bottles so separated shall be clean of contents, with caps, paper wrappings lids and all other metals removed and placed in separate containers.

(4) Newsprint shall be separated from nonrecyclables and other recyclables and placed at curbside in securely tied bundles or placed in sufficiently strong brown paper bags. Such bundles shall not exceed 25 pounds in weight. In the event of inclement weather, such bundles shall be placed in clean containers or in disposable clear plastic bags of at least 1.5 mil thickness and sufficiently strong to contain the materials enclosed. When filled, each such bag weigh no more than 25 pounds,

(5) Plastic containers shall be separated from non recyclables and other recyclables. Plastic containers shall be clean of contents with caps and lids removed and placed in separate containers.

(6) Large appliances shall only be placed for curbside pick up on the days designated by the Village Board for the pick-up of White Goods. Large appliances shall be prepared for collection by dismantling in such a way that they will not be a hazard to the public. In this respect, doors shall be removed before placing at the curb for collection.

(7) Garbage and rubbish shall be separated from recyclables and other nonrecyclables and placed in separate containers.

(b) Garbage, refuse, paper and recyclables shall not be placed at the curb for collection more than 24 hours prior to the regularly scheduled collection. All other items defined in Section (2) of this local, and expressly authorized above to be disposed of for curbside pick-up, including White Goods, shall not be placed at the curb for collection more than 48 hours prior to the scheduled collection of those items.

SECTION 11. RULES AND REGULATIONS PERTAINING TO MATERIALS PREPARATION,

The Board of Trustees is hereby empowered to adopt by resolution rules and regulations pertaining to solid waste management in regard to materials preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound management of this local law. The provisions of this local law shall incorporate by reference such rules and regulations that may be changed from time to time by resolution of the Board. Failure to comply with said rules and regulations, except where otherwise excepted in this local law, shall constitute a violation of this local law.

SECTION 12. RECYCLING EXCEPTIONS.

The provisions for recycling waste need not be complied with when the person contracts with a private disposal service and said private disposal service permits waste of all types to be mixed together in a dumpster or other suitable container which will then be properly disposed of by the private disposal service.

SECTION 13 . ALTERNATE DISPOSAL METHODS ALLOWED.

Nothing in this local law shall be deemed to prohibit any person from contracting with a private

hauler for removal of waste and recyclables. Nothing in this local law shall be deemed to prohibit any person from disposing or causing to be disposed of waste and recyclables at a landfill or transfer station operated by the County of Cattaraugus, their duly designated representative, or with a private firm properly authorized to dispose of these materials.

SECTION 14. FEE SCHEDULE.

The Board of Trustees shall establish by resolution the user collection fee which shall be applicable to all users of the Village-operated solid waste management program. Fees may be imposed for both recyclable as well as non recyclable materials but shall not be in excess of what is needed to operate the waste management program. Said fees may be changed from time to time by resolution of the Board of Trustees. Effective date for fee schedule is Oct 1, 2020.

SECTION 15. UNCONSTITUTIONALITY OR ILLEGALITY CLAUSE.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

SECTION 16. COST ENFORCEMENT AND PENALTIES.

A. The provisions of this local law shall be enforceable by any peace officer, any police officer, or any agent duly authorized by resolution of the Board of Trustees.

B. A person convicted of violating any provision of this local law shall be guilty of a violation which is punishable as follows:

(1) For a first conviction, by a fine of \$200.00, or imprisonment for 15 days or both.

(2) For a second conviction, within one year, by a fine of \$400.00, or imprisonment for 15 days or both.

(3) For a third conviction within one year, by a fine of \$600.00, or imprisonment for 15 days or both

C. Any fine assessed under the provisions of this Local Law, and not paid within 60 days of assessment shall become a Lien and charge upon the property from which the violation arose, and shall be collected by the Village Treasurer in the manner provided by law for the collection of Village taxes, provided Notice of the Violation shall be mailed to the address of the Property Owner listed with the Village Assessor 30 days prior to fine becoming a Lien upon the property. The Village Clerk shall not accept the Village Tax on such real property affected under this section, unless the lien created pursuant to this section is first paid.

D. In addition to any fine imposed herein any violator, or owner of a property upon which a

violation has occurred, shall be responsible for the actual cost of the Village of Ellicottville incurred as result of the violation, including, but not limited to the costs related to the disposal of any improperly discarded material in accordance with Federal, State, or local laws and regulations.

E.

SECTION 17. TICKETING, CHALLENGES, AND ADJUDICATION OF CHALLENGES

Any employee of a local public works department servicing the Village, as well as the Code Enforcement Officer serving the Village shall be authorized to issue a Notice of Violation of this Ordinance, and such Violation if disputed by the party issued the Notice of Violation, may be adjudicated in the local justice court servicing the Village, including but not limited to the Town Court of Ellicottville NY.

SECTION 18. EFFECTIVE DATE.

The Provisions of this Local Law shall become effective upon its filing with New York State Secretary of State or January 19, 2021

SECTION 19. Upon the Effective date of this Local Law Local Laws 2-1991, 3- 1991, 1-2013, 4-2018 , 2-2020 are repealed.

Local Law Filing

Village of.....Ellicottville.....

Local Law No.3.....**of the year 1991**

A local law to amend local law number 2 of the year Nineteen Hundred Ninety-One.

Be it enacted by the.....Board of Trustees.....**of the**

Village ofEllicottville..... **as follows:**

Section 1. Section 10 of local law number 2 of the year Nineteen Hundred Ninety-One of the Village of Ellicottville is hereby amended by adding subdivision (b) as follows:

(b) Garbage, refuse, paper and recyclables shall not be placed at the curb for collection more than 48 hours prior to the regularly scheduled collection. All other items defined in Section 2 of local law number 2 including white goods shall not be placed at the curb for collection more than 72 hours prior to the scheduled collection of those items.

Section 2. This local law shall take effect immediately.

Local Law Filing

Village of..... Ellicottville.....

Local Law No.....1..... of the year 2013

A local law to Establish a Solid Waste Generation Fee For Solid Waste Collection and Disposal

Be it enacted by theBoard of Trustee..... **of the Village of**.....Ellicottville..... **as follows:**

SECTION 1. Legislative Intent. The Village of Ellicottville Board of Trustees recognizes the importance to the health and safety of Village residents of maintaining reliable and regular solid waste collection and disposal of such waste from residences within the Village which is beneficial to all residences within the Village. The Board of Trustees deems that the most fair and equitable method of funding solid waste collection and disposal is to impose a fee on each residential dwelling unit within the Village which is based on the total cost to the Village for such service and the number of residential dwelling units in the Village.

SECTION 2. Definitions.

- A. A residential dwelling unit for purposes of this local law is a building or portion thereof that provides complete housekeeping facilities for one family with its own sleeping, cooking, and toilet facilities but shall not be construed to include a hotel, lodge, bed and breakfast or other such use of a transient nature, or which pursuant to Village Law is not serviced by the Village solid waste collection and disposal system.
- B. A family for purposes of this local law is a household or domestic establishment constituting a single housekeeping unit occupied by one or more persons living together.

SECTION 3. Solid Waste Generation Fee.

A. Every residential dwelling unit in the Village will be subject to the solid waste generation fee for solid waste collection and disposal and any unpaid solid waste generation fee for solid waste collection and disposal shall be a lien against the real property on which the residential dwelling unit is located and shall be enforced by whatever legal or equitable means available to the Village of Ellicottville.

B. The initial solid waste generation fee for solid waste collection and disposal shall be \$20.00 per quarter payable in advance for each residential dwelling unit, provided, that the solid waste generation fee for a residential dwelling unit which is occupied by at least one permanent resident who is 70 years of age or older and who is either the owner or tenant of the residential dwelling unit shall be \$10.00 per quarter payable in advance, and further provided that any person claiming eligibility for the \$10.00 per quarter fee shall annually present to the Village Clerk satisfactory proof of eligibility for such quarterly solid waste generation fee.

C. The solid waste generation fee for solid waste collection and disposal shall be

included on the water bill for the water service and there shall be a separate solid waste generation residential dwelling unit receiving water from the water service reflected on the said water bill,

D. The Village Board of Trustees may from time to time by resolution modify the amount of the solid waste generation fee for solid waste collection and disposal to reflect the known costs of the solid waste collection and disposal service.

E. The solid waste generation fee set forth in this local law shall become effective on June 1, 2013.

F. After June 1, 2013 and before June 30, 2013, the cost of unused distinctively marked plastic bags for disposal of solid waste sold by the Village through approved vendors will be refunded to the holder of such plastic bags upon return of the unused plastic bag along with the purchase receipt to the Village Clerk. No refunds for such plastic bags will be paid by the Village after June 30, 2013.

G. If the provisions of this local law conflict with the provisions of Local Law No. 2 of the year 1991 entitled A Local Law Regulating Solid Waste Management and Recycling in the Village of Ellicottville, the provisions of this local law shall apply.

SECTION 4. Effective Date. This local law shall take effect on June 1, 2013

Local Law Filing

Village of Ellicottville

Local Law No 2 of the year 2020.

A local law REGULATING SOLID WASTE MANAGEMENT AND RECYCLING IN THE VILLAGE OF ELLICOTTVILLE

Be it enacted by the BOARD OF TRUSTEES of the

Village of..... ELLICOTTVILLE as follows:

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

SECTION 1. FINDINGS

The Board of Trustees of the Village of Ellicottville finds that:

(a)The current collection and disposal of garbage and waste is not adequate to meet TheVillage of Ellicottville's long-term solid waste disposal needs.

(b)Continued use for landfills for solid waste disposal poses a threat to human health and safety through increased risk of ground water pollution and other environmental, health and safety hazards.

(c)Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources, and reduce the required capacity of existing and proposed resource facilities.

(d)The New York Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992 for separating solid waste into recyclable, reusable or other components for which economic markets for alternate uses exist.

(e)Methods of solid waste management emphasizing source reduction, recovery, conversion, and recycling of solid wastes are essential to the long-range preservation of health, safety, and well-being of the public, to the economic markets for alternate uses exist.

(f) Cattaraugus County Legislature has passed a local law number 1-1990, effective January 1, 1991 that establishes fees for the disposal of solid waste. Since this fee was not in the budget of the Village of Ellicottville it must be assessed to affect only those who are using the service of the village waste disposal.

SECTION 2. DEFINITIONS

Whenever used in this local law, or in the rules and regulations duly adopted by the Board of Trustees, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following words shall have the respective meanings hereinafter set forth:

A. "Ashes" shall mean all substances or material which remain after combustion.

- B. "Authorized Agent" shall mean a person who has been designated to issue distinctively labeled bags on behalf of the Village and to pay the necessary fees therefore.
- C. Electronic Waste, also known as e-waste shall include any discarded electronic equipment including but not limited to electronic waste shall include, but not be limited to: (1) computers, including desktop, portable, laptop, and notebook computers, tablets, netbooks and ultra-compact laptops; (2) hard-copy devices, including printers, fax machines, scanners, digital copiers, multifunction devices, stand-alone copier machines, modems, personal computer upgrade components, sound cards, external storage and external hard drives; (3) keyboards and mice; (4) computer displays, including cathode ray tube (CRT) monitors and all flat-panel types; (5) televisions, including CRT portable, table and console models and VCR/DVD combination products; flat-panel televisions, including liquid-crystal displays (LCD), plasma televisions, organic light-emitting diode (OLED) televisions, and flat-panel TV combination products; projection televisions, including rear projection televisions; and black and white televisions; and (6) handheld devices, including portable, handheld wireless telephones, cell phones, personal digital assistants, smartphones, pagers, but not handheld televisions, portable MP3 players, iPods, digital cameras and camcorders; and (7) microwave ovens; and (8) batteries of any kind.
- D. "Family" for purposes of this local law is a household or domestic establishment constituting a single housekeeping unit occupied by one or more persons living together.
- E. "Garbage" shall mean all organic waste material, both animal and vegetable.
- F. "Hazardous Waste" means any discarded substance or combination of substances, which because of its quantity, concentration or physical, chemical or infectious characteristics may;
- (1) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or:
 - (2) Poses a substantial present or potential hazard human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed,
 - (3) All those chemicals, waste, oils, and/or all those articles or materials listed under Section 27-0903 of the NYS Environmental Conservation Law drawn up by the Commissioner of the DEC.
 - (4) Ignitable substance, such as, but not limited to, paint thinners, solvent-based cleaners, degreasers (e.g., acetone, xylene) and gasoline.
 - (5) Corrosive substances, such as, but not limited to batteries, containers of battery acid or metal-cleaning bath sludges (e.g., sodium hydroxide or sulfuric or hydrochloric acid).
 - (6) Reactive substance, such as, but not limited to cyanide metal-plating sludges or any waste that will react violently with water or which generates toxic gases, vapors or fumes (e.g., sodium metal).
 - (7) United States Environmental Protection Agency determined toxic wastes based upon testing for toxicity, corrosivity, leachability or pyrality under guidance documents adopted

or published by the United States Environmental Protection Agency.

- (8) Toxic wastes, such as sludges from solvent recovery, solvents and the industry-specific wastes listed in the regulations of the Commissioner of the New York State Department of Environmental Conservation.
 - (9) any infectious medical waste, subject to the provisions of the New York State Health Law as classified as infectious waste.
- G. "Landfill" means a disposal facility or part of a facility where solid waste is placed in or on land, and which is not a land treatment facility, a surface impoundment or an injection well.
- H. "Paper" shall mean waste paper, cardboard, cardboard boxes and containers.
- I. "Person" shall mean an individual, trust, firm, joint stock company, corporation, partnership, association or any interstate body.
- J. "Person in Charge" shall mean a natural person, association, partnership, firm or corporation that occupies, manages, uses or controls premises.
- K. "Recyclables" means those items or materials appearing on the official list of mandatory recyclable materials as adopted by the Board of Trustees.
- L. "Refuse" shall mean all other waste material not otherwise specifically defined.
- M. "Residential Dwelling Unit" for purposes of this local law is a building or portion thereof that provides complete housekeeping facilities for one family with its own sleeping, cooking, and toilet facilities but shall not be construed to include a hotel, lodge, bed and breakfast or other such use of a transient nature, or which pursuant to Village Law is not serviced by the Village solid waste collection and disposal system.
- N. "Suitable Receptacle" – a rodent proof rigid plastic, or metal container, with a lid sealed sufficiently to prevent vapor emissions and tight enough to prevent rodent intrusion, and no more than 40 gallons. (The intent of this limitation is to require a receptacle which will prevent garbage spread through the Village and prevent rodents from feeding on waste.). The 40 gallon limit might be extended up to 64 gallons provided it is in a tote with a metal lift bar determined by the Village to be compatible with the Village's refuse services collection trucks.
- O. "Storage" shall mean the containment of waste, garbage or refuse for a period of over 60 days, in such a manner as not to constitute disposal of such waste.
- P. "Trash" shall mean all discarded material not suitable for further use.

- Q. "Vehicle" shall mean a motor vehicle designed or adapted for use in the removal of garbage and trash.
- R. "Waste" means any garbage, refuse, trash, sludge and all other waste material not otherwise specifically defined.
- S. "White Goods" shall mean washing machines, clothes dryers, refrigerators, freezers and all other similar types of materials that are of recyclable value.
- T. " Yard Waste" shall mean grass clippings, leaves, cuttings from shrubs , hedges and trees, but excluding tree and brush stumps.

SECTION 3 . PROHIBITED DISPOSAL OF GARBAGE AND TRASH AND OTHER SUBSTANCES.

A . Public Property .

No person shall place, throw, deposit or discard, or cause to be placed, thrown, deposited, or discarded any garbage, refuse, papers, trash, hazardous waste, white goods, and/or material or ashes upon any sidewalk, street, alley, lane, gutter or any public ground in the Village or into any stream or upon the banks of any stream running through or adjacent to said Village, unless expressly authorized by this local law.

B. Private Property.

No person shall place, throw, discard, or deposit or cause to be placed, thrown, discarded, or deposited any garbage, refuse, papers, trash, hazardous waste and/or material or ashes upon the private property of another person.

C. Burning or Burying.

No person shall bury or openly burn or cause to be buried or openly burned any garbage, refuse, papers, trash, hazardous waste and/o r materials within the Village limits.

D. Commercial Premises, and Multi-family Dwellings Must Procure their Own Solid Waste and Recyclable Collection. All Commercial properties, and residential structures with more than three units, must procure their own private pick-up. No curb side placement of Solid Waste or Recyclables is permitted by them, unless part of a Site Plan approved by Village Planning Board.

SECTION 4. PERMITTABLE CURBSIDE DISPOSAL OF GARBAGE, RECYCLABLES, YARD WASTES, AND WHITE GOODS

- A. All disposing, discarding, or curbside placement of materials not expressly authorized by this local law is prohibited.

and other recyclables. Aluminum, and metal cans so separated shall be clean of contents, have their labels removed, and placed in containers.

(3) Clear glass bottles shall be separated from nonrecyclables and other recyclables. Glass bottles so separated shall be clean of contents, with caps, paper wrappings lids and all other metals removed and placed in separate containers.

(4) Newsprint shall be separated from nonrecyclables and other recyclables and placed at curbside in securely tied bundles or placed in sufficiently strong brown paper bags. Such bundles shall not exceed 25 pounds in weight. In the event of inclement weather, such bundles shall be placed in clean containers or in disposable clear plastic bags of at least 1.5 mil thickness and sufficiently strong to contain the materials enclosed. When filled, each such bag weigh no more than 25 pounds,

(5) Plastic containers shall be separated from non recyclables and other recyclables. Plastic containers shall be clean of contents with caps and lids removed and placed in separate containers.

(6) Large appliances shall only be placed for curbside pick up on the days designated by the Village Board for the pick-up of White Goods. Large appliances shall be prepared for collection by dismantling in such a way that they will not be a hazard to the public. In this respect, doors shall be removed before placing at the curb for collection.

(7) Garbage and rubbish shall be separated from recyclables and other nonrecyclables and placed in separate containers.

(b) Garbage, refuse, paper and recyclables shall not be placed at the curb for collection more than 24 hours prior to the regularly scheduled collection. All other items defined in Section (2) of this local, and expressly authorized above to be disposed of for curbside pick-up, including White Goods, shall not be placed at the curb for collection more than 48 hours prior to the scheduled collection of those items.

SECTION 11. RULES AND REGULATIONS PERTAINING TO MATERIALS PREPARATION,

The Board of Trustees is hereby empowered to adopt by resolution rules and regulations pertaining to solid waste management in regard to materials preparation requirements and such other rules and regulations as may be necessary to effectively and efficiently ensure sound management of this local law. The provisions of this local law shall incorporate by reference such rules and regulations that may be changed from time to time by resolution of the Board. Failure to comply with said rules and regulations, except where otherwise excepted in this local law, shall constitute a violation of this local law.

SECTION 12. RECYCLING EXCEPTIONS.

The provisions for recycling waste need not be complied with when the person contracts with a private disposal service and said private disposal service permits waste of all types to be mixed together in a dumpster or other suitable container which will then be properly disposed of by the private disposal service.

SECTION 13 . ALTERNATE DISPOSAL METHODS ALLOWED.

Nothing in this local law shall be deemed to prohibit any person from contracting with a private

- B. All disposition of any Hazardous Waste, Toxic Waste or Electronic Waste in the Village is strictly prohibited
- C. Garbage, Rubbish and Trash. The Village Board of Trustees shall designate days for the removal of solid waste from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curblin in front of the premises occupied, or owned by him, all Garbage Rubbish and Trash not containing Hazardous Waste, White Goods, Yard Waste, or Electronic Waste. Solid waste collected from the lot owned or occupied by any person in a Suitable Receptacle. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of solid waste from the curblin, all totes and receptacles utilized to dispose of the property shall be removed from the curblin, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- D. RECYCLABLES. The Village Board of Trustees shall designate days for the removal of Recyclable, from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him all recyclables meeting the definitions of the mandatory recyclable list adopted by the Village BOARD OF Trustees, and posted on the Village official webpage. Recyclables collected from the lot owned or occupied by any person in Suitable Receptacles. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that all occupants of their premises comply with this requirement. Within 24 hours of the collection of recyclables waste from the curblin, all totes and receptacles utilized to dispose of the property shall be removed from the curblin, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- E. YARD WASTE. The Village Board of Trustees shall designate days for the removal of Yard Waste from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 72 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him. Yard Waste to be placed at the curb line for pickup shall be limited so that it will not contain any tree branches and trunk materials from shrubs that are longer than four feet in length and wider than 6 inches in diameter . 4. Any brush and leaves collected from a property within the Village and handled by a licensed landscape contractor for hire, shall be removed and disposed of by the hired contractor, and shall not be discarded at the curb line. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of Yard Waste from the curb line, all totes and receptacles utilized to dispose of the property shall be removed from the curb line, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel.
- F. WHITE GOODS. The Village Board of Trustees shall designate days for the removal of

White Goods from the several streets of the city, and shall designate said days on the Official Webpage of the Village of Ellicottville, NY. On those designated days, and up to 24 hours beforehand, it shall be lawful for any person to place at the curb line in front of the premises occupied, or owned by him all garbage and rubbish and trash not containing Hazardous Waste, White Goods, Yard Waste, or Electronic Waste. Solid waste collected from the lot owned or occupied by any person him in receptacles or plastic bags properly closed with a twist tie or string. The Village Engineer is authorized to adopt rules and regulations for receptacles to provide for uniform types of receptacles. All owners shall assure that occupants comply with this requirement. Within 24 hours of the collection of White Goods waste from the curb line, all totes and receptacles utilized to dispose of the property shall be removed from the curb line, and placed at the rear of the property, or such other location approved by the Planning Board in the site plan review of the parcel

SECTION 4. Solid Waste Generation Fee .

A. Every residential dwelling unit in the Village will be subject to the solid waste generation fee for solid waste collection and disposal and any unpaid solid waste generation fee for solid waste collection and disposal shall be a lien against the real property on which the residential dwelling unit is located and shall be enforced by whatever legal or equitable means available to the Village of Ellicottville.

B. The initial solid waste generation fee for solid waste collection and disposal shall be \$30.00 per quarter payable in advance for each residential dwelling unit. However, the quarterly rate for a residential dwelling unit which is occupied by at least one permanent full time resident, who is 65 years of age or older, or who is a military veteran with DD214 showing proof of an honorable discharge, either of whom is either the owner or tenant of the residential dwelling unit shall be \$15.00 per quarter payable in advance, and further provided that any person claiming eligibility for the \$15.00 per quarter fee shall be required to annually present to the Village Clerk satisfactory proof of eligibility for such quarterly solid waste generation fee.

C. The solid waste generation fee for solid waste collection and disposal shall be included on the sewer bill for the sewer service.

D. The Village Board of Trustees may from time to time by resolution modify the amount of the solid waste generation fee for solid waste collection and disposal to reflect the known costs of the solid waste collection and disposal service.

E. The solid waste generation fee set forth in this local law shall become effective on August 1, 2020.

SECTION 5. RESTRICTIONS ON USE OF VEHICLES.

The collection, removal and carrying of garbage, refuse, trash, paper, hazardous waste and/or

materials and ashes on any highway, street, alley, or land of the Village must be done in covered, water-tight vehicles which shall be in accordance with the rules and regulation of the Board of Health. No garbage, papers, trash, refuse, hazardous waste and/or materials or ashes shall be spilled or scattered along the streets or public places and the vehicles used for the collection and transportation of such material shall not be allowed to stand or tarry along the public streets for a longer time than shall be reasonably necessary for the loading of the same.

SECTION 6. GARBAGE AND RECYCLABLES FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 7. PERMITTING DISPOSAL OF MATERIALS FROM OUTSIDE THE VILLAGE PROHIBITED.

It shall be a violation for any resident of the Village, owner, leasee or person in control of real property within the village to permit any person to bring in, place or deposit any refuse or recyclables originating from outside the Village on any real property owned or leased by him or her or under his or her control for the purpose of disposal under the Village-operated waste disposal and recycling program.

SECTION 8. DEPOSIT OF MATERIALS INTO TRASH RECEPTACLES LOCATED ON VILLAGE PROPERTY RESTRICTED

It shall be a violation to place any materials into a trash receptacle located on Village property unless such waste was generated at that location. Permitted waste would include picnic waste.

SECTION 9. MATERIALS SUBJECT TO MANDATORY RECYCLING.

For the purpose of being able to react promptly to recycling requirements of Cattaraugus County and the State of New York, the Board of Trustees is hereby empowered to adopt by resolution an official list of mandatory recyclable materials. Said list may be changed from time to time by resolution of the Board. Failure to recycle materials on this official list, except where otherwise excepted by this local law, shall be a violation of this local law.

SECTION 10. PREPARATION OF WASTE MATERIAL FOR COLLECTION.

No person shall dispose of waste material except as follows:

(a) Waste material shall be prepared for collection in accordance with Sub-Sections (1) through (7) of this section.

(1) Each person will dispose of nonrecyclable solid waste in a Suitable Receptacle as defined above. All recyclable materials will be prepared and separated into reusable plastic containers or clear plastic bags and set at the curb with the solid waste for pick up. The Village of Ellicottville may also make available a "recycling center" for those who do not wish to set their recyclables at the curb.

(2) Aluminum, clear glass bottles, and metal cans shall be separated from nonrecyclables

hauler for removal of waste and recyclables. Nothing in this local law shall be deemed to prohibit any person from disposing or causing to be disposed of waste and recyclables at a landfill or transfer station operated by the County of Cattaraugus, their duly designated representative, or with a private firm properly authorized to dispose of these materials.

SECTION 14. FEE SCHEDULE.

The Board of Trustees shall establish by resolution the user collection fee which shall be applicable to all users of the Village-operated solid waste management program. Fees may be imposed for both recyclable as well as non recyclable materials but shall not be in excess of what is needed to operate the waste management program. Said fees may be changed from time to time by resolution of the Board of Trustees. Effective date for fee schedule is Oct 1, 2020.

SECTION 15. UNCONSTITUTIONALITY OR ILLEGALITY CLAUSE.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

SECTION 16. COSTS ENFORCEMENT AND PENALTIES.

A. The provisions of this local law shall be enforceable by any peace officer, any police officer, or any agent duly authorized by resolution of the Board of Trustees.

B. A person convicted of violating any provision of this local law shall be guilty of a violation which is punishable as follows:

- (1) For a first conviction, by a fine of \$75.00, or imprisonment for 15 days or both.
- (2) For a second conviction, within one year, by a fine of \$150.00, or imprisonment for 15 days or both.
- (3) For a third conviction within one year, by a fine of \$300.00, or imprisonment for 15 days or both.
- (4) For a fourth and all subsequent convictions within one year, by a fine not less than \$500.00 nor more than \$1000.00, or imprisonment for 15 days, or both.

C. Any fine assessed under the provisions of this Local Law, and not paid within 60 days of assessment shall become a Lien and charge upon the property from which the violation arose, and shall be collected by the Village Treasurer in the manner provided by law for the collection of Village taxes, provided Notice of the Violation shall be mailed to the address of the Property Owner listed with the Village Assessor 30 days prior to fine becoming a Lien upon the property. The Village Clerk shall not accept the Village Tax on such real property affected under this section, unless the lien created pursuant to this section is first paid.

D. In addition to any fine imposed herein any violator, or owner of a property upon which a

violation has occurred, shall be responsible for the actual cost of the Village of Ellicottville incurred as result of the violation, including, but not limited to the costs related to the disposal of any improperly discarded material in accordance with Federal, State, or local laws and regulations.

E.

SECTION 17. TICKETING, CHALLENGES, AND ADJUDICATION OF CHALLENGES

Any employee of a local public works department servicing the Village, as well as the Code Enforcement Officer serving the Village shall be authorized to issue a Notice of Violation of this Ordinance, and such Violation if disputed by the party issued the Notice of Violation, may be adjudicated in the local justice court servicing the Village, including but not limited to the Town Court of Ellicottville NY.

SECTION 18. EFFECTIVE DATE.

The Provisions of this Local Law shall become effective upon its filing with New York State Secretary of State or August 1st, 2020.

SECTION 19. Upon the Effective date of this Local Law Local Laws 2-1991, 3- 1991, 1-2013, 4-2018 are repealed.

**VILLAGE OF ELLICOTTVILLE
LOCAL LAW NO. 1 YEAR 1964**

A local law in relation to building zones.

Be It enacted by the Board of Trustees of the Village of Ellicottville as follows:

ZONING LOCAL LAW, VILLAGE OF ELLICOTTVILLE

ARTICLE I - AUTHORITY

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 Board of Trustees of the Village of Ellicottville, County of Cattaraugus, New York, pursuant to the authority conferred by subdivision 2 of section 10 of the Municipal Home Rule Law of the State of New York, 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 Ellicottville,

ARTICLE II - SHORT TITLE

This local law shall be known and may be cited as the "Zoning Local Law of the Village of Ellicottville, New York."

ARTICLE III - INTENT AND PURPOSE

For the purpose of promoting the public health, safety, morale, comfort and general welfare, conserving and protecting property and property values securing the most appropriate use of landlessening or avoiding congestion in the public streets and highways and facilitate adequate but economical provision of public improvements, all in accordance with a comprehensive plan, the Village Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures percentages of lot area which may be occupied; setback building lines; sizes of yards, courts and other open spaces; and the use of land for trade, industry, residences, recreation or other purposes, and for such purpose divides said village into districts or zones.

ARTICLE IV - RULES AND DEFINITIONS

In the construction of this local law, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

Section 4.1 Rules

Words used in the present tense shall include the future, and words used in the singular shall include the plural number, and the plural, the singular. The word "shall" is mandatory; the word "may" is permissive. The word "lot" shall include the words "plot," "piece," and "parcel;" and the phrase "used for" shall include the phrases "arranged for," and "designed for," "intended for," and "occupied for."

Section 4.2 Definitions

The following words and terms, wherever they occur in this local law shall be interpreted as herein defined.

ACCESSORY STRUCTURE OR USE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

AGRICULTURE. Land, including necessary buildings and structures, that has as its principal use the raising or keeping of livestock or the growing of crops in the open. **ALTERATIONS.** As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AREA BUILDING. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps

AUTOMOTIVE REPAIR. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

BILLBOARD. Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.

BOARD OF APPEALS. The Zoning Board of Appeals of the Village of Ellicottville, County of Cattaraugus, New York.

BUILDABLE AREA. The space remaining on a zoning lot after the minimum open space requirements of this local law have been complied with.

BUILDING. Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals, or chattels.

BUILDING PERMIT. The permit issued by the Building Inspector authorizing the construction or extension of a building or structure,

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of pitched roofs, and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

BUILDING SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this local law.

CLUB OR LODGE. A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for a social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

COVERED. That percentage of the plot or lot area covered by the building area.

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

DWELLING. A building or portion thereof, other than a mobile home, designed or used for residential occupancy, but not including hotels and motels.

DWELLING, SINGLE FAMILY. A detached building containing one dwelling unit only.

DWELLING, TWO FAMILY. A detached building containing two dwelling

DWELLING, MULTIPLE. A building or portion thereof containing three or more dwelling units.

DWELLING UNIT. A building or portion thereof providing con.plata housekeeping facilities for one family.

ESSENTIAL SERVICES The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

FAMILY. One or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers, or lodgers not in excess of the number allowed by this local law as an accessory use.

FARM. An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc.

FLOOR AREA, GROSS. For the purpose of determining requirements for off-street parking and off-street loading the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

GASOLINE OR FILLING STATION. Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating,

washing or otherwise servicing motor vehicles, but not including major repairs, collision service, or painting

HOME OCCUPATION. An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than small name plate and in connection therewith there is not involved the keeping of stock in trade. The office of a physician, surgeon, dentist, or other professional person, including an instructor in violin, piano or other individual musical instrument limited to a single pupil at a time, who offers skilled services to clientele, and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be Home Occupations; and the occupations of dressmaker, milliner, or seamstress, each with not more than one paid assistant shall be deemed to be Home Occupations. Dancing instruction, band instrument instruction in groups, tea rooms, tourist homes, beauty parlors, real estate offices, convalescent homes, mortuary establishments, and stores, trades or business of any kind not herein excepted shall not be deemed to be Home Occupations.

HOTEL, MOTEL, INN TOURIST or AUTO COURT. An establishment containing lodging accommodations designed to be used or used by transients, or travelers or temporary guests, for hire with no provision in said accommodations for cooking in any individual room or suite, but not including rooming houses and tourist homes.

INSPECTOR, BUILDING. The administrative officer appointed by the Village Board to enforce the provisions of this zoning local law.

JUNK YARD. A lot or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale waste, scrap metal, paper, lumber, rags, or similar material but not including pawn shops and establishments for the sale, purchase, or storage of used furniture, household equipment of clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

LINE, STREET. The dividing line between the street and the lot.

LOADING UNLOADING SPACE, OFF-STREET. An open hard-surface area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interferences with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length and fourteen feet in height, exclusive of access aisles and maneuvering space.

LOT. A portion or parcel of land considered as a unit, devoted to a certain use or occupied by building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT AREA. The net area contained within lot lines,

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

LOT DEPTH. The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT LINES. The property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line,

LOT OF RECORD. Any lot of which, individually or as part of a subdivision, a description has been recorded or filed in the office of the Clerk of Cattaraugus County.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

LOT, WIDTH. The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

MANUFACTURING. The making of goods and articles by hand or machine process. Restricted manufacturing shall be considered to be any manufacturing or industrial processing which by the nature of the materials, equipment and process utilized is to a considerable measure, clean, quiet, and free of any objectionable or hazardous element. All manufacturing permitted in any district shall comply with the performance requirements set forth herein.

MOBILE HOME. A vehicle or portable structure used for dwelling or sleeping purposes. A dependent mobile home is one which does not have a flush toilet and a bath or shower.

MOBILE HOME PARK. A plot or parcel of ground containing a minimum of five (5) acres which is manifestly arranged and furnished to provide the space, facilities, and access for mobile homes as required herein.

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this local law, and which does not conform to the regulations of the district or zone in which it is situated.

PLANNING BOARD. The Planning Board of the Village of Ellicottville, Cattaraugus County, New York.

PRINCIPAL USE. On use of land or buildings as distinguished from a subordinate or accessory use.

PUBLIC USE. Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY. Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, or water.

ROOMING HOUSE. A dwelling in which three or more boarders, roomers, or lodgers are housed or lodged for hire, with or without meals, other than a tourist home.

SEASONAL RESIDENCE. Summer or winter cabins, cottages, hunting camps, farm labor housing and similar housing designed, intended and/or used for seasonal, non-permanent residential use.

SEMI-PUBLIC USE. Churches, private schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

SIGN. Any advertisement, announcement, direction or communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or other structure, or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, city, county, or state agency for the purpose of showing street names, directions, regulations, or for other public purpose.

SPECIALIZED ANIMAL RAISING AND CARE. The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses, or other domestic animal of similar nature.

SPECIAL USE. Any use of land or buildings, or both, described and permitted herein, subject to the provisions of Section 11.4.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next

above it.

STREET. A public or private way which affords the principal means of access to abutting properties.

STRUCTURAL ALTERATIONS. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, and girders.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

TOURIST HOME. dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

USE. The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

VILLAGE BOARD. The Board of Trustees of the village of Ellicottville, County of Cattaraugus, New York.

YARD. In unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT. A yard situated between the street line and a line connecting the parts of the building setting back from and nearest to such street lines, and extending to the side lines of the lot.

YARD, REAR. A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

YARD SIDE. A yard lying between the nearest line of the principal building and a side lot line and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.

ZONING MAP. The map or maps incorporated into this local law as part hereof, designating Zoning Districts.

ZONING PERMIT. Any permit issued by the building Inspector authorizing a use of land and/or buildings.

ARTICLE 3 V - CENTRAL PROVISIONS

Section 5.1 Interpretation

(a) Minimum Requirements. The provisions of this zoning local law shall be held to be the minimum requirements for the promotion of the public health, safety, morale and welfare. **(b) Relationship With Other Laws.** Where the conditions imposed by any provision of this zoning local law upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this local law or any other law, ordinance, resolution, rules or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

(c) Affect On Existing agreements. This local law is not intended to abrogate any assessment, covenant or any other private agreement provided that where the regulations of this local law are more restrictive (or impose higher standards or requirements) than such as easements, covenants or other private agreements, the requirements of this local law shall govern.

(d) Completion of structures For Which Permit Has Been Issued. Nothing in this local law shall be deemed to require any change in plans, construction or designed uses or any building for which a permit was duly issued and on which actual construction was lawfully begun prior to the adoption of this local law and upon which building construction has been diligently carried on. Actual construction

is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, except that where a basement or cellar is being excavated such excavation shall be deemed to be actual construction, or where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding, such demolition and removal shall be deemed to be actual construction; provided that actual construction work shall be diligently carried on and the building completed within eighteen months from the time this local law becomes effective. Similarly, whenever a district shall be changed hereafter, the provisions of this subdivision with regard to previously issued building permits shall apply to building permits issued for construction in such changed district prior to the time the amendment affecting such change becomes effective.

Section 5.2 Application of Regulations

(e) Application. except as hereinafter provided :

(1) No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

Section 5.2 Application of Regulations

(2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yard, side yards, inner or outer courts than is specified here in for wide district in which such building is located.

(3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this ordinance shall be included as a part of a yard or other open space similarly required for another building.

(4) 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.

(b) Building Permits. In addition to any zoning permit required by any provision of this local law, no building or structure shall be erected, added to or structurally altered until a building permit therefor has been issued by the building inspector. All applications for such permits shall be in accordance with the requirements of the building code. In the event that no building code exists, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon, the exact size and style of buildings to be erected, estimated construction costs and Value and such other information as may be necessary to determine and provide for the enforcement of this local law. One copy of such layout shall be returned when approved by the building inspector, together with such permit, to the applicant upon the payment of a fee of \$2.00

(c) Responsibility. The final responsibility for the conforming of buildings and use to the requirements of this local law shall rest with the owner or owners of such building or use and the property on which it is located.

Section 5.3 Lot Area and Dimension

(a) Contiguous Parcels. When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the Use District in which they are

located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

(b) Lots or Parcels of Land of Record. Any single lot or parcel of land, hold in one ownership, which was of record at the time of adoption of this local law, that does not meet the requirements for minimum lot width and area, may be utilized for a permitted use, provided that yards,courts or usable open spaces are not less than seventy-five percent of the minimum required dimensions of areas.

Section 5.4 Access to Public Street

Except as otherwise provided for in this local law, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street unless a permanent easement of access to a public Street was of record prior to the adoption of this local law

ARTICLE VI - ESTABLISHMENT OF DISTRICT.

Section 6.1 Districts

For the purpose and provisions of this local law, the Village of Ellicottville is hereby divided into the following types of districts.

- A-1 - Agricultural - Forestry District
- R -1 - Residential District
- R -2 - Residential District
- R -3 - Residential District
- C - Commercial District
- I - Industrial District

Section 6.2 Zoning

The boundaries of its aforesaid Zoning districts are hereby established as shown on the map entitled, "Zoning District Map of the Village of Ellicottville, New York, dated August 1963", which map accompanies and is made a part of this local law and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

Section 6.3 District Boundaries

The district boundary lines shown on the zoning map are, unless otherwise indicated, intended to follow either highways, railroads, streets, alleys, easements or lot lines, and where the districts designated on the map are bounded approximately by such highway, railroad, street, alley, easement or lot line, the highway, railroad, street, alley, easement or lot line shall be construed to be the boundary of the district. In the case of unsubdivided property, or in the event lot lines are not as indicated, the district boundary line shall be determined by the use of the scale appearing on the zoning district map or by dimensions.

Section 6.4 Zoning of Streets, Alleys, Public-ways, Waterways and Rights-of-way

Where the center line of a street, alley, public-way, Waterway or railroad right-of-way serves as district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

ARTICLE VII - DISTRICT USE REGULATIONS

Section 7.1 Schedule of District Use Regulations

The requirements and limitations set forth in this article in tables entitled "District Use Regulations, Use schedule A" and "District Use Regulations, Schedule B" with all explanatory matter thereof, are hereby made part of this local law and shall apply in the respective districts as indicated.

Section 7.2 District Use Regulations, Schedule A

The uses which are permitted in the specified zoning districts and for which the building (zoning) inspector may issue a permit, and the special uses requiring the approval and a permit from the Zoning Board of Appeals are set forth in the following table entitled District Use Regulations, Schedule A " which is Section 7.2 of this article. Uses not listed or interpreted by the Zoning Board of Appeals to be included categorically under this section shall not be permitted except by amendments to this local law.

Section 7.2 District Use Regulations, Schedule A

PERMITTED USES:

"A-1"	"R-1"	"R-2"
AGRICULTURAL FORESTRY DISTRICT	RESIDENTIAL DISTRICT	RESIDENTIAL DISTRICT
Agriculture Forestry	Single-family dwelling (other than Rooming houses & Tourist homes) Parks Accessory uses	Single-family & Two-family dwelling (other than Rooming houses & Tourist homes) Parks Public uses Semi-public uses Essential services Accessory uses

SPECIAL USES REQUIRING BOARD OF APPEALS APPROVAL:

Golf Course	Cemeteries	Home occupations
Cemeteries	Public uses	Cemeteries
Single-family dwelling (other than Rooming houses)	Semi-public uses	Tourist homes
Radio & television towers		Professional activities
Semi-public uses		
Seasonal residences		

PERMITTED USES:

<u>"R-3"</u>	<u>"C"</u>	<u>"I"</u>
RESIDENTIAL DISTRICT	COMMERCIAL DISTRICT	INDUSTRIAL DISTRICT
Single-family, Two-family And Multiple dwelling (other than Rooming houses Tourist homes)	Retail businesses Personal services Business service Professional activities	General manufacturing Food processing Research and testing facilities
Parks	Commercial school	Warehouses
Public uses	Offices and banks	Lumber & building material storage and sales
Semi-public uses	Restaurants	Agriculture
Essential services	Motels & hotels	Public uses
Accessory uses	Public uses	Public utilities
	Semi-public uses	Essential services
	Essential services	Accessory uses
	Accessory uses	

SPECIAL USES REQUIRING BOARD OF APPEALS APPROVALS

Home occupations	Wholesale businesses	Sawmill
Rest houses nursing homes	Drive-in commercial uses	Wholesale businesses
Sanitariums	Mortuaries	Fuel oil & gasoline storage
Nursery school	Entertainment facilities	Feed & grain storage
Tourist homes	Gas stations	
Mobile home parks	Automotive sales & repairs	
Rooming houses	Multiple dwelling	
Clubs & Lodges	Clubs & Lodges	

Section 7.3 District Use Regulations, Schedule B

The lot, yard, height and area requirements and limitations set forth in the following table entitled District Use Regulations, Schedule B with all explanatory matter thereon, is hereby made a part of this local law and shall apply in the respective Districts as indicated.

District Use Regulations, Schedule B

District	Minimum Lot Area			Minimum Yard Dimensions				Maximum Height	Maximum Percentage of Lot Coverage	Minimum Floor Area for Residences Structures (Per Family)
	Per Dwelling unit	Other	Lot Width	Front	Residential SIDE	Other	Rear			
Agricultural-Forestry A-1	5 acres	10 acres	200 ft	100 ft	60 ft total 25 ft minimum	50 ft each side	100 ft	35 ft	25%	1000 sq ft except seasonal residences 450 sq. ft
Residential R-1 1/	1 acres	5 acres	100 ft	50 ft	40 ft total 15 ft minimum	25 ft each side	40 ft	35 ft	25%	1000 sq. ft
Residential R-2 1/	20,000 sq. ft	20,000 sq. ft	75 ft	35 ft	30 ft total 10 minimum	15 ft each side	35 ft	35 ft	30%	90 sq. ft
Residential R-3 2/	1,000 sq ft	10,000 sq ft	75 ft	35 ft	20 ft total 7 ft minimum	15 ft each side	35 ft	35 ft	30%	800 sq ft
Commercial C	5,000 sq. ft	5,000 sq. ft	50 ft		15 ft total 7 ft minimum	3/ 3/	3/	40 ft	50%	720 sq. ft
Industrial I	Residences Not Permitted	1 acre	150 ft	50 ft		50 ft each side	50 ft	60 ft	25%	Residences Not Permitted

1/ Minimum lot area requirements in the R-1 and R-2 Residential District may be reduced by 25% if either an approved public combined sewage treatment system or an approved public water supply system is provided and by 50% if both approved system are provided.

2/ Minimum lot area requirements in the R-3 Residential District may be reduced by 33 1/3% if an approved public combined sewage treatment system is provided, and by 50% if both an approved public combined sewage treatment system and an approved public water supply system are provided.

3/ Minimum lot area requirements in C Commercial District may be reduced by 66 2/3% if an approved public combined sewage treatment system is provided.

4/ Commercial use shall not be located or conducted within 30 feet of any lot line of any other lot in a Residential District.

ARTICLE VIII NON-CONFORMING BUILDINGS AND USES

Section 8.1 Continuance of Use

Except as otherwise provided herein, any lawfully established use of a building or land existing at the time of the enactment of this local law or amendments thereto may be continued although such use does not conform with the provisions of this local law.

Section 8.2 Discontinuance of Use

(a) Whenever any part of a building, structure or land occupies by a non-conforming use is changed to or replaced by a use conforming to the provisions of this local law, such premises shall not thereafter be used or occupied by a non-conform

(b) Whenever a non-conforming use of a building or structure or part thereof, has been discontinued, as evidenced by vacancy, for a period of twelve consecutive months, or whenever there is evident a clear intent on the part of the owner to stand on a non-conforming use, such use shall not be re-established after being discontinued or abandoned, and the use of the premises thereafter shall be in conformity with the regulations of the district.

(c) Where no building or structure is involved, voluntary discontinuance of non-conforming use for a period of six months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

(d) Non-conforming trailers or mobile homes located on a lot in any district, once removed, shall not be relocated on such lot or replaced with another trailer or mobile home.

Section 8.3 Change of Use

The non-conforming use of any building, structure or portion thereof may be changed, with the approval of the Board of Appeals, to a use of a more restricted classification, and when so changed shall not thereafter be changed to a less restricted classification.

Section 8.4 Cessation of Certain Uses

Notwithstanding any other provisions of this local law, any automobile wrecking yard, private dump, or other junk or refuse yard in existence in any residential or agricultural-forestry district; any log storage or any outdoor lumber store (other than retail) in any district other than an industrial district; and all non-conforming signs, billboards and outdoor advertising structures in any district on the effective date of this local law shall, at the expiration of five (5) calendar years from such date, become a prohibited and unlawful use and shall thereupon be discontinued; providing however, that lawfully existing signs accessory to an institutional building, or to a non-conforming business or industrial building shall not be subject to this regulation.

Section 8.5 Repairs and Alterations

Normal maintenance of a non-conforming building is permitted. However, such building shall not be reconstructed or structurally altered at any time after the effective date of this local law to an extent exceeding on aggregate of twenty-five per centum (25%) of the average full value of the buildings

prior to the commencement of such reconstruction or structural alteration, unless such building is changed to a conforming use.

Section 8.6 Extension

A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building, designed or manifestly erranged for such use, which existed prior to the enactment of this local law shall not be deemed the extension non-conforming use.

Section 8.7 Restoration

No building destroyed by fire or any other cause to the extent of fifty per centum (50%) of the full value shall be repaired or rebuilt except in conformity with the regulations of this local law. Application for a permit to rebuild or restore the damaged portion of any non-conforming building, as described in this section, shall be filed within six months of the day of such damage. If approved, the permit for such rebuilding and restoration shall be granted for a period of two (2) years and shall not be removable.

Section 8.8 District Changes

Whenever the boundaries of g district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming use existing therein.

Section 8.9 Definitions

For the purpose of this article:

- (a) FULL VALUE shall we is the value which is derived by applying the equalization rate, established by the State Board of Equalization and Assessment for a completed assessment roll or the village, to the assessed value of a building as determined from such assessment roll.
- (b) AVERAGE FULL VALUE shall mean the average of tis full values as herein defined, derived from the assessed value of the building upon the last completed assessment roll and the four preceding rolls of the village, applying hereto the equalization rates for each of such rolls as determined by the State Board of Equalization and assessment.
- (c) ASSESSED VALUATION OR & BUILDING shall mean that portion of the assessed valuation of a separately assessed parcel of real property which is attributable to improvements; provided, however, that if other accessible improvements are located on such separately assessed parcel the assessors shall equitably apportion the assessment attributable to improvements between such building and such other improvements.

ARTICLE IX - SUPPLEMENTARY REGULATIONS

Section 9.1 Application

In addition to all other requirements set forth in this Local Law, the following: supplementary regulations shall apply, except as herein specified in all zoning district created by this local law and all amendment hereto.

Section 9.2 Performance Requirements

No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition and a zoning permit shall not be issued therefor unless the following performance requirements are observed to the satisfaction of and approved in writing by the Village Planning board. All existing on the effective date of this local law shall conform. In the performance requirements within one (1) year, provided however, that in the case of undo hardship an extension of up to two (2) years may be granted by the Board of Zoning Appeals.

- (a) Fire Hazards any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and suppression equipment and by most other safety devices as are normally used in the handling of such materials.
- (b) Radioactively of Electrical Disturbance No activity shall emit dangerous radioactively or electrical disturbance at any point where it may adversely affect other land uses in the village.
- (c) Noise: Noise which is objectionable as determined by the Planning Board shall be muffled or otherwise controlled except that sir raid sirens and related apparatus used solely for public purpose are exempt from this requirement.
- (d) Vibration: No vibration shall be permitted which is discernible without instrumento on any adjoining property.
- (e) Smoke: Smoke shall not be emitted for longer than eight minutes in any hour which is of a shade equal to or darker than No. 3 on the Standard Ringleman Chart as issued by the U.S. Bureau of Mines.
- (f) Odors: No malodorous gas or matter shall be permitted which is discernible on any adjoining property.
- (g) Air Pollution: No pollution of air by flyash, dust, vapors or other substance shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling.
- (h) Glare: No direct or reflected glare shall lo permitted which is visible from any property outside an industrial district or from any public thoroughfare.
- (i) Erosion: No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.
- (j) Water Pollution: No pollution of water by chemicals or other substances shall be permitted which is unhealthful to animal or plant life as determined by the Cattaraugus County Health Department.

Section 9.3 Signs and Outdoor Advertising Structures

With the exception of public road and highway signs, no sign or billboard shall be permitted in any district except as he reingftar provided.

(a) **Real estate signs** not exceeding 12 square feet in area and advertising the sale, rental or lease of the premises on which the sign is located shall be permitted on any property. (b) Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than 6 square foot in area shall be permitted in any district where such activities are permitted.

(c) **Bulletin boards and signs** for a church, school, Community or other public or semi-public institutional building shall be permitted provided that the area of such sign does not exceed 15 square feet in area and such signs are set back a minimum of 15 feet from the established right-of-way line.

(d) **Temporary signs** not exceeding 50 square feet, announcing the erection of a building, the architect, builders, etc. may be erected for the period 60 days plus the construction period, provided, however, the same shall be removed from the premises upon the completion of the building.

(e) **In a commercial district**, such business shall be permitted to erect one flat or wall sign for the purpose of permanent advertising. The area of such sign for any single business enterprise shall be limited according to the frontage width of the building or the frontage width of the part of the building occupied by such enterprise. In computing the maximum size, each business enterprise may have permanent sign of an area equivalent to one and one-half square feet of sign area for each linear foot of frontage width occupied, but in no case shall exceed a maximum area of 100 square feet. A free-standing pole sign of symbolical design not over 30 feet in height and not in excess of 40 square feet in sign area may also be permitted each business providing that.

(1) No part of such sign shall project into or over any public right-of-way.

(2) The pole support of such sign shall not be less than 40 feet from any lot in any Residential District.

(f) **In an Industrial District**, a sign or billboard may be erected which pertains to the specific use of the property upon which it is erected. The area of such sign shall not exceed more than 100 square feet in area, except that the Board of Zoning Appeals may approve signs of up to 200 square feet in area, provided they be at least 35 feet from any street line and 50 feet from any other lot line.

(g) **Except** as provided above, signs and outdoor advertising structures, where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal use in such district.

Section 9.4 Off-Street Parking and Loading Requirements

In all districts, in connection with every residential, commercial, industrial, institutional or other use, there shall be provided at any time any building or structure is erected, enlarged or increased in capacity, off-street parking spaces for automobiles in accordance with the following requirements:

(A) Each off-street parking space shall have an area of not less than 160 square feet exclusive of access drives or aisles and shall be of usable shape and condition. A driveway of a minimum of eight feet wide and forty feet long accessory to a single family dwelling may be used to provide two parking spaces. All open off-street parking spaces, except

when accessory to single family dwellings, shall be improved with a compact macadam base and surfaced with all-weather dustless material.

(b) There shall be adequate provision for ingress and egress to all parking spaces. Where a lot does not abut on a private or public access drive, an access drive of not less than eight feet in width in the case of a dwelling and not less than eighteen feet in width in all other cases leading to the parking area shall be required.

(c) The number of off-street parking spaces to be provided shall not be less than the following:

Use	Parking Spaces Required
Dwelling	One per dwelling unit
Hotels, motels, etc. (Rooming houses & Tourist Homes)	One per room used for rental
Church or school	One for each four seats in principal gathering room
Restaurant	One for every four seats
Golf course	Six for every hole
Private club or lodge	One for each ten members
Country club	One for each five members
Theater	One for every four seats
Office, clinics, wholesale establishment & business services	One for every 300 square feet of floor space
Retail store or personal service establishment	One for every 100sq ft of floor area

Continued (c) The number of off-street parking spaces to be provided shall not be less than the following:

Use	Parking Spaces Required
Industrial uses	One for each two employees on the maximum work shift
Hospital two	One for every three beds & one for each employees on the maximum work shift
Sanitarium or two	One for every three beds & one for each employees on the maximum work shift
Convalescent home	One for each 100 sq ft of floor area
Dance hall, assembly or Exhibition hall, night club, cafe or Recreation establishment	Five for each alley
Bowling alley	One for each 75 sq ft of floor area
Mortuary or funeral home	One for each 40 sq. ft of pool area
Public swimming pool	

(d) Except in the case of a driveway to a single family residence, no parking space nor

portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces or portion thereof established on a zoning lot without a building shall be located closer to any street line than the front yard set back required for the district in which the parking lot is located.

(e) Every building having a gross floor area of 10,000 square feet or more, requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space plus one additional space for each additional 100,000 square foot of gross floor area or fraction thereof. Each loading space shall be not less than 10 feet in width, 25 feet in length and 14 feet in height.

Section 9.5 Sanitation

The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board on the Cattaraugus County Department of Health. Any new or modified facilities for the treatment, storage, or disposal of sewage, including excreta, bath, sink, and laundry waters, or trace wastes, shall be provided and installed in accordance with the rules, regulations on standards of New York State and Cattaraugus County Departments of Health. Careful consideration shall be given to the location and construction of private water supplies to ensure adequate protection of such supplies.

Section 9.6 Excavation of Natural Products

A special permit for the excavation of clay, sand or gravel for commercial purposes in an Agricultural- Forestry Zone only, may be granted by the Zoning Board Appeals with the approval of the Village Planning Board, provided: (a) the final slope of any material in any excavation does not exceed the normal angle of repose of any such material, (b) neither the base nor the top of any such slope is nearer than fifty feet to any street or lot line nor more than fifty feet above or below the level of the street or lot line nearest thereto, (c) the size and weight of vehicles and loads used in removal of such product be specified by the Board of Appeals necessary for the protection of the surface of the residential streets (d), that a bond, in such sum as the Board of Appeals shall determine and satisfactory of the Village Attorney as to form and sufficiency of guarantee, is executed by the applicant to assure that at the expiration of the permit the property will be suitably graded so as to minimize and conceal so far as practicable the effects of the excavation.

Section 9.7 Stripping of TopSoil

No person shall strip, excavate or otherwise remove top soil for sale or use other than on the premises from which. the same shall be taken except in connection with the construction or alteration of a building or paved parking area and such stripping and excavation or grading incidental thereto.

Section 9.8 Mobile Homes and Mobile Home Park

(a) Mobile Home Except as provided herein, no mobile home, trailer or other habitable vehicle shall be permitted to locate in the Village, in other than an approved mobile home park in an "R-3" Residential District.

Exceptions:

(1) The maintenance and use of an approved mobile home existing in the village on the effective date of this local law may be continued providing the mobile home is not removed from the premises or altered through the addition of accessory structures.

(2) Individual trailers or mobile homes used solely for purposes of vacation travel or recreation, owned by residents of the Village, may be stored on the property of the owner provided that no residence is taken therein which is stored or business conducted, therewith, and further provided the vehicle, while stored, is effectively screened from general view.

(b) Mobile Home Parks: Where permitted in an "R- 3" Residential District, a mobile home park shall conform to the following requirements:

(1) Shall be located on well-drained site properly graded to insure rapid drainage.

(2) Shall consist in a minimum of eight (8) acres.

(3) Mobile home spaces shall be provided consisting of a minimum of 1800 square feet for each space which shall be at least 32 feet wide and clearly defined.

(4) There shall be at least a 15 foot clearance between individual mobile homes housed, and between mobile homes and any permanent structure on or adjacent to the park.

(5) All mobile home spaces shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street or highway.

(6) An adequate and tested supply of pure water for drinking and domestic purpose as recommended and approved by the Cattaraugus County Health Department shall be supplied to all mobile home spaces within the park.

(7) A combined sewage treatment and disposal system shall be provided as recommended and approved by the Cattaraugus County Health Department.

(8) Adequate garbage disposal facilities, as approved by the Cattaraugus County Health Department, shall be provided.

(9)The service facilities and buildings as required by state and county health departments shall be included and maintained in the park.

(10) Every park shall have a fire protection plan approved by the fire department having local jurisdiction.

(11) Every park operator shall keep a complete register of occupants which shall be available for inspection at all times by law enforcement and health officials.

Section 9.9 Automobile Salvage Yards and Junk Yards

Except as provided herein, the development, extension, maintenance or use of an automobile salvage yard or junk yard shall be prohibited in the village of Ellicottville.

Lawfully operated automobile salvage yards and junk yards existing on the effective date of this local law may be permitted to continue providing that they fully conform to the standards set forth in items (a) through (j) below within a period of one year.

(a) The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.

(b)The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass therein by children and others.

(c)The permittee must erect and maintain in good condition a six foot fence of close mesh or one made of wood or of other acceptable material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence materials dealt in by the permittee, and if such area abuts residential area or public street or highway, such fence shall be at least fifty feet from the boundary line or right-of-way thereof. All the materials dealt in by the permittee shall be kept within such fence at all times.

(d) When the area is not supervised by the permittee or his employee, the fence shall be locked at a secure gate in a secure manner.

(e) The area of the permittee's activity or business shall not be used as a dump area nor as a place for the turning and disposal of junk or trash.

(f) The Village police, the Village Clerk, or the Village Board or any of its representatives shall be granted access to the area of the activity or business of the permittee at all reasonable hours to inspect same for compliance herewith.

(g) No person shall keep or maintain more than one junk yard at a single location by virtue of one permit.

(h) Open fires may be prohibited at the discretion of the Village Board and unattended fires shall not be permitted on any premises for which a permit is issued under local law..

(i) The tools, parts and materials dealt in by the permittee shall not be disassembled or dismantled by means other than by burning. They shall be piled or arranged in neat rows 30 feet apart to permit easy passage through the area.

(j) There shall be maintained at each such place of activity or business for which a permit is issued at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung in a conspicuous place, clearly marked and available.

Section 9.10 Temporary Buildings

Temporary buildings or trailers, other than buildings or trailers for living purposes, to be used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of such work. Permits for temporary, nonresidential buildings shall be used for a one-year period and must be removed for continued use.

Section 9.11 Community Development Projects

In any Agricultural-Forestry or Residential District there may be developed with the approval of the Village Planning Board, residential community development projects. In such projects a greater freedom of design may be permitted with respect to the use of land, area of lots, and depths of yards, even though compliance in all respects to the provisions of this local law is not maintained, providing:

(a) A complete plan for the area has been approved by the Village Board and the Cattaraugus County Health Department.

(b) The tract of land to be developed is not less than fifteen acres in area.

(c) The adjacent property will not be adversely affected.

(d) The Plan is consistent with the intent and purposes of this local law,

Section 9.12 Corner Lots

On corner lots, no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained or continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty feet distant from the intersection, measured along said street lines.

Section 9.13 Storage of Boats

Boats of any nature owned by a resident of the Village may be stored on the property of the owner provided the boat, while stored, is effectively screened from general view and further provided that no residence in taken there in or business conducted therewith.

Section 9.14 Housing of Livestock

With the exception of existing form facilities which have been constructed and used for the purpose of housing or feeding livestock prior to the adoption of this local law, or a contiguous extension thereof, no facilities for the permanent housing or feeding of livestock shall be permitted within two hundred (200) feet of any residential district.

ARTICLE X - ADMINISTRATION AND ENFORCEMENT

Section 10.1 Enforcement

This local law shall be enforced by a Building Inspector who shall be appointed annually by the Village Board. The powers and duties of the Building Inspector shall be to:

- (a) Examine and approve applications pertaining to the use of land, buildings or structures when applications conform to the provisions of this local law.
- (b) Issue all Zoning and Building Permits and keep permanent records thereof
- (c) Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this local law.
- (d) Receive , file and forward for appropriate action all applications for special use, variances and amendments to this local law, and all appeals which may be filed in the zoning office.
- (e) Maintain permanent and current records of the zoning local law, including all maps, amendments, special uses and variances.
- (f) Collect all fees chargeable under this local law, issue hia official receipt tare for and pay the same to the village Treasurer.

Section 10.2 Zoning Permit

Except as provided herein, it shall be unlawful for an owner to use or to permit the use of any structure or land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Zoning Permit is issued therefor by the Building Inspector. It shall be the duty of the Building Inspector to issue a Zoning Permit within fifteen (15) days after a written application for the same has been filed, provided he is satisfied that the proposed use, change, construction, enlargement or alteration fully conforms with all the requirements of this local law; but if the approval of the Cettersugua County Health Department or other authority is required such Zoning Permit shall not be issued until such approval has been granted in writing.

Such Zoning Permit shall be in addition to any Building Permit required by Section 5.2(b) hereof. An appeal from the decision of the Building Inspector may be made to the Board of Appeals as provided in article XI hereof.

A Zoning Permit hereafter granted under the provisions of this local law shall expire two (2) years from the date of issuance unless the proposed structure or change in use has been completed within that time.

Section 10.3 Zoning Permit for Non-Conforming Use

A Zoning Permit shall be required for all non-conforming uses of land or structure a created by the adoption of this local law and application for such permit shall be filed with the Building Inspector within one (1) year after the effective date of this local law. It shall be the duty of the Building Inspector to issue such permits free of charge, but failure to apply within the specified time or the refusal of the Building Inspector to issue such permit shall be evidence that such non-conforming use was illegal or did not lawfully exist on the effective date of this local law.

Section 10.4 Zoning Permit Fees

A fee, in accordance with the following schedule of amounts, shall be chargeable and shall accompany each application for a Zoning Permit. Such fee shall be paid into the General Fund of the Village if the application is approved, or returned to the applicant if the application is denied.

Single Family Dwellings (including seasonal)	\$10.00
Multiple Family Dwellings (including seasonal)	\$ 7.00 per unit
Structures Accessory to Residential Dwellings	\$ 3.00
Swimming Pools	\$3.00
Land Use Not Involving Structures	\$1.00
Commercial or Industrial	\$15.00
A11 Other Structures	\$10.00

ARTICLE XI ZONING BOARD OF APPEALS

Section 11.1 Organization Procedure

Upon the adoption of this local law, the Village Board of the Village of Ellicottville, pursuant to the provisions of the Village Law applicable thereto, shall appoint a Zoning Board of Appeals consisting of three members. The terms of office shall be three years. Such Board of Appeals, subject to the provisions of Village Law, shall determine its own rules of procedure. The members of the Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Section 11.2 Powers and Duties

With due consideration for the purpose and intent of this Zoning Local Law, the Board of Appeals shall:

- (a) Hear and determine appeals from and review any order, requirement, decisions or determination made by the Building Inspector charged with the enforcement of this local law.
- (b) Hear and decide all matters referred to it, or upon which it is required to pass under this local law.
- (c) Hear and pass upon applications for variances when a property owner or his agent shows that a strict application of the terms of this local law relating to the use, construction or alteration of buildings or structures, or the use of land imposes upon him a particular hardship which is unique to the premises in question but not applying generally to other premises in the same district.
- (d) Hold public hearings, and approve or disapprove each application for a special use received in compliance with the provisions of this local law.
- (e) Hold public hearings and submit to the Village Board a report and recommendations on each proposed local law for the amendment, supplement, change or repeal of the zoning local law as set forth herein.

Section 11.3 Applications and Appeals

An application or appeal to the Board of Appeals may be taken by any person affected by any decision of the Building Inspector with respect to the zoning provisions of this local law. The procedure for such application or appeal and the responsibilities of the Board of Appeals in such action shall be as prescribed in the applicable sections of the Village Law of New York State.

A fee in the amount of \$15.00 shall be chargeable and shall accompany all applications or petitions of appeal.

Section 11.4 Special Use Permit

The Board of Appeals shall direct the Building Inspector to issue a special use permit for any of the special uses listed in Section 7.2 of this local law, provided such special use complies with the general standards set forth in this section and with the special requirements enumerated elsewhere herein. Application for special use permits shall be made to the Board of Appeals through the Building

Inspector and shall be accompanied by an application for the necessary zoning and/or building permits, the prescribed fees for such permits and for the application to the Board of Appeals and such preliminary plans and lot layouts as the Building Inspector may deem necessary.

General Standards

(a) A special use permit shall be granted only when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.

(b) A permit for a special use in a residential district shall be granted only when it is clearly obvious that the special use will not impair the use, enjoyment and value of adjacent residential properties and that any vehicular traffic generated thereby will not be: hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.

(c) A permit for a special use in a commercial or industrial district shall be granted only when it is clearly obvious that such use will be harmonious with the district in which its location is sought and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes or lights that will hinder the normal development of the district or impair the use, enjoyment and value of adjacent land and structures.

Upon finding that such general standards and the special standards set forth herein have been fully met, the Board of Appeals may direct the Building Inspector to issue such special use permit and in so doing may impose any conditions that it may deem necessary to accomplish the reasonable application of said standards. Furthermore, it may deny any such application which in its judgment is not in accordance with said general or special standards. Said Board may require, as condition of the issuance of any special use permit, that it shall be periodically renewed, or said Board may direct the issuance of a temporary special use permit, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board, provided that any such renewal or extension shall be subject to the same procedure as specified here in for the original issuance of the special use permit involved and shall be in conformity with the aforesaid general and special standards.

ARTICLE XII AMENDMENTS

Section 12.1 Amendment

All amendments to this local law shall be in accordance with the provisions of the Village Law of New York State applicable thereto. Any proposed amendment shall be submitted to the Village Planning Board, if any, for a report and recommendations prior to the required public hearing and the final action thereon by the Village Board.

ARTICLE XIII REFERRAL

Section 13.1 Referral

In accordance with the Laws of New York State, all proposed zoning regulations, and all special permits, exceptions, variances or amendments thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred feet from the boundary of any city, village or town or from the boundary of any county or state park or other recreation area or from the right-of-way of any county or state parkway, thruway, expressway or other controlled access highway or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or from the boundary of any county or state owned land on which public building or institution is situated, shall be referred to the Cattaraugus County Planning Board for review and comment prior to their adoption by the appropriate legislative authority.

ARTICLE XIV PENALTIES

Section 14.1 Penalties

Any person violating any provision of this local law or permitting any violation thereof to occur or continue shall, for each and every day of such violation subject to a penalty of \$25.00 and in addition pay all cost and expenses incurred by the Village in determining such violation.

Every violation of this local law shall constitute disorderly conduct and every person violating the same shall be a disorderly person. Each and every day that any such violation continues shall constitute a separate offense.

Nothing in this local law shall be construed as depriving the Village or the Village Board of any other available remedy.

ARTICLE XV SEPARABILITY

Section 15.1 Separability

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances and the Village Board hereby declares that it would have erected this local law or the remainder thereof without the invalid part, provision or application as the case may be, had the invalidity of such provision or application thereof been apparent.

ARTICLE XVI ZONING ORDINANCE CONTINUED

Section 16.1 Zoning Ordinance Continued

The provisions of this local law shall not be construed as a new enactment but shall be deemed and construed to be a re-enactment and continuation of the provisions of the ordinance of the Village of Ellicottville adopted November 29, 1963, known as the "Zoning Ordinance of the Village of Ellicottville, New York;" nor shall any provision of this local law affect or impair any right, power or duty conferred or imposed by any provision of such zoning ordinance or any liability or right incurred or action or proceeding taken thereunder.

ARTICLE XVII EFFECTIVE DATE

Section 17.1 Effective Date This local law shall take effect immediately.

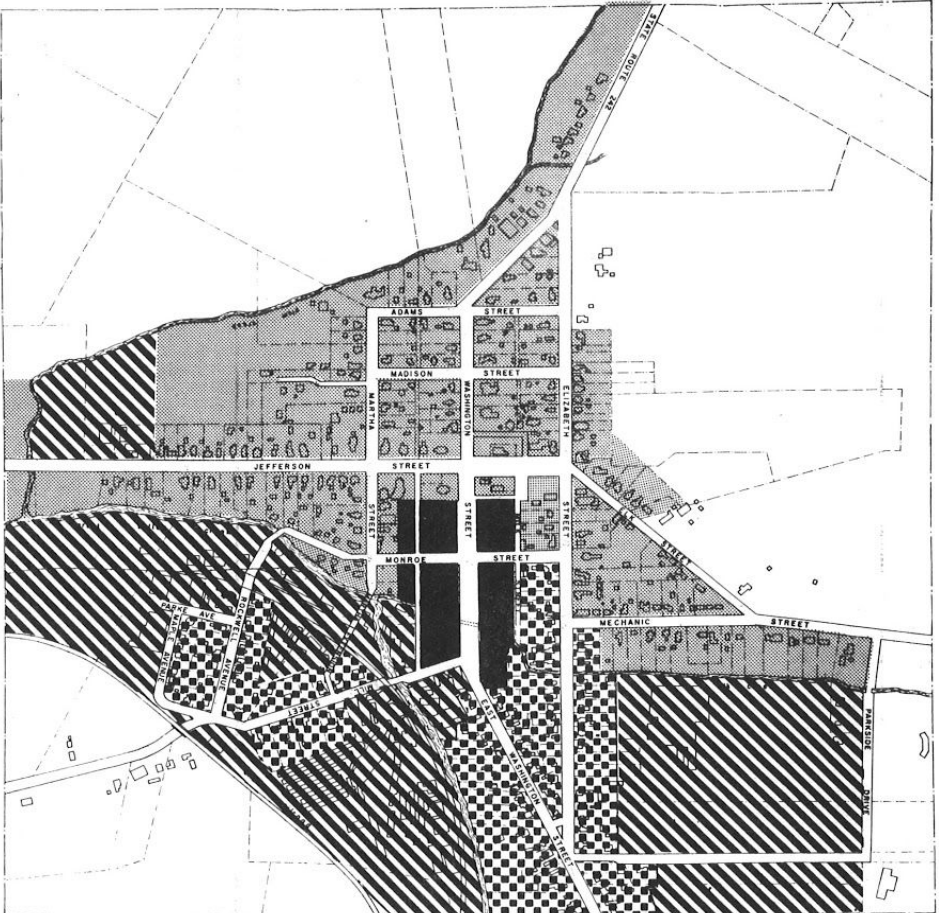
VILLAGE OF ELLICOTTVILLE

CATTARAUGUS

COUNTY

NEW







YORK



Note: This is a copy of the official zoning district map which is located in the office of the Village Clerk. All changes and amendments will be duly made on the official zoning district map and in the event of any differences between it and this or any other copy, the official zoning district map shall govern.

L E G E N D

D I S T R I C T S

-  Agricultural - Forestry
-  R-1 Residential
-  R-2 Residential
-  R-3 Residential
-  Commercial
-  Industrial

ZONING DISTRICT MAP

BOARD OF TRUSTEES, VILLAGE OF ELLICOTTVILLE
Local Law 2-1964

A local law to amend and supersede the village law in relation to the appointment and terms of office of the members of the zoning board of appeals of the village of Ellicottville, and to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, in conformity therewith.

Be it enacted by the board of trustees of the village of Ellicottville as follows:

Section 1. The first paragraph of section one hundred seventy-nine-b of the village law, as last amended by chapter six hundred seventy-four of the laws of nineteen hundred fifty-eight is hereby amended and superseded, in its application to the village of Ellicottville, to read as follows:

179-b. Board of Appeals

Such board of trustees shall appoint a board of appeals consisting of five members, and may designate its chairman. Upon the taking effect of this section as hereby amended, such board of appeals shall consist of the members of the board of appeals then in office and two additional members. Such board of trustees shall by resolution designate two of such members of the board or appeals then in office whose term shall be extended to the end of the official year ending in the year nineteen hundred sixty-seven and one of such members whose term shall be shortened to expire at the end of the official year ending in the year nineteen hundred sixty-six, and shall appoint one of such additional members for a term which will expire at the end of the official year ending in the year nineteen hundred sixty-six and the other additional member for a term which will expire at the end of the official year ending in the year nineteen hundred sixty-five. Their successors shall be pointed for the term of three official years from and after the expiration of the term of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term it shall be filled by appointment for the balance of the unexpired term. No person who is a member of the village board of trustees shall be eligible for membership on such board of appeals. The board of trustees shall have the power to remove any member of the board of appeals for cause and after public hearing. All meetings of the board of appeals shall be held at the call of the chairman and at such other times a such board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of such board shall be open to the public. Such board shall keep minutes of its proceedings, showing the vote of each member upon every question, or in absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the board shall immediately be filed in the office of the board and shall be a public record.

Sec. 2, Section 11.1 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, is hereby amended to read as follows:

Section 11.1 Organization and Procedure

The Village Board of pursuant to the provisions of the Village Law applicable thereto, as amended and superseded by Local Law No. 2 of the year 1964 of the Village of Ellicottville, shall appoint a Zoning Board of Appeals consisting of five members and may appoint its chairman. Upon the taking effect of this section, as hereby amended, such Board of Appeals shall consist of the members of the Board of Appeals then in office and two additional members. The Village Board shall designate two of such members then in office whose term shall be extended to the end of the official year ending in 1967 and one of such members whose term shall be shortened to expire at the end of the official year ending in 1966, and shall appoint one of such additional members for a term which will expire at the end of the official year ending in 1966 and the other of such additional members for a term which will expire at the end of the official year ending in 1965. Their successors shall be appointed for the term of three official years from and after the expiration of the term of their predecessor's in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled for the balance of the unexpired term. No person who is a member of the Village Board shall be eligible for membership on such Board of Appeals. The Village Board shall have the power to remove any member of the Board of Appeals for cause and after a Public hearing. Such Board of Appeals, subject to the provisions of the Village Law, shall determine its own rules of procedure.

Sec. 3. This local law shall take effect immediately.

Village of Ellicottville
Local 3-1964

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to amend certain definitions.

Be it enacted by the board of trustees of the Village of Ellicottville, as follows:

Section 1. Certain definitions contained in Section 4.2 of the zoning local law of the Village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four or the village of Ellicottville, are hereby amended to read as follows:

HOTEL , MOTEL, INN, TOURIST or AUTO COURT. An establishment containing lodging accommodations designed to be used or used by transients, or travelers or temporary guests, for hire with no provision in said accomodations for cooking in any individual room or suite, but not including rooming houses or tourist homes, also any building or group of buildings on one lot in which either ten or more sleeping rooms or accommodations for twenty-five or more persons, are offered for hire to transients or temporary guests.

ROOMING HOUSE. A dwelling in which three or moro , but less than twenty-five, borders, roomers or lodgors are housed or lodged in less than ten sleeping rooms for hire, with or without meals, other than a tourist home.

TOURIST HOME. A dwelling in which overnight accommodation, Are provided or offered for transdent guests for compensation : provided that not more than nine sleeping rooms, or accommodations for not more than twenty-four persons are used for that purpose.

Sec. 2. This local law shall take effect immediately.

Village of Ellicottville
Local Law 4-1964

BOARD OF TRUSTEES, VILLAGE OF ELLICOTTVILLE

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of nineteen hundred sixty-four of said village, in relation to signs

Be it enacted by the board of trustees of the Village of Ellicottville, as follows:

Section 1. The un-numbered Introductory paragraph of Section 9.3 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, is hereby amended to read as follows:

With the exception of public road and highway signs, no sign or billboard shall be permitted in any district except as hereinafter provided. No rotating flashing or variable power light, nor any flood light or spot light so located or directed as to interfere with or distract the users or any street, shall be permitted

Sec. 2. Subdivision (b) of Section 9.3 of such local law is hereby amended to read as follows:

(b) Announcement or professional signs for legitimate home occupations and professional activities, tourist homes, and name of resident signs not exceeding more than 6 square feet in area shall be permitted in any district where such activities are permitted.

Sec. 8. Subdivision (e) of Section 9.3 of such local law is hereby repealed and a new subdivision (e) is added in lieu thereof to read as follows:

(e) In a commercial district, each business shall be permitted to erect for the purpose of permanent advertising one or more flat or wall signs, one projecting sign, and where the conditions of paragraph (3) hereof are met one freestanding pole sign.

- (1) All flat or wall signs shall be attached to the wall of a building in which the business advertised is conducted and shall not project more than one foot therefrom; and any sign attached to a building projecting a greater distance shall be deemed a projecting sign. The area of all flat or wall signs for any single business enterprise shall be limited to one and one-half square foot of sign area for each foot of street frontage of the building or part of the building occupied by such business, but in no event shall such signs exceed a total maximum area of 100 square feet.
- (2) All projecting signs shall be attached to the wall of a building in which the business advertised is conducted. No projecting sign shall extend more than 8 feet from such building or have a total sign area on all faces of more than 60 square feet. No projecting sign which extends over the right-of-way of any public street shall weigh more than 200 pounds nor shall the lowest point thereof be less than 12 feet from the ground, nor shall any such sign be erected or maintained in such a manner as to create an unreasonable

hazard to the users of the public street. No permit for a projecting sign which extends Over the right-of-way of a public street shall be issued without the approval of the village board; and no such permit shall be issued for a period of more than two years, but may be renewed, if the village board approves, for further periods of not more than two years.

- (3) Free-standing pole signs shall be of symbolic design, of not over 30 feet in height, and not in excess of 40 square feet in sign area on one face or 80 square feet on all faces. No part of any such sign shall project over any public street and the pole support shall not be less than 40 feet from any lot in a Residential District..

Sec. 4. Section 10.4 of such local law is hereby amended by adding a new fee to the schedule of fees as follows:

Erection of Signs	\$3.00
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Sec. 5. This local law shall take effect immediately

VILLAGE OF ELLICOTTVILLE
Local law 5-1964

BOARD OF TRUSTEES, VILLAGE OF ELLICOTTVILLE

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to take certain technical changes therein

Be it enacted by the board of trustees of the village of Ellicottville as follows:

Section 1. Paragraph (3) of subdivision (a) of Section 5.2 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty four of the village of Ellicottville, is hereby amended to read as follows:

(3) No part of a yard or other open space about any building required for the purpose of complying with the provision of this local law shall be included as a part of a yard or other open space similarly required for another building.

Sec. 2. Subdivisions (a) and (b) of Section 8.9 of such local law are hereby amended to read as follows:

(a) FULL VALUE shall mean the value which is derived by applying the equalization rate, established by the state Board of Equalization and Assessment for a completed assessment roll of the village, to the assessed valuation of a building as determined from such assessment roll.

(b) AVERAGE FULL VALUE shall mean the average of the full values as herein defined, derived from the value valuation of the building upon the last completed assessment roll and the four preceding rolls of the village, applying there to the equalization rate for each of such rolls as determined by the State Board of Equalization and Assessment

Sec. 3. Subdivision (1) of section 9.3 of such local law is hereby amended to read as follows:

(f) In an Industrial District, a sign or billboard may be erected which pertains to the specific use of the property upon which it is erected. Such sign shall not exceed more than 100 square feet in area, except that the Board of Appeals may approve signs of up to 200 square feet in area, provided they be at least 35 feet from any street line and 50 feet from any other lot line.

Sec. 4. This local law shall take effect immediately, but shall be construed as having taken effect on January twentieth, nineteen hundred sixty-four.

VILLAGE OF ELLICOTTVILLE
Local Law 6-1964

BOARD OF TRUSTEES, VILLAGE OF ELLICOTTVILLE

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, in relation to minimum off-street parking requirements.

Be it enacted by the board of trustees of the village of Ellicottville as follows:

Section 1. Subdivision (c) of Section 3.4 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, is hereby amended in part to read as follows:

Use	Parking spaces required
Hotels, hotels, etc. Rooming houses and tourist homes	One per room used for rental but not less than one for each four persons accommodated

Sec. 2. This local law shall take effect immediately.

Village of Ellicottville

Local Law NoONE. **of the year 1966**

A local law. Amending the Zoning Local Law of the Village of Ellicottville

Be it enacted by the Village Board..... **of the**

Village of Ellicottville New York **As follows:**

Beginning at a point formed by the intersection of the rear lot line of property abutting the westerly side of Jefferson Street with the northerly line of the present Industrial Zone as shown on the Zoning District Map of the Village of Ellicottville; running thence northerly along the rear lot lines of said property abutting the westerly side of Jefferson Street a distance of 575.7 feet to a point; running thence westerly along a line drawn at an interior angle of 90 degrees 6 minutes from the rear lot line of property abutting the westerly side of Jefferson Street to the intersection with the center line of a creek known locally as Plum Creek as same is now constituted; running thence in a southerly direction: along the centerline of said Plum Creek aforementioned to its point of intersection with the northerly line of Industrial Zone as set forth on the Zoning District Map of the Village of Ellicottville; running thence easterly along the northerly line of the Industrial Zone as shown on the Zoning District Map of the Village of Ellicottville to the point or place of beginning. The Industrial Zone aforementioned for further clarification is the most southwesterly Industrial Zone as shown on said Zoning District Map of said Village of Ellicottville.

Village of..... Ellicottville

Local Law No..... 1.....**of the year 1968**

A local law AMENDING THE ZONING LOCAL LAW OF THE VILLAGE OF ELLICOTTVILLE KNOWN AS LOCAL LAW NO. 1, YEAR 1964

Be it enacted by the..... Board of Trustees..... **of the Village of** Ellicottville, New York..... **as follows:**

ARTICLE VI of the Zoning Law of the village of Ellicottville, New York, known as Local Law No. 1, Year 1964, relating to the establishment of zoning districts,, is hereby amended by adding a new section thereto, to be known as Section 6.5, which shall read as follows:

Section 6.5 - change of part of District.

All the lands in said Village, which are now owned by the Border Oil & Gas Company, Inc., of Olean, New York, situate southeasterly of Elk Creek and fronting on Washington. and East Washington Streets, are hereby classified and zoned as a commercial District. The lands classified as constituting a Commercial District, as aforesaid, are bounded and described as follows:

ALL THAT TRACT OR PARCEL of LAND, situate in the Village of Ellicottville, Cattaraugus County, New York, bounded and described as follows:

Beginning in the northerly line of East Washington Street at the southeast corner of premises conveyed to Fitzpatrick & Wellers, Inc. by deed recorded in Cattaraugus County Clerk's office in Liber 540 of Deeds, page 469; thence westerly along the northerly line of East Washington Street 79.63 feet to an angle point in said street; thence continuing westerly along the northwesterly line of Washington Street 251.42 feet to a point in the centerline of Elk Creek; thence northerly along the centerline of said creek 231 feet more or less to point in the north line of premises conveyed to William Fitzpatrick by deed recorded in said Clerk's Office in Liber 355 of Deeds, page 65; thence easterly along the north line of premises so conveyed in Liber 355 of Deeds, page 65 a distance of 47.5 feet to an angle point; thence northerly at right angles to the last course 30 feet more or less to a point in the center of Elk Creek; thence northeasterly along the center line of the center of said creek 98 feet more or less to the northwest corner of premises conveyed to Fitzpatrick & Wellers, Inc. by deed recorded in Liber 673 of Deeds, page 567; thence easterly along the north line of the premises of Fitzpatrick & Wellers, Inc., last described, 76.94 feet to the northeast corner of premises so conveyed by Liber 673 of Deeds, page 567; thence southerly in a straight line 232.3 feet to the point of beginning, containing more or less..

This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No......1..... **of the year 1969**

A Local Law to amend zoning local law of the Village Ellicottville New York, being local law number one of the year nineteen hundred Sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by theboard...of...trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

Section 1. Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as added by local law number one of the year nineteen hundred sixty-eight of said village, is hereby amended by designating the whole of said section 6.5 as originally so enacted as subdivision (a) thereof and by adding thereto a new subdivision, to be subdivision (b), to read as follows:

(b) The following described lands and promises, commonly known as number 41 Jefferson Street, heretofore forming a portion of a "R-3 - Residential District" are hereby reclassified and reconed to form a portion of an "I - Industrial District," and the Zoning District Map of the village of Ellicottville, New York is hereby amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the village of Ellicottville, County of Cattaraugus, and State of New York, distinguished by being a part of Lot number sixty-five, in township number four, in the sixth range of townships of the Holland Land Company's Survey, bounded and described as follows: Beginning at a point in the center of Jefferson Street in said Village, at the distance of fifteen chains Seventy-five links southerly along the center of said street from the southerly bounds of Martha Street; thence at right angles with Jefferson Street, westerly three chains fifty links; thence southerly, on a line parallel with Jefferson Street, one chain; thence easterly, on a line parallel with the first mentioned boundary, three chains fifty links to the center of Jefferson St.; thence northerly along the center of Jefferson St.,, one chain to the place of beginning: containing 35/100 of an acre, be the same more or less.

Sec 2. This local law shall take effect immediately.

Village of Ellicottville

Local Law No. 1 of the year 1970

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the..... board of trustees..... of the Village of..... Ellicottville..... as follows:

Section 1. Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as amended by local law number one of the year nineteen hundred sixty-nine of said village, is hereby amended by adding thereto a new subdivision (c), to read as follows:

(c) The following described lands and premises, situate southerly of the promises of Burrell Cutlery Co., Inc., 1000 Rockwell Ave., bounded easterly by the old main line of the Buffalo, Rochester and Pittsburgh Railroad, southerly by the southeasterly corporate limits of the village and westerly by the Great Valley Creek, heretofore forming portion of an "Industrial District" are hereby reclassified and rezoned to form a portion of a R-3 - Residential District, and the Zonias District Map of the Village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished by being parts of Lots No. 32 and 65 in Township No.4 in the 6th Range of Townships of the Holland Land Company's Survey, bounded as follows: Beginning at the northwest corner of the cemetery and in the center of Jefferson Street in the Village of Ellicottville; thence along the north bounds of the cemetery lot, North 70° 15' East, three chains, fifty-five links to the east side of the Great Valley Creek; thence down the Great Valley Creek, by the various courses, twenty-two chains, sixty-seven links to the west bounds of land conveyed to the Cattaraugus Railway Company; thence along said Railway bounds North 35° 30' West, twenty chains; thence North 30° 45' West, one chain, ninety-five links; thence parallel to the south bounds of said Lot No. 32 at the distance of sixteen chains north therefrom. North 87° West, four chains, forty-six links; thence across the Great Valley Creek, South 68° 30' West, eighty-eight links; thence along the south bounds of lands conveyed by Staley N. Clark and wife to Luke Lattin, North 88° West, eighty five links; thence at right angles to Jefferson Street and passing ten feet northerly of the northernmost part of the S. McCoy homestead building, South 60° 30' West, two chains, seventy-five links; thence along the center of Jefferson Street, South 26° 30' East, five chains, eighty-eight links to the point of beginning.

EXCEPTING therefrom, nevertheless, all the portion thereof :: (1) which lies westerly of the center of the Great Valley Creek; and (2) which lies southerly of the southeasterly corporate limits of the village of Ellicottville

C. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....6..... **of the year 1975**

A local law to amend the Zoning Local Law of the Village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by theBoard of Trustees. **of the Village Of**.....Ellicottville..... **as follows:**

Section 1. Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number one of the year nineteen hundred seventy of said village, is hereby amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) The following described lands and premises, situate on the northwesterly side of Hughey Alley, heretofore forming a portion of a "R-3 Residential District", are hereby reclassified and rezoned to form a portion of a "C Commercial District", and the zoning district map of the village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows:

Village of Ellicottville

Local Law No.....8..... of the year 1975

A local law to amend the Zoning Local Law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the.....board of trustees..... of the Village of.....Ellicottville.....as follows:

Section 1. Section 6.5 or the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number six of the year nineteen hundred seventy-five of said village, is hereby amended by adding thereto a new subdivision, to be subdivision (e), to read as follows:

(e) The following described lands and promises, situate on the southerly side of West Washington Street, heretofore forming a portion of a "R-2 Residential District", are hereby reclassified and rezoned to form a portion of a "R-3 Residential District", and the zoning district map of the village of Ellicottville, New York is hereby Amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the village of Ellicottville, Town of Ellicottville, County of Cattaraugus, State of New York, being part of Lots No.'s 48 and 64, Township 4, Range 6 of the Holland Land Company's Survey, more particularly bounded and described as follows:

BEGINNING at a point in the center line of state highway, Route 242, 79.83 feet west of the intersection of the center line of state highway with the west line of Lot No. 64; thence southerly southeasterly interior on 9 Southeasterly interior angle of 97° 22', 34.45 feet to a point; thence westerly along the northerly lines of premises heretofore owned by Niagara Mohawk Power Corporation, 130.80 feet to a point; thence southerly on a line that forms a angle of 90° with the last mentioned line 92.36 feet to a point; thence easterly on a line that forms a northeasterly interior angle of 90° with the last mentioned line, 117.25 feet to a point; thence southerly on a line that forms a southwesterly exterior angle of 81° 48' with the last mentioned line 85.98 feet to a point; thence southeasterly on a line that forms a northeasterly interior angle of 103° 36' with the last mentioned line 122.53 feet to a point; thence north easterly on a line that forms a northerly interior angle of 134° 45' with the last mentioned line 93 feet to a point; thence northerly on a line that forms a westerly interior angle of 114° 17' with the last mentioned line 218 feet to a point in the center line of state highway, Route 242; thence westerly along the center line of state highway, Route 242, 171.73 feet to the point or place of beginning.

EXCLUDING THEREFROM, all those lands lying outside of the boundaries of the Village of Ellicottville.

Sec 2. This local law shall take effect immediately,

Village of Ellicottville

Local Law No......1..... **of the year1977**

A local law to amend the Zoning Local Law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four or said village, to change the zoning classification of certain lands.

Be it enacted by theboard of trustees**of the Village of**..... Ellicottville..... **as follows:**

Section 1. Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number eight of the year nineteen hundred seventy-five of said village, is hereby amended by adding thereto a Dow subdivision, to be subdivision (f), to read as follows:

(f) the following described lands and premises, situate on the north easterly side of Parkside Drive, heretofore forming a portion of an "I Industrial District", are hereby reclassified and rezoned to form a portion of a "R-3 Residential District", and the zoning district map of the village of Ellicottville, New York, is hereby Amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the village of Ellicottville, County of Cattaraugus and State of New York, distinguished as being part of village lots numbers ninety-five and ninety-six. According to the Holland Land Company's Survey in said village and bounded as follows: Southerly by the northerly bounds of the R-3 Residential District adjoining East Washington Street on the north; westerly by Parkside Drive; northerly by the A-1 Agricultural Forestry District adjoining on the north and westerly extension of Parkside Drive; and easterly by the northeasterly bounds of the village of Ellicottville.

Sec a.. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No.....1.....**of the year 1978**

A local law to amend the Zoning Local Law of the Village of Ellicottville, New York, being local Law number *one* of the year nineteen hundred sixty-four *of* said village to increase the number of rooms and the number of persons permitted to be accommodated in Tourist Homes.

Be it enacted by the.....board of trustees.....

Village of.....Ellicottville..... **as follows:**

Section 1. 'That certain definitions contained in Section 4.2 *of* the Zoning Local Law of the village of Ellicottville, New York, being Local Law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by Local Law number three *of* the year nineteen hundred sixty-four of said village, be amended to read as follows:

Section 4.2, Definitions

The following words and terms, whenever they occur in this local law shall be interpreted as herein defined.

HOTEL, MOTEL, INN, TOURIST or AUTO COURT. An establishment containing lodging accommodations designed to be used or used by transients, or . travelers or temporary guests, for hire with no provision in said accommodations for cooking in any individual room or suite, but not including rooming houses or tourist homes; also any building *or* group of buildings on one lot in which either sixteen or more sleeping rooms, or accommodations for ninety-one or more persons, are offered for hire to transients or temporary guests,

TOURIST HOME. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation; provided that not more than fifteen sleeping rooms, or accommodations for not more than ninety persons are used for that purpose.

Sec. 2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....2..... **of the year 1978**

A local law to amend the Zoning local law of the Village of EllicottvilleNew York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the.....board of trustees..... **of the**

Village of.....Ellicottville.....**as follows:**

Section 1. Section 6.5 of the Zoning Local Law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number one of the year nineteen hundred seventy-seven of said village, is hereby amended by adding thereto a new subdivision, to be subdivision (g), to read as follows:

(g) The following described lands and premises, situato on the easterly side of Mechanic Street, heretofore forming a portion of an "A Agricultural District, are hereby reclassified and rezoned to form a portion of a *C Commercial District", and the zoning district map of the village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished by being part of Village Lots 92 and 93 of the Holland Land Company's Survey of the village of Ellicottville; bounded as follows:
COMMENCING at an iron in the easterly bounds of Village Lot No. 94 of the Holland Land Company's Survey of said village at the distance of 43 chains 65 links southerly along said lot line from the northerly bounds of said lot, being the northeasterly corner of lands conveyed by Walter H. Griffin and Cora A. Griffin to George A. Brewer and Ruth E. Brower by deed dated February 8, 1947 and recorded in Cattaraugus County Clerk's Office February 10, 1947, in Liber 415 of Deeds at Page 491; thence parallel with the northerly bounds of said lots No. 94, 93 and 92, south 60° West 711.25 feet to the westerly bank of Elk Creek and the place of beginning; thence southerly along the westerly bank of Elk Creek to the northerly bounds of a street dedicated and conveyed to the Village of Ellicottville by deed from Ellicottville Development Corp. dated October 7, 1957 and recorded in the Cattaraugus County Clerk's Office in Liber 576 of Deeds at Page 364; thence westerly along the northerly bounds of the street so dedicated and conveyed and at right angles to the center of Mechanic Street in said Village 212 feet to the center of said Mechanic Street; thence North 22 3/4° west along the center of said Mechanic Street (sometimes referred to as the highway leading from Ellicottville to Mansfield) 855.65 feet; thence north 60° east along the northerly bounds of the lands so conveyed by Griffin to Brewer 52 feet to the place of beginning.

EXCEPTING therefrom, all those lands lying outside of the boundaries of the Village of Ellicottville.

Sec. 2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....3..... of the year 1978

A local law to Amend the zoning Local Law of the Village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands,

Be it enacted by the.....board of trustees.....of the Village of.....Ellicottville.....as follows:

Section 1. Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number two of the year nineteen hundred seventy-eight of said village, is hereby amended by adding thereto a new subdivision, to be subdivision (h), to read as follows:

(h) The following described lands and premises, situate on the northerly side of West Washington Street, bounded northerly by lands of John Northrup, easterly by the Sunset Hill Cemetery (Ellicottville Cemetery Assn.) and southwesterly by the village line, heretofore forming a portion of an "A-1 Agricultural-Forestry District, N are hereby reclassified and rezoned to form a portion of a "R-2 Residential District, and the zoning district map of the village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished as being part of Lot No. 48 in Township 4, Range 6 of the Holland Land Company's Survey and more particularly described as follows: BEGINNING at a point in the east bound of Lot No. 48 at a point which is 2107.38 feet southerly from the northeast corner of said Lot No. 48, said point of beginning also being the point of intersection of the center line of New York State Route 242 and the east bounds of said Lot No. 48; thence northerly and along said east bounds of Lot No. 48, 400 feet to a point; thence westerly at an interior angle of 85° 32' 11", 354.82 feet to a point; thence southerly at an interior angle of 95° 00' 16", 400 feet to a point which is 10.87 most southerly from the center line of New York State Route 242; thence easterly at an interior angle of 85° 02' 43" a distance of 358.59 feet more or less to the point or place of beginning.

EXCEPTING therefrom all that portion thereof which lies outside the corporate limits of the Village of Ellicottville,

Sec. 2. . This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....4.....of the year 1978

A local law to amend the Zoning. Local Law of the Village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the.....Board of trustees.....of the Village of.....Ellicottville..... as follows:

Section 1, Section 6.5 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as last amended by local law number one of the year nineteen hundred seventy-seven of said village, is hereby amended by adding thereto a new subdivision, to be subdivision (i), to read as follows:

(i) The following described lands and premises, situate on the southerly side of Washington Street and the easterly side of Jefferson Street, heretofore forming a portion of a "R-2 Residential District", are hereby reclassified and rezoned to form a portion of a "C-Commercial District", and the zoning district map of the village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows:

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, situate lying and being in the Village of Ellicottville in the County of Cattaraugus and State of New York. The said village being part or parcel of a certain Township which on a map or survey of divers Tracts or Townships of the land now or formerly owned by Holland Land Company made for the proprietors of Joseph Ellicott, surveyor, is distinguished by Township number four in the sixth range of said Townships, and which said piece of parcel of land on a certain other map or survey of part of said Township into Village Lots, made for the proprietors by the said Joseph Ellicott is distinguished by Lot number fifty nine (59) in said Village lying in the Public Square thereof. Containing two tenths of an acre, be the same more or less.

Section 2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....6..... **of the year 1978**

A local law to amend and supersede section 7- 706 of the village law of 1972 in its application to the village of Ellicottville in relation to the method of adoption and amendment of zoning laws, and to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, in relation to the method of amendment thereof.

Be it enacted by.....board of trustees.....**of the Village of**.....Ellicottville..... **as follows:**

Section 1. Subdivision 2 of section 7-706 of the village law of 1972, as amended by obapter nine hundred seventy-six of the laws of nineteen hundred seventy-throo, is hereby amended and superseded, in its application to the village of Ellicottville, to read as follows:

2. Every zoning law and every amendment thereto (including any map incorporated therein) adopted pursuant to the provisions of this chapter shall boonacted and shall take effect in accordance with the procedure prescribed in the municipal home rule law, but such local law or amendment shall take effect from the date of its service against a person served personally with a copy thereof, certified by the village clerk, and showing the date of its passage and entry in the minutes.

§2. Subdivision (e) of section 11.2 of the zoning local law of the village of Ellicottville, Now York, being local law number one of the year nineteen hundred sixty-four of said village, is hereby amended to read as follows:

(e) Submit to the village Board a report and recommendations op each proposed local law for the amendment or repeal of this zoning local law, and preparatory to such report and recommendations may hold such public hearings as it deems advisable,

§3. Section 12.1 of such local law is hereby amended to read as follows:

Section 12.1 Amendments

All amendments to this local law shall be enacted in accordance with the provisions of the village Law of the State of Now York, as amended and superseded by Local Law No. 6 of the year 1978 of the Village of Ellicottville. Any proposed amendments shall be submitted to the Village Planning Board, if any, and to the Board of Appeals for a report and recommendations from each prior to the required public hearing thereon by the Village Board. Such referrals shall be made prior to the first publication of the notice of the public hearing before the Village Board, and any report or recommendations either the Village Planning Board or the Board of Appeals may wish to make shall be filed with the Village Clerk for transmittal to the village Board.

§4. This local law shall take effect immediately on filing with the Secretary of state.

Village of.....Ellicottville.....

Local Law No......1.....**of the year 1979**

A local law to amend the Zoning Local Law.of the Village Ellicottville New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification or certain lands.

Be it enacted by theboard of trustees.....**of the Village of**.....Ellicottville..... **as follows:**

Section 1. Section 6.5 of the Zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four if the village of Ellicottville, As last Amended by local law number four of the year nineteen hundred seventy-eight of said village, is hereby Amended by adding a new subdivision, to be sub division (j), to read as follows:

(j) Tho following described lands and promises, situate on the southerly side of Parkside Drive, heretofore forming a portion of an "I - Industrial District," Are hereby reclassified and rezoned to fonn a portion of "R-2 - residential District," and the zoning district map of the village of Ellicottville, low York, 13 hereby amended accordingly: such lands and premises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the town and Village of Ellicottville, County of Cattaraugus and State of New York, distinguished by being part of Village Lot Number: Ninety-three in the Fourth Township and Sixth Range of Townships of the Holland Land Company's Survey and bounded as follows: Beginning in the center of the highway (as formerly but not presently laid and used) leading from waverly (otto) to Ellicottville, forty (40) links South from the south end of the bridge (as originally built) over Elk Creek; and running thence north sixty-eight and one half (68½) degrees east (ancient bearings), four (4) chains and thirty (30) links; thence north twenty-five and one half (25½) degrees west (ancient bearings), two (2) chains and eighty-seven (87) links; thence south, sixty-eight and one-half (68½) degrees west, (along the south bounds of Parkside Drive) two (2) chains, seventy-three (73) links to the center of the highway (as originally but not presently located, occupied and used); thence along said (former) highway, south eight (8) degrees west, three (3) chains, twenty (20) links to the place of beginning, containing one (1) Acre, more or less.

\$2. This local law shall take effect immediately on filing with the secretary of state

Village of.....Ellicottville.....

Local Law No. 3 of the year 1979

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to implement the national flood insurance program to conform such zoning local law to certain provisions of the village of Ellicottville sewer local law, to define certain words and terms and to modify and correct certain definitions contained in such zoning local law, to adopt a new zoning map, to modify and correct certain provisions of such zoning local law, and to make certain other technical changes therein.

Be it enacted by the.....board of trustees..... of the

Village of.....Ellicottville..... as follows:

Section 1. The Congress of the United States having enacted the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and other statutes amendatory thereof and supplementary thereto, some or all of the permanent provisions of which constitutes the National Flood Insurance Program (42 U.S.C. 4001-4128), and the Secretary of the United States Department of Housing and Urban Development, acting through the Federal Insurance Administrator, having promulgated rules and regulations to carry out and administer said acts of Congress (Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations), it is the intent of the Board of Trustees of the Village of Ellicottville to establish and maintain qualification for said village to participate in the National Flood Insurance Program, and to accomplish such intent it is necessary and desirable to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty four of said village, to conform to the requirements of the National Flood Insurance Program; and the village of Ellicottville sewer local law, being local law number three of the year nineteen hundred seventy-five of said village, containing certain minimum lot area requirements for residential and commercial lots which may be reduced upon connection to the village sewer system, which lot sizes and intent of reduction (if any) are inconsistent with similar provisions in such zoning local law, it is desirable that such zoning local law be conformed to such sewer local law; and the zoning map originally adopted by the village having become obsolete and the National Flood Insurance Program requiring the establishment of new zoning districts, it is necessary to adopt new zoning map; and certain words and terms used in such zoning local law being undefined or improperly defined and certain other provisions of such zoning local law requiring clarification or correction, it is desirable and necessary to amend certain other portions of such zoning

local law,

\$2. Articles I, II, III and IV of the zoning local law of the village of Ellicottville, New York, being local law Dumber one of the year nineteen hundred sixty-four of said village, are hereby amended to read as follows:

ARTICLE I • AUTHORITY

Section 1.1 Authority

Pursuant to the authority conferred by Article VI-A of the Village Law of 1901 of the State of New York, and by Article 7 of the village Law of 1972 of the State of New York, and for each of the purposes specified therein, the Board of Trustees of the village of Ellicottville, County of Cattaraugus, New York, pursuant to the authority conferred by subdivision 2 of section 10 of the Municipal Home Rule Law of the State of New York. does hereby enact tho 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 Ellicottville

ARTICLE II - SHORT TITLE

Section 2.1 Short Title

This local law shall eo know and may be cited as the "Zoning Local Law of the Village of Ellicottville, New York . "

ARTICLE III - INTENT AND PURPOSE

Section 3.1 Intent and Purpose

For the purpose of promoting the public health, safety, morals, comfort and general welfare; conserving and protecting property and property values; securing the most appropriate use of land; lessening or avoiding congestion in the public streets and highways; minimizing flood losses in areas subject to periodic inundation; and facilitating adequate but economical provision of public improvements, all in accordance. with a comprehensive plan, the Village Board finds it necessary and advisable to regulate the location, size and use of buildings and other structures; percentages of lot areas which may be occupied; setback building lines; size of yards, courts and other open spaces; and the use of land for trade, industry, residences, recreation or other purposes, and for such purpose divides said village into districts or zones..

ARTICLE IV - DEFINITIONS

Section 4.1 General Rules of Construction

In the construction of this local law, the rules and definitions contained in this article shall be observed and applied except when the context clearly indicates otherwise,

Section 4.2 General Definitions

Words used in the present tense shall include the future tense; and words used in the singular number shall include the plural number, and the plural, the singular. Words used in the masculine gender shall include the feminine and neuter genders. The word "shall" is mandatory; and the word "may" is permissive. The word "lot" shall include the words "plot," "piece," and "parcel;" and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," and "occupied for;"

Section 4.3 Specific Definitions.

The following words and terms, wherever they occur in this local law, shall be interpreted as herein defined.

ACCESSORY STRUCTURE or **ACCESSORY USE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or principal structure.

AGRICULTURE. Land, including necessary buildings and structures, that has as its principal use the raising or keeping of livestock or the growing of crops in the open.

ALTERATIONS. As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another,

APPEAL. A request for & review of the Building Inspector's interpretation of any provision of this local law, or of any of his officials' actions or decisions hereunder.

AREA, BUILDING. The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

AUTOMOTIVE REPAIR. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

BASE FLOOD. The flood having a one percent chance of being equalled or exceeded in any given year.

BASE FLOOD ELEVATION The projected elevation in feet of the water surface of the base flood - see the Flood Insurance Rate Map prepared and issued by the Federal

Insurance Administration of the U.S. Department of Housing and Urban Development for the Village.

BILLBOARD. Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.

BOARD OF APPEALS. The Zoning Board of Appeals of the Village,

BUILDABLE AREA. The space remaining on a zoning lot after the minimum open space requirements of this local law have been complied with,

BUILDING, Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building in the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between the eaves and ridge for gable, hip, and gambrel roofs.

BUILDING PERMIT. The permit issued by the Building Inspector authorizing the construction or extension of a building or structure.

BUILDING SETBACK LINE. A line parallel to the street line at a distance from it, regulated by the front yard requirements to set up in this local law.

CLUB OR LODGE. A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

COVERAGE. That percentage of the plot or lot area covered by the building area,

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DUMP. A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind,

DWELLING. A building or portion thereof, other than a mobile home, designed or used for residential occupancy, but not including hotels and motels.

DWELLING, SINGLE-FAMILY. A detached building containing one dwelling unit only

DWELLING, TWO-FAMILY. A detached building containing two dwelling units.

DWELLING, MULTIPLE. A building or portion thereof containing three or more dwelling units.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

FAMILY. One or more persons living together in a single housekeeping unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers, or lodgers not in excess of the number allowed by this local law as an accessory use.

FARM. An area which is used for the growing of the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of garbage or offal to swine or other animals, the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc.

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOFING. Any combination of structural or non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to land, structures or contents of structures.

FLOODWAY or FLOODWAY DISTRICT. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY FRINGE OVER-DISTRICT. The portion of the Special Flood Hazard Area

outside the Floodway.

FLOOR AREA, GROSS. For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working spaces, such as counters, racks, or closets, and any basement floor areas devoted to retailing activities, to the production or processing of goods, or to business or professional offices,

GASOLINE OR FILLING STATION. An area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including "major repairs, collision service, or painting.

HOME OCCUPATION. An accessory use or a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or any exterior evidence of such secondary use other than small name plate and in connection therewith there is not involved the keeping of stock in trade. The office of a physician, surgeon, dentist, or other professional person, including an instructor in violin, piano or other musical instrument limited to a single pupil at a time, who offers skilled services to clients, and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be A Home occupation; and the occupations of dressmaker, milliner, or seamstress, each with not more than one paid assistant, shall be deemed to be home Occupations. Dancing instruction, band instrument instruction in groups, tea rooms, tourist homes, beauty parlors, real estate offices, convalescent homes, mortuary establishments, and stores, trades or businesses of any kind not herein excepted shall not be deemed to be home occupations.

HOTEL, MOTEL, INN TOURIST or AUTO COURT. An establishment containing lodging accommodations designed to be used or used by transients, or travelers or temporary guests, for hire with no provision in said accommodations for cooking in any individual room or suite, but not including rooming houses or tourist homes; also any building or group of buildings on one lot in which either sixteen or more sleeping rooms, or accommodations for ninety-one or more persons, are offered for hire to transients or temporary guests.

INSPECTOR, BUILDING. The administrative officer appointed by the Village Board to enforce the provisions of this local law.

JUNK YARD. A lot, land, or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags, or similar materials, but not including pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment or clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

LINE, STREET. The dividing line between the street and the lot.

LOADING AND UNLOADING SPACE, OFF-STREET. An open hard-surfaced area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length and fourteen feet in height, exclusive of access aisles and maneuvering space.

LOT. A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary Accessories and open spaces belonging to the same.

LOT AREA. The net area contained within lot lines.

LOT COVERAGE. The area of a zoning lot occupied by the principal building or buildings and accessory buildings,

LOT DEPTH. The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT LINES. The property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line.

LOT OF RECORD. Any lot of which, individually or as part of a subdivision, a description has been recorded or filed in the office of the Clerk of Cattaraugus County.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

LOT WIDTH. The mean horizontal distance between the side lot lines measure within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

MANUFACTURING. The making of goods and articles by hand or machine process. Restricted manufacturing shall be considered to be any manufacturing or industrial

process by which the nature of the materials, equipment and process utilized is to considerable measure clean, quiet, and free of any objectionable or hazardous elements. All manufacturing permitted in any district shall comply with the performance requirements set forth herein.

MOBILE HOME. A vehicle or: portable structure used for dwelling or sleeping purposes. A dependent mobile home is one which does not have a flush toilet and a bath or shower.

MOBILE HOME LOT. A site or plot or ground within a mobile home park or mobile home subdivision designed for the accommodation of one mobile home.

MOBILE HOME PARK. A plot or parcel of ground on which there are located two or more mobile homes,

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this local law, or of any amendment hereof which changes the regulations applicable to such building, structure or use of land, and which does not conform to the regulations of the district or zone in which it is situated.

PERSON. Any individual or group of individuals, corporation, partnership, association, trust or other entity, including state and local governments and agencies.

PLANNING BOARD. The Planning Board of the village.

PRINCIPAL USE. The main use of land or buildings as distinguished from a subordinate or accessory use.

PROFESSIONAL ACTIVITIES. The office or studio of resident physician surgeon, dentist, or other person licensed by the State of New York to practice a healing art, or as a lawyer, architect, engineer, real estate broker or salesman, or insurance broker or agent.

PUBLIC USE. Public parks, schools and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials,

PUBLIC UTILITY. Any person, firm, corporation or municipal department duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, or water.

RECREATIONAL VEHICLE. A mobile home intended primarily for highway use which propelled by a power within itself.

ROOMING HOUSE. A dwelling in which three or more, but less than twenty-five,

boarders, roomers or lodgers are housed or lodged in less than ten sleeping rooms for hire, with or without meals, other than a tourist home.

SEASONAL RESIDENCE. Summer or winter cabins, cottages, hunting camps, farm labor housing and similar housing designed, intended and/or used for seasonal, non-permanent residential use.

SEMI-PUBLIC USE. Churches, private schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

SIGN. Any advertisement, announcement direction or communication produced in whole or part by the construction, erection, affixing or placing of a structure on any land or other structure, or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including sign placed or erected by a village, town, city, county, or state agency for the purpose of showing street names, directions, regulations, or for other public purposes.

SPECIAL FLOOD HAZARD AREA. The land in the floodplain within the Village subject to a one percent or greater chance of flooding in any given year; and is divided into Floodway District and Floodway Fringe Over-district.

SPECIAL USE. Any use of land or structures, or both, described and permitted herein, subject to the provisions of Section 11.4.

SPECIALIZED ANIMAL RAISING AND CARE. The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses, or other domestic animals of a similar nature.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is *no* floor above, then the space between the floor and the ceiling next above it.

STREET. A public or private way which affords the principal means of access to abutting properties,

STRUCTURAL ALTERATIONS. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders,

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a

structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure as a living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places or the New York State Register of Historic Sites and objects. A structure is SUBSTANTIALLY IMPROVED when it has undergone "substantial improvement."

TOURIST HOME. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation; provided that not more than fifteen sleeping rooms, or accommodations for not more than ninety persons are used for that purpose.

TRAVEL TRAILER. A mobile home intended primarily for highway use and not to be located in any one place for long periods of time, which must be moved by a power outside itself; also sometimes designated a "vacation trailer."

USE. The purpose for which land or a structure thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

VARIANCE. A grant of relief from the requirements of this local law which permits construction or use in a manner otherwise prohibited by this local law where strict enforcement would result in unnecessary and undue hardship.;

VILLAGE. The Village of Ellicottville, in the County of Cattaraugus, New York.

VILLAGE BOARD. The Board of Trustees of the village.

YARD. An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT. A yard situated between the street line and a line connecting the parts of the building setting back from and nearest to such street line, and extending to the side lines of the lot.

YARD, REAR. A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

YARD, SIDE. A yard lying between the nearest line of the principal building and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

ZONING MAP. The map or maps incorporated into this local law as a part thereof, designating Zoning Districts.

ZONING PERMIT. Any permit issued by the Building Inspector authorizing a use of land and/or structures.

\$3. Subdivision (d) section 5.1 of such local law is hereby amended to read As follows:

(d) Completion of structures for which Permit Has Been Issued.

(1) Except in the FW - Floodway District and the FF-O-Floodway Fringe Over-district, nothing in this local law shall be deemed to require any change in plans, construction or designed uses of any structure for which a permit was duly issued and on which actual construction was lawfully begun prior to the adoption of this local law and upon which structure construction has been diligently carried on. Actual construction is hereby defined to be the actual placing of construction materials in their permanent position, fastened in a permanent manner, except that where a basement or cellar is being excavated such excavation shall be deemed to be actual construction, or where demolition or removal of an existing structure has been substantially begun preparatory to rebuilding such demolition and removal shall be deemed to be actual construction; provided that actual construction work shall be diligently carried on and the building completed within eighteen months from the time this local law or amendment here to becomes effective. Similarly, whenever a district shall be changed hereafter, the provisions of this paragraph with regard to previously issued building permits shall apply to building permits issued for construction in such changed districts prior to the time the amendment effecting such change becomes effective

(2) In the FW - Floodway District and the FF-O - Floodway Fringe Over-district All zoning and building permits issued prior to February 1, 1979 under which there has been no start of construction, as defined in Section 9.15 thereof, are hereby revoked and the person to whom any such permit has been issued may re-apply for the required permit or permits, and any fee paid on application for such prior permit shall be credited upon the fee for the new permit, or be re funded At the option of such permit holder.

\$4. Subdivision (b) of action 5.2 of such local law is hereby amended to read as follows:

(b) Building Permits.

(1) In addition to any zoning permit required by any provision of this local law, no building or structure shall be erected, added to or substantially altered until a building permit therefor has been issued by the Building Inspector. All applications for such permits shall be in accordance with the requirements of the building code, and the fees payable shall be those specified for permits issued under such code, and no other.

(2) In the event that no building code exists, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon the exact size and style of buildings to be erected, estimated construction costs and such other information as may be necessary to determine and provide for the enforcement of this local law. When approved by the Building Inspector, one copy of such layout shall be returned to the applicant and on payment of a fee of \$2.00 a building permit shall be issued.

\$5. Sections 6.1, 6.2 and 6.3 of such local law are hereby amended to read as follows:

Section 6.1 Districts

For the purpose and provisions of this local law, the Village of Ellicottville is hereby divided into the following types of districts:

- A-1 - Agricultural-Forestry District
- R-1 - Residential District
- R-2 - Residential District
- R-3 - Residential District
- C - Commercial District
- I - Industrial District
- FW - Floodway District
- FF-0 - Floodway Fringe Over-district

Section 6.2 Zoning map

The boundaries of the aforementioned zoning districts are hereby established as shown on the map entitled "zoning District Map of the Village of Ellicottville, New York, dated February 1, 1979," which map accompanies and is made part of this local law and shall

have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described herein,

Section 6.3 District Boundaries

- (a) For districts other than the FW - Floodway District and the FF-0 - floodway Fringe Over-district, the district boundary line shown on the zoning map are, unless otherwise indicated, intended to follow either highways, railroads, streets, alleys, easements or lot lines, and where the districts designated on the map are bounded approximately by such highway, railroad, street, alley, easement or lot line, the highway, railroad, street, easement or lot line shall be construed to be the boundary of the district. In the case of unsubdivided property, or in the event lot lines are not so indicated, the district boundary lines shall be determined by the use of the scale appearing on the zoning district map or by dimensions,
- (b) For the FW - Floodway District and the FF-O - Floodway Fringe Over district, the district boundary lines are those shown on the final "Flood Boundary and Floodway Map" and the final "Flood Insurance Rate Map" for the village, both effective February 1, 1979, prepared and issued by the Federal Insurance Administrator of the United States Department of Housing and Urban Development, and are intended to be based on hydraulic considerations only.

\$6. Local law number one of the year nineteen hundred sixty-six of the village of Ellicottville and section 6.5 of the zoning local law of the village of Ellicottville, New York, as last amended by local law number four of the year nineteen hundred seventy-eight of said village, are hereby repealed and a new section 6.5 is added to said zoning local law to read as follows:

Section 6.5 Special Flood Hazard Areas

The purpose of the Special Flood Hazard Areas is, in compliance with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and other statutes amendatory thereof and supplementary thereof, some or all of the permanent provisions of which constitutes the National Flood Insurance Program (42 U.S.C. 4001-4128) and Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations promulgated thereunder, to delineate the area in which zoning regulations to protect the future health, safety and welfare of the inhabitants of the Village from hazards due to periodic or intermittent flooding are to be enforced. These zoning regulations shall include those for the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for relief, insurance

and flood control projects. This does not imply that areas outside the Special Flood Hazard Area or use permitted within the Special Flood Hazard Area will be free from flooding or flood damage, The Special Flood Hazard Area Consists of:

(a) The FW - Floodway District; being the floodways established by the Federal Insurance Administrator on the flood Boundary and Floodway Map for the village; and is a separate zoning district.

(b) The FF- - Floodway Fringe over-district, being those portions of other zoning districts adjoining the FW - Floodway District located within the Special Flood Hazard Area established by the Federal Insurance Administrator on the Flood Boundary and Floodway Map for the Village; and the zoning regulations applicable at any point thereof are those of the underlying zoning district plus the additional regulations applicable under section 9.15 hereof.

\$7. Sections 7.2 and 7.3 of such locpi 19w are hereby amended to read as follows:

Section 7.2 District Use Regulations, Schedule A

The uses which are permitted in the specified zoning districts and for which the Building Inspector may issue a zoning permit without prior approval (Permitted Uses), and the uses requiring the approval from the Board of Appeals (Special Uses) are set forth in the following table entitled "District Use Regulations, Schedule A." Uses not listed or interpreted by the Board of Appeals to be included categorically under this section shall not be permitted except by amendment to this local law.

District use Regulations, Schedule 4

U S E	A-1 AGRICULTURAL- FORESTRY	R-1 RESIDENTIAL DISTRICT	R-2 RESIDENTIAL DISTRICT
P E R M I T T E D	Agriculture Forestry Public use Essential services Accessory	Single-family dwellings (other than Rooming houses & Tourist homes) Parks Essential services Accessory	Single-family & Two Family dwellings (other than Rooming houses & Tourist homes) Park Public use Semi-public use Essential services Accessory

U S E	A-1 AGRICULTURAL- FORESTRY	R-1 RESIDENTIAL DISTRICT	R-2 RESIDENTIAL DISTRICT
S P E C I A L	Golf courses Cemeteries Single-family dwelling (other than Rooming houses) Radio & Television tower Semi-public Seasonal residence	Cemeteries Public uses Semi-public uses	Home occupations Tourist Homes Professional activities

U S E	R-3 RESIDENTIAL DISTRICT	C COMMERCIAL DISTRICT	I INDUSTRIAL DISTRICT
P E R M I T E D	Single-family, Two family & Multiple dwellings (other than Rooming houses & Tourist homes) Parks Public uses Semi-public uses Essential services Accessory uses	Retail business Personal services Business services Professional activities Commercial schools Offices & banks Restaurants Motels & Hotels Public uses Semi-public uses Essential services Accessory uses	General manufacturing Food processing Research & testing Facilities Offices Warehouses Lumber & building material storage and sale Agriculture Public uses Public utilities Semi-public uses Essential services Accessory uses
S P E C I A L	Home occupation Rest homes, nursing homes, sanitariums Nursery schools Tourist homes Professional activities Retail business Mobile home parks Rooming houses Clubs & lodges	Wholesale business Drive-in commercial uses Mortuaries Entertainment facilities Gas station Automobile sale & repairs Multiple dwelling Clubs & lodges	Sawmills Wholesale business Fuel oil and gasoline storage Feed & grain storage

U S E	FW FLOODWAY DISTRICT	FF-0 FLOODWAY FRINGE OVER-DISTRICT
P E R M I T T E D	Agriculture Open recreational use Wildlife Off-street parking Lawn Gardens Play areas Open-space preservation But see NOTE below	Same as underlying District But see NOTE below
S P E C I A L	Transient amusement enterprises Public recreation Accessory uses Railroads Utility transmission line Country clubs Open storage Sand & gravel extraction Signs But see NOTE below	Same as underlying District But see NOTE below

NOTE: All uses in the FW-Floodway District and the FF-0 Floodway Fringe Over-district, permitted and special, are subject to all additional conditions set forth in Section 9.15.

Section 7.3 District Use Regulations, Schedule B

The lot, yard, height and area requirements and limitations set forth in the following table entitled District Use Regulations, Schedule B with all explanatory matter thereon, is hereby made a part of this local law and shall apply in the respective Districts as indicated.

District Use Regulations, Schedule B

District	Minimum Lot Area Per Dwelling unit			Minimum Yard Dimensions SIDE					Maximum Percentage of Lot Coverage	Minimum Floor Area for Residences Per Dwelling Unit 1000 sq. ft. except seasonal residences 450 sq. ft.
	Other	Width	Lot	Front	Residential	Other	Rear	Maximum Height		
Agricultural-Forestry A-1	5 acres	200 ft	200 ft	100 ft	60 ft total 25 ft minimum	50 ft each side	100 ft	35 ft	25%	450 sq. ft.
Residential R-1 1/	1 acres	100 ft	100 ft	50 ft	40 ft total 15 ft minimum	25 ft each side	40 ft	35 ft	25%	1000 sq. ft.
Residential R-2 1/	20,000 sq. ft.	75 ft	75 ft	35 ft	30 ft total 10 minimum	15 ft each side	35 ft	35 ft	30%	90 sq. ft.
Residential R-3 2/	15,000 sq ft.	75 ft	75 ft	35 ft	20 ft total 7 ft minimum	15 ft each side	35 ft	35 ft	30%	800 sq ft
Commercial C 3/	15,000 sq. ft.	50 ft	50 ft		15 ft total 7 ft minimum	4/ each side	4/	40 ft	50%	720 sq. ft.
Industrial I	Residences Not Permitted	1 acre	150 ft	50 ft	Residences Not Permitted	50 ft each side	50 ft	60 ft	25%	Residences Not Permitted
Floodway FW	Residences Not Permitted	10,000 sq. ft.	50 ft	35 ft	Residences Not Permitted	15 ft each side	35 ft	35 ft	25%	Residences Not Permitted
Floodway-Fringe FF-0	Same as for the underlying District PLUS the supplementary regulations in Section 9.15									

- 1/ Minimum lot area requirements in the R-1 and R-2 Residential District may be reduced by 25% if either an approved public combined sewage treatment system or an approved public water supply system is provided and by 50% if both approved system are provided.
- 2/ Minimum lot area requirements in the R-3 Residential District may be reduced by 33 1/3% if an approved public combined sewage treatment system is provided, and by 50% if both an approved public combined sewage treatment system and an approved public water supply system are provided.
- 3/ Minimum lot area requirements in C Commercial District may be reduced by 66 2/3% if an approved public combined sewage treatment system is provided.
- 4/ Commercial use shall not be located or conducted within 30 feet of any lot line of any other lot in a Residential District.

\$8. Section 9.4 of such local law is hereby amended by adding a new subdivision (f) to read as follows:

(f) All required parking spaces and all required off-street loading and unloading spaces shall be under the exclusive control of the owner of the use requiring such spaces, or if forming a part of a common parking or loading and unloading areas such required spaces shall be actually allocated to, and visibly identified as being for the exclusive use of such owner. If all such required spaces are not located on the same lot as the use to which they are accessory, any zoning permit issued, whether for a permitted use on a special use, and any variance granted shall by its express terms expire on the date when the owner of the principal use ceases to have the exclusive right to the required minimum number of spaces. No such space located on a lot other than that of the principal use shall be deemed to meet the requirements of this section unless it has an unexpired duration of at least five years and is evidenced by an instrument recorded in the Cattaraugus County Clerk's office. The failure of the owner of any use requiring off-street parking or loading and unloading spaces to renew or replace his rights to any required space shall be deemed a willful violation of Section 5.2, subdivision (a), paragraph (4) hereof.

\$9. Section 9.5 of such local law is hereby amended to read as follows:

Section 9.5 Sanitation

The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board. Any new or modified facilities for the treatment, storage, or disposal of sewage, including excretis, bath, sink, and laundry wastes, or trade wastes, shall be provided and installed in accordance with the Village of Ellicottville Sewer Local Law. Careful consideration shall be given to the location and construction of private water supply systems to secure adequate protection of such systems. Each of the foregoing, as well as any other matters involving sanitation, shall be governed by the applicable rules, regulations and standards administered by the Cattaraugus County Department of Health and of the state and federal department or agency having jurisdiction.

\$10. Section 9.8 of such local law is hereby amended to read as follows:

Section 9.8 Mobile Homes and Mobile Home Parks

(a) Mobile Homos: Except whilo lawfully traveling upon a public highway,

no mobile home shall be permitted in the Village, other than in a mobile home park, except:

(1) The maintenance and use of a mobile home existing in the village on the effective date of this local law may be continued provided such mobile home is not removed from the premises where so located or altered by the addition of any accessory structure.

(2) Individual recreational vehicles and travel trailers, owned by residents of the Village, may be stored on the property of the owner provided that no residence is taken there in or business conducted therewith, and further provided the vehicle, while stored, is effectively screened from general view.

(3) This subdivision shall not apply to mobile homes stored or displayed as part of the stock-in-trade of a duly licensed dealer or manufacturer of mobile homes.

(b) Mobile Home Parks: Shall be permitted only in a R-3 Residential District, and shall conform to the following requirements:

(1) Shall be located on a well-drained site properly graded to insure rapid drainage.

(2) shall contain a minimum of five (5) acres

(3) Mobile home lots shall be provided consisting of a minimum of 1800 square feet for each lot which shall be at least 32 feet and clearly defined.!

(4) There shall be at least a 15 foot clearance between individual mobile homes housed, and between mobile homes and any permanent building on or adjacent to the park.

(5) Each mobile home lot shall abut upon a driveway of not less than 20 foot in width which shall have unobstructed access to a public street or highway.

(6) An adequate and tested supply of pure water for drinking and domestic purpose as recommended and approved by the Cattaraugus County Health Department shall be supplied to each mobile home lot within the park...

(7) A combined sewage treatment and disposal system shall be provided as recommended and approved by the Cattaraugus County Health Department.

(8) Adequate garbage disposal facilities, as approved by the Cattaraugus County Health Department, shall be provided.

(9) The service facilities and buildings, as required by state and county health departments, shall be included and maintained in the park.

(10) Every park shall have a fire protection plan approved by the fire department having

local jurisdiction.

(11) Every park operator shall keep on the premises a complete, current and accurate register of occupants which shall be available for inspection at all times by the Building Inspector and other officers of the Village as well as by law enforcement and health officials.

(12) Every park shall have an evacuation plan, including alternate vehicular access and evacuation routes, approved by and filed with the County Civil Defense Director or other appropriate disaster preparedness authority having local jurisdiction.

\$11. Article IX of such local law is hereby further amended by adding a new section, to be section 9.15, to read as follows:

Section 9.15 Special Flood Hazard Area

For the purpose of reducing the hazards due to flooding, the following shall apply in the Special Flood Hazard Area, consisting of the FW - Floodway District and the FF-0 - Floodway Fringe Over-district:

(a) General Standards.

(1) All new construction and substantial improvement, including the placement of prefabricated buildings and mobile homes, shall: (1) be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure; (11) be constructed with materials and utility equipment resistant to flood damage ; and (111) be constructed by methods and practices that minimize flood damage.

(2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(3) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(4) All onsite waste treatment systems shall be located to avoid impairment to them or contamination from them during flooding.

(5) All subdivision proposals and other proposed new development shall be reviewed to assure that such proposals will be reasonably safe from flooding, that such proposals are consistent with the need to minimize flood damage, that all public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, and that adequate drainage is provided to

reduce exposure to flood hazards,

(6) Specific Standards.

(1) Residential Construction. New Construction or substantial improvement of any residential building shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(2) Non-residential Construction. New construction or substantial improvement of any non-residential building shall either (i) have the lowest floor, including basement, elevated to or above the base flood elevation, or (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the building is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. where floodproofing is utilized for a particular building the applicant for any Permit shall supply the Building Inspector with the certification of duly licensed professional engineer or architect showing that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood; and such certification shall be filed by the Building Inspector and a record made of the elevation to which such building is floodproofed.

(3) Subdivisions. All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is larger, shall include within such proposals flood elevation data.

(c) Mobile Homes.

(1) No mobile home shall be placed in the FW - Floodway District, except in an existing mobile home park or mobile home subdivision.

(2) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that: (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that mobile homes less than 50 feet long require only one additional tie per side; (ii) frame ties be provided at each corner of the mobile home with five additional ties per side at intermediate points, except that mobile homes less than 50 feet long require only four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to a mobile home be similarly anchored.

(3) For new mobile home parks and mobile home subdivisions, for expansions to

existing mobile home parks and mobile home subdivisions, for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced, and for mobile homes not placed in a mobile home park or mobile home subdivision, the following shall be required: (i) the stands or lots be elevated on compacted fill or on piling so that the lowest floor of the mobile home will be at or above the base flood elevation, (ii) adequate surface drainage and access for a hauler be provided, and (iii) in the instance of elevation on pilings, lots be large enough to permit steps, piling foundations be placed in stable soil no more than ten feet apart, and reinforcement be provided for pilings more than six feet above the ground level.

(d) Floodway. No encroachment (including fill), new construction, substantial improvement or other development shall be permitted in the FW - Floodway District, unless certification by a duly licensed professional engineer or architect is provided demonstrating that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base: flood discharge.

(e) Additional Definitions. For the purpose of this section, the following words and terms shall be interpreted as follows:

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. A mobile home park or mobile home subdivision for which construction of facilities for serving the mobile home lots (including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before February 1, 1979.

EXTENSION TO AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. The preparation of additional mobile home lots by the construction of facilities for servicing such lots (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

MOBILE HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. Note: This definition is in substitution for that contained in Section 4.3. As used in this section "mobile home" shall include both residential and non-residential structures; shall not include either recreational vehicles or travel trailers; and shall include prefabricated and modular structures, if they meet the requirements of this definition. Where the words "mobile home" form part of another term defined outside this section (such as "mobile home lot") the definition of "mobile home" contained in this section shall be used in interpreting such compound term where

used in this section.

MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. A parcel, or contiguous parcels of land divided into two or more mobile home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the "start of construction" is on or after February 1, 1979.

NEW MOBILE HOME PARK OR NEW MOBILE HOME SUBDIVISION A mobile home park or mobile home subdivision for which construction of facilities for serving the mobile home lots (including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after February 1, 1979.

START OF CONSTRUCTION. The first placement of permanent construction of a building (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main building. For a building (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the building or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means affixing of the mobile home to its permanent site. For mobile homes within a mobile home park or mobile home subdivision, "start of construction" is the date on which the construction of facilities for serving the site on which the mobile home is to be affixed (including, as a minimum, the construction of streets, either final site grading or pouring of concrete pads, and installation of utilities) is completed.

\$ 12. Section 10,1 of such local law is hereby amended by redesignating subdivision (f) as subdivision (k) and by adding five new subdivisions, to be subdivisions (f) through (j), to read as follows:

(f) Review all applications for Permits for proposed development to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; also to assure that sites are reasonably safe from flooding.

(g) Notify adjacent communities and the New York State Department of Environmental

Conservation prior to issuing any Permit for alteration or relocation of watercourse, and submit copies of such notifications to the Federal Insurance Administrator.

(h) As sure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(i) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings.

(j) Obtain and record the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.

\$13. Subdivision (c) of section 11.2 of such local law is hereby amended to read as follows:

(c) As an incident to an appeal, and after a public hearing, hear and pass upon applications for variances when a property owner claims that a strict application of the terms of this local law relating to the use, construction or alteration of buildings or structures, or the use of land imposed upon him a particular hardship which is unique to the premises in question.

\$14. Article XI of such local law is hereby amended by adding thereto a new section, to be section 11.5, to read as follows:

Section 11.5 Variances

(a) The Board of Appeals may issue a Variance for any use of a structure (Use Variance) or for area (Area Variance), provided such Variance complies with the general standards set forth in this section and with the special requirements enumerated elsewhere herein. Application for a Variance shall be made to the Board of Appeals in the form of an appeal from the decision of the Building Inspector and shall be accompanied by all material needed to support the claim to the Variance.

(b) General Standards: Each case must be determined on its own merits. Unnecessary hardship and practical difficulties are the determining factors for the authorization of a Use Variance and an Area Variance respectively.

(c) Criteria for establishing unnecessary hardships include, but are not limited to:

(1) The property owner can secure no reasonable return from, or make no reasonable use of his property, due to the provisions of this local law.

(2) The hardship results from the application of this local law to some property of applicant.

(3) The hardship is not the result of applicant's own actions.

(4) The hardship is suffered merely by one property directly and not by others.

(5) The hardship is peculiar to the property of the applicant.

(6) The authorization of the Variance will not: alter the essential character of the locality.

(d) Criteria for establishing practical difficulties include, but are not limited to:

(1) How substantial the Variance is in relation to the requirement.

(2) The effect of any increase in population density on available governmental facilities.

(3) Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties be created.

(4) whether the difficulty can be eliminated by some other method feasible for the applicant to pursue.

(5) Considering all factors, whether the interests of justice will be served.

(e) In addition to the above criteria, an application for a Variance in the FW - Floodway District or the FF-0 - Floodway Fringe Over-district requires consideration of the following:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger to life and property due to flooding or erosion dates

(3) The susceptibility of the proposed development and its contents to flood damage and the effect of such damage on the individual owner,

(4) The importance to the community of the services provided by the proposed development.

(5) The necessity to the development of a waterfront location, where applicable.

(6) The availability of alternative locations not subject to flooding or erosion damage, for the proposed use.

(7) The compatibility of the proposed use with existing and anticipated development.

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(10) The expected height, velocity, duration, rate of rise and sediment transport of the flood waters and the videos of wave actico is applicable, expected at the site.

(11) The cost of providing governmental services during and after flood conditions including maintenance and repairs of public utilities facilities such as sewer, gas, electric and water systems, and streets and bridges.

(f) Absolute limitations on granting Variances:

(1) A Variance shall not be issued within a FW - Floodway District if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon (1) a showing of good and sufficient cause, (ii) a determination that failure to grant the Variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a Variance will not result in increased flood heights,.additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

(3) A Variance shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) The Village shall notify the applicant in writing and over the signature of the Building Inspector that (i) the issuance of a Variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance as high as \$25 for \$100 insurance coverage, and (ii) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained as part of the record of the application.

\$15. Section 13.1 of such local law is hereby amended to read as follows:

Section 13.1 Mandatory Referral

In accordance with the Laws of the State of New York, (a) any zoning regulation, or any amendment thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred feet from the boundary of any city, village, or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from the existing or proposed right-of-way or any stream or drainage channel owned by the county or for which the county has established channel lines, or from the existing or

proposed boundary of any county or state owned land on which a public building or institution is situated, and (b) any special use permit, exception or variance affecting such real property within such distance of five hundred feet, shall be referred to the Cattaraugus County Planning Board for review and comment prior to adoption or issuance. The term "proposed," as used in this section, shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county plan adopted pursuant to subdivision two of section 239-d of the General Municipal Law or adopted on an official map pursuant to section 239-g of such law. See section 239 of such law.

\$16. Section 14.1 of such local law is hereby amended to read as follows:

Section 14.1 Penalties

(a) Any person violating any provision of this local law or permitting Any violation there or to occur or continue shall, for each and every day of such violation, be subject to a civil penalty of \$25.00 and in addition pay all costs and expenses, including reasonable attorney! fees, incurred by the Village in determining such violation, which shall be recoverable by civil action.

(b) Any person violating any provision of this local law shall on conviction be punished as follows:

(1) for a first offense, by a fine of not more than fifty dollars, or by imprisonment for not more than seven days, or by both such fine and imprisonment;

(2) for a second or third offense committed within a period of eighteen months, by a fine of not more than two hundred fifty dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment;

(3) a fourth or subsequent violation shall be a misdemeanor.

(c) Nothing in this local law shall be construed as depriving the Village or the Village Board of any other available remedy.

\$17 This local law shall take effect February 1, 1979.

Village of.....Ellicottville.....

Local Law No.....2.....of the year 1983

A local law to amend the Zoning Local Law of the Village of Ellicottville. New York being local law number one of the year nine con hundred sixty-four of said Village, to make the same applicable to the territory recently annexed to said village,

Be it enacted by the.....Board of Trustees.....of the Village of.....Ellicottville.....as follow:

Section 1. Article VI of the zoning local law of the village oil Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, is hereby amended by adding a new section, to be section 6.6, to read as follows:

Section 6.6 Change of Part of District

The following described territory, situate on the northerly side of West Washington Street, which was annexed to the village by local law number one of the year nineteen hundred eighty-three of the village of Ellicottville, is hereby classified and zoned to form a portion of a "R-2 - Residential District," and the zoning district map of the village of Ellicottville, New York, is hereby amended accordingly, such territory being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Ellicottville, County of Cattaraugus and State of New York, distinguished as being part of Lot No. 48 in Township 4, Range 6 of the Holland Land Company's Survey and more particularly described as follows:

BEGINNING at a point on the east bounds of Lot No. 48 at a point which is 2,107.38 feet southerly from the northeast corner of said Lot No, 48, said point of beginning also being the point of intersection of the center line of New York State Route 242 and the east bounds of said Lot No. 48; thence northerly and along the said east bounds of Lot No. 48, 400 feet to a point; thence westerly at an interior angle of 85° 32' 11", 354.82 feet to a point; thence southerly at an interior angle of 95° 00' 16", 400 feet to a point which is 10.87 feet southerly from the center line of New York State Route 242; thence easterly at an interior angle of 85° 02' 43" a distance of 358.59 feet more or less to the point or place of beginning.

Excepting therefrom all those parts of the above described premises which were prior to February 25, 1983 situate within the corporate bounds of the Village of Ellicottville.

§2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No......2.....**of the year 1984**

A local law to amend the Zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the said village, to change the zoning classification of certain lands

Be it enacted by theboard of trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

Section 1. Section 6.6 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of the village of Ellicottville, as added by local law number two of the year nineteen hundred eighty-three of said village, is hereby amended by designating the whole of said section 6.6 as originally so enacted as subdivision (a) thereof and by adding thereto a now subdivision (b) to read as follows:

(b) The following described lands and promises, commonly known as number 6 East Washington Street, heretofore forming a portion of a "R-3 - Residential District" are hereby reclassified and rezoned to form a portion of a "C - Commercial District" and the Zoning District Map of the Village of Ellicottville, New York, is hereby amended accordingly; such lands and promises being more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Ellicottville, County of Cattaraugus and State of New York, bounded as follows: Beginning in the northerly bounds of Washington Street, at the southeasterly corner of lands formerly owned by Edward Mullalley; thence north twenty-three and one-fourth degrees west, by said Mullalley lands, and others, two chains and ninety-three links, to the southwesterly corner of lands formerly owned by one James J. McMahon; thence by said McMahon lands, north sixty-six and one-fourth degrees east, ninety-nine links to the southeast corner of said McMahon lands; thence south twenty-eight and three fourths degrees east, two chains thirty-three links to a point in the northerly bounds of Washington Street; thence by said street bounds south thirty-nine and three-fourths degrees west, one chain thirty-seven links to the point of beginning, containing three-tenths of an acre, more or less and being the same premises deeded to Marcella Murphy by Daniel Darling and wife, by Deed dated March 17th, 1892 and recorded in the Cattaraugus County Clerk's Office on June 27th, 1892 in Liber 151 of Deeds at Page 407, and further distinguished as being part of Lots one and twenty-seven in said Village of Ellicottville. Also being the same premises conveyed by Mary Ann Rohwer to Border Oil & Gas Co., Inc., by deed dated January 6, 1984 and recorded in said County Clerk's office in Libor 838 of Deeds at Page 54

§2. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1.....of the year 1986

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to authorize and regulate zero lot line development,

Be it enacted by the.....board of trustees.....of the Village ofEllicottville.....as follows:

Section 1. Section 4.3 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, as last amended by local law number three of the year nineteen hundred seventy-nine of said village, is hereby amended by adding a further definition as follows:

Zero Lot Line Development. The construction of dwellings on a lot or tract of land with the intent to subdivide the lot or tract into smaller lots without side, one or both, or rear yards otherwise required by Section 7.3 on the common Subdivision lot lines.

§2. The unnumbered introductory paragraph of Section 7,2 of such local law, as last amended by local law number three of the year nineteen hundred seventy-nine of said village, is hereby amended to read as follows:

Sec. 7.2 District Use Regulations, Schedule A.

The uses which are permitted in the specified zoning district, and for which the Building Inspector may issue a zoning permit without prior approval (Permitted Uses), and the uses requiring approval from the Board of Appeals or the Village Board when so specified, (Special Uses) are set forth in the following table entitled "District Use Regulations, Schedule A." Uses not listed or interpreted by the Board of Appeals to be included categorically under this Section shall not be permitted except by amendment to this local law.

§3. Schedule A of section 7.2 of such local law, as 40 last amended, is hereby amended by adding the following as a Special Use in the R-2 Residential District:

Zero Lot Line Development (to be approved by Village Board - See Section 9.16)

§4. Schedule B of section 7.3 of such local law, as last amended by local law number three of the year nineteen hundred seventy-nine of said village, is hereby amended to add a new footnote, to be footnote 5/, to "Residential R-2" in the column headed "District," to read as follows:

5/ Minimum lot area, minimum lot width, minimum yard dimensions, Minimum floor area, and maximum percentage of lot coverage requirements are to be determined by the Village Board for each individual application for Zero Lot Line Development,

§5. ARTICLE IX of such local law is hereby amended by adding a new section, to be section

9.16, to read as follows:

Section 9.16 Zero Lot Line Development in A-2 Residential District

Every proposal for a Zero Lot Line Development shall be submitted to the Village Board for a comprehensive review before & formal application is made as provided in Section 11.6,

§6. ARTICLE XL of such local law is hereby amended by adding a new section, to be section 11.6, to read as follows:

Section 11.6 Procedure for Approval of Zero Lot Line Developments

(a) Anything in this Local Law to the contrary notwithstanding, all applications for a Special Use Permit for Zero Lot Line Development, and for any variances incidental thereto, shall be made through the Building Inspector to the village Board and not to the Board of Appeals.

(b) The Village Board shall hold a public hearing on each such application.

(c) In making a determination on such application the village Board shall be guided by the standards: set forth in Sections 11.4 and 11.5 of this Local Law and may approve, approve with modification, or disapprove the proposal.

(d) The Village Board may require that a declaration be recorded in the Cattaraugus County Clerk's office prior to the transfer of ownership or any portion of a subdivided lot or parcel, which declaration shall by its terms bind present and future owners of the new lots and shall include such of the following as the Village Board may deem necessary or advisable:

(1) An easement to the owner of each new lot for (i) the use, repair, maintenance and replacement of any pipe, wire, conduit or utility line servicing such owner's lot and located on any other new lot, whether such pipes, wires, conduits or utility lines are located within or without a building; and (ii) the making of necessary repairs or maintenance to party walls serving as the exterior limit of the unit on the lot of such owner;

(2) A provision that if any unit of a building on a new lot encroaches upon an adjacent lot as a result of construction or as a result of settling or shifting, there shall be an easement for such encroachment and the maintenance of same so long as such encroaching unit shall stand;

(3) A provision that if one or more of the dwelling units on the original lot which has been divided are destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, or happenings of similar import and effect, and such unit or units on an adjacent new lot shall be permitted and validesements for such encroachments and the maintenance thereof shall exist go long as such improvements shall stand,

§7. This local law shall take effect immediately.

Village ofEllicottville.....

Local Law No.....2..... of the year 1987

A local law to amend the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, in relation to signs. .

Be it enacted by the..... board of trustees..... of the Village of..... Ellicottville..... as follows:

Section 1. Section 4.3 of the zoning local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, as last amended by local law number one of the year nineteen hundred eighty-six of said village, is hereby amended by repealing the definition, SIGN, and substituting therefor the following:

SIGN. Any structure, display, device or representation which is designed or used to advertise or call attention to anything, person, business, activity or place, or to convey any message, and which is visible from a street or other right-of-way. The flag or pennant of any nation, state, municipality or other like governmental entity shall not be considered to be a sign.

§2. Section 4.3 of such local law is hereby further amended by adding the the following definitions, to be interpolated alphabetically:

ARCADE. A passageway which is open to a street or court and is generally accessible to the public, and which is covered by a canopy or roof attached to, and projecting from a building.

AWNING. A roof-like mechanism, retractable in operation, which projects from the wall of a building.

CANOPY. A roof-like structure of a permanent nature which projects from the wall of a building and is not retractable.

SIGN, ARCADE. A sign attached to, and hanging beneath an arcade.

SIGN, FLASHING. An illuminated sign on which the artificial light is not maintained constant or stationary in intensity at color at all times when such sign is in use.

SIGNS, FREE-STANDING. A sign erected on a free-standing frame or structure one or more masts or poles, and not attached to any building. A self supporting or ground sign.

SIGN, IDENTIFICATION. Any sign portraying information which promotes or directs attention to a person, place, business, product, service, entertainment or other activity located on the same lot where the sign is located.

SIGN, MOVABLE. Any sign not permanently attached to the ground or to a building.

SIGN, PROJECTING. A sign, usually double faced, which is attached to a wall of any building or the surface of any structure, any part of which projects more than 12 inches from such surface.

SIGN, ROOF. A sign erected on, against or above a roof and which extends above any point of a building with a pitched roof, or the deck line of a building with a mansard roof.

SIGN, SANDWICH BOARD. A temporary sign which is self-supporting resting on its own legs,

and designed to be readily movable. SIGN STRUCTURE. Any structure which supports, has supported or intended to support or help maintain a sign in a stationary position, including any decorative cover, roof or embellishment extending above such sign. SIGN, WALL. A sign fastened to, or painted on the wall of a building in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign, and which does not project more than 12 inches from such building. SIGN, WINDOW. A sign, whether or not lighted, which is applied, attached, or placed in proximity to a window in such a manner that it can be seen from a public sidewalk, passageway or street.

§3. Section 9.3 of such local law, as last amended by local laws number four and five of the year nineteen hundred sixty-four of said village, is hereby repealed and a new section 9.3 added to read as follows:

Section 9.3 Signs.

(a) Intent. The purpose of this section is:

- (1) To establish the relationship between standards used in the design, erection and display of signs and public safety, the value and economic stability of property, and to protect the physical appearance of the community from inharmonious and out-of-scale signs;
- (2) To enhance and protect natural beauty, historic and aesthetic qualities and neighborhood values in the village;
- (3) To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry; and
- (4) To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the use of land and : intensity of development permitted in the village, and which reduce hazards caused by signs overhanging or projecting onto public rights-of-way, or by signs that impede or distract traffic.

(b) Zoning Permit Required. Except as otherwise provided in this section no sign shall be erected, relocated or structurally modified until a zoning permit has been issued; provided, however, no permit shall be required for the normal maintenance and repair of any sign.

(c) Signs Not Requiring a Permit. The following types of signs shall not require a permit, provided that any such sign is not illuminated and that no more than one such sign shall be located on each street line of a lot:

(1) Temporary signs, consisting of:

A. 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 the 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 within 24 hours after the advertised event or within 30 days from installation, whichever is earlier.

B. Temporary cloth signs, banners, 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 temporary signs shall be removed within 24 hours after the advertised event or at the end of the season if a seasonal event is advertised.

(2) Signs required by law or needed for official government business or public safety and installed by local, State or Federal authority.

(3) Small signs not larger than four square feet in area, such as nameplates and identification signs, real estate signs and church, school and other institutional signs.

(4) Signs on awnings and canopies where permitted by paragraph (5) of subdivision (1) of this section

(5) Window signs, where permitted, which are either no larger than seven square feet in area or of a temporary nature and are removed within fifteen days after installation.

(6) Sandwich board signs meeting the requirements of paragraph (7) of subdivision (1) of this section.

(d) Movable Signs. No movable sign, other than a sandwich board sign, shall be permitted and then only in a district other than a Residential District and for a special community event; and any such sign shall be removed within 24 hours after the end of such event.

(e) General Requirements for All Signs. The following shall apply to all signs.

(1) Area Determination. The area of a sign shall be determined as follows:

A. For freestanding and wall signs: That area of the smallest rectangle or circle that can be placed over the entire sign, including all sections or modules and all lettering; pictorial matter or devices, frame and decorative moldings along its edges, and all background that is of different color than the predominant color surrounding the sign, but excluding any strictly structural supports outside, such rectangle or circles

B. For individual letters, pictorial matter or devices not attached to a frame, or free-standing: That area defined by the smallest rectangle or rectangles that can be placed over each individual word, pictorial matter or device which can be considered as a unit.

C. For double faced signs where message is the same, on both sides. The area of one entire side of the sign only, calculated as above.

D. For multiple-sides: signs: The maximum area visible from any one viewpoint, calculated as above.

E. For signs on other than a flat surface: The maximum actual surface area visible from any one viewpoint, calculated as above.

(2) Location and Performance. Unless otherwise set forth in this local law, signs shall be located on the premises they advertise.

(3) Height. No sign shall be higher than the overall height of any building it identifies, or 20 feet from the ground to the top of the sign, whichever is more restrictive.

(4) Construction and lighting

A. Signs made of plexiglas or similar plastic material shall not be permitted in the village.

B. No sign shall have an interior light source.

C. Unless otherwise provided, signs may be externally lighted, provided such illumination is concentrated on the area of the sign in such a manner as to prevent glare upon the street, or other public right-of-Way or upon adjacent property, and not to be distracting or hazardous to vehicular traffic.

D. All letters, figures, symbols, characters, forms or other representations used on any sign shall be safely and securely attached to the surface of the sign or to the sign structure.

E. Flashing signs are prohibited, as are signs that are animated or which have the appearance of flashing or motion.

(5) Traffic hazards. No sign 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 the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal or device. No sign shall make use of the words "STOP", "LOOK", "DANGER" or other word, phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic.

(f) Requirements For Particular Types of Signs. In addition to the general requirements specified in the preceding subdivision, the following additional requirements and limitations apply to the following types of signs :

(1) Projecting Signs.

Projecting signs shall be permitted only in a commercial or industrial district, subject to the following limitations and requirements:

A. Maximum Area. A projecting sign shall not exceed twelve s9.

feet in area for each face; if a projecting sign is to be used in combination with a wall sign, both identifying the same establishment, the maximum permitted area of such projecting sign shall be reduced by thirty percent.

B. Maximum Projection. No projecting sign shall be designed or erected so that any part thereof projects a horizontal distance of more than thirty-six inches from the wall surface to which the sign is attached.

C. Number. No more than one projecting sign shall be permitted for each separate establishment in any single building.

D. Location. No sign projecting over public property shall be erected so that its lowest point is less than eight feet above ground or any public right-of-way. No sign shall project so that any part or portion thereof is less than twelve inches from the curb line of any street, or from the edge of the pavement if there is no curb.

E. Construction. All projecting signs shall be securely attached to the building in a manner approved by the Building Inspector in accordance with the provisions of the building code,

F. Obstructions. No projecting sign shall be erected or maintained in such a way that ingress to, or egress from any door, window or fire escape is prevented or obstructed.

G. Lighting. Lighting shall be permitted on projecting signs.

(2) Free-standing Signs.

Free-standing signs shall be permitted in any district, subject to the following limitations and requirements:

A. Maximum Area. A freestanding sign shall not exceed an area of twenty sq. ft. in a commercial district, thirty-two sq. ft. in an industrial district and ten sq. ft. in any other district.

B. Restrictions. No free-standing sign shall be permitted on any lot used primarily for a one or two family dwelling, unless otherwise specified elsewhere in this Local Law.

C. Number. No more than one free-standing sign shall be permitted for each separate lot.

D. Location. Unless erected by a public agency, no free standing sign shall be permitted on any public property or overhanging any public right-of-way. Provided, however, the Planning Board may authorize placement of a free-standing sign within, or overhanging, a public right-of-way in a commercial district. No free-standing sign shall be erected so as to be a hazard to people or vehicles passing underneath.

E. Lighting. Lighting shall be permitted on free-standing signs in a commercial or industrial district only.

(3) Wall Signs.

Wall signs shall be permitted in any district subject to the following limitations and requirements:

A. Maximum Area. A wall sign shall not exceed an area of:

(1) Four sq. ft. in a residential district.

(2) In any other district, one-half ($\frac{1}{2}$) of one sq. ft. of sign area for each linear foot of facade of the building, or part of the building, Occupied by the business advertised by such wall sign, Notwithstanding the above no wall sign shall have an area greater than seventy five sq. ft.

B. Number. No more than one wall sign shall be permitted for each separate establishment in one building.

C. Location. A wall sign shall be attached to the facade of the business advertised; that is, the facade measured to determine the maximum area of such sign.

D. Lighting, Lighting of wall signs shall be permitted in a commercial or industrial district only.

(4) Arcade Signs.

Arcade signs shall be permitted only in a commercial district subject to the following limitations and requirements:

A. Maximum Area. An arcade sign shall not exceed six sq. ft. in area for each face.

B. Number. No more than one arcade sign shall be permitted for each separate establishment in one building.

C. Location. An arcade sign shall be placed on the underside of the arcade and perpendicular to the business it advertises. No such sign, which is located over a walkway, shall be designed or erected so that its lowest point is less than eight feet above such walkway.

D. Construction. All arcade signs shall be securely attached to the arcade in a manner approved by the Building Inspector in accordance with the provisions of the building code.

E. Lighting. Lighting of arcade signs shall be permitted.

(5) Signs on Awnings and Canopies. No advertising shall be placed on any awning or canopy, except that in a commercial or industrial district only a logo and the name of the business, industry or pursuit conducted on the premises may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portion thereof.

(6) Window Signs. Window signs shall be permitted only in a commercial district, subject to the following limitations and requirements:

A. A permit shall be required for any window sign which is larger than seven sq. ft. in area and located less than fifteen inches from the inside surface of the glass.

B. Lighting of window signs shall be permitted.

(7) Sandwich Board Signs. Sandwich board signs shall be permitted only in a commercial district subject to the following limitations and requirements:

A. No sandwich board sign shall be larger than six sq. ft. in area or forty-eight inches in height or width. Such signs shall not be higher than four feet above any adjacent sidewalk or curb.

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

C. Sandwich board signs shall not be illuminated and maybe displayed only between sunrise and sunset. While on display, such signs shan be securely fastened so as to prevent-accidental tipping or blowing over.

D. Any sandwich board sign which does not comply with all of the above requirements is prohibited.

(g) Maintenance of Signs; Removal of Unsafe and Disused Signs.

(1) Maintenance and Repair of Signs. All signs shall be properly repaired and painted and not allowed to become dilapidated or unsightly. If the Building Inspector shall determine, after careful inspection, that any sign has become unsafe, out of re pair or unsightly, he may require the owner of such sign to make such corrections as may reasonably be necessary, or to remove such sign, within 10 days after being notified to do so.

(2) Removal of Disused Signs. Any sign which no longer relates to an existing business or use shall be removed by the owner of such sign. If such owner is no longer in possession of the land or building on which such disused sign is located the owner or person having beneficial use of such land or building shall remove such disused sign within 10 days after being notified to do so by the Building Inspector.

(3) Form and Method of Giving Notice. Any notice given under this subdivision shall be in writing, specifying the sign involved and the action to be taken in respect thereto, and shall be served personally or in any other method authorized for the service of a notice of petition in a summary proceeding under article 7 of the Real Property Actions and Proceedings Law.

(h) Nonconforming Signs.

(1) Any sign erected or installed prior to August 11, 1986, and which does not comply with the provisions of this Section, shall be deemed a nonconforming sign.

(2) When a nonconforming sign is destroyed, or damaged by any cause to such an extent that the cost of repair would be more than half the cost of total replacement, such sign shall be brought into compliance with this Section or completely removed.

(3) If a nonconforming sign is located on a lot or building, and the use of such lot or building changes, such sign shall be brought into compliance with the provisions of this section.

§ 4. This local law shall take effect immediately.

Village of.....Ellicottville.....
Local Law.....3.....of the year1988

A local law.TO. AMEND THE ZONING LOCAL LAW OF THE VILLAGE OF ELLICOTTVILLE, NEW YORK BEING LOCAL LAW # 1 OF 1964 OF SAID VILLAGE, TO ADD DEFINITIONS AND TO EXPAND THE PROVISIONS RELATING TO COMMUNITY DEVELOPMENT PROJECTS..

Be it enacted by the BOARD OF TRUSTEES of the

Village of.....Ellicottville.....as follows:

Section 1. The following definitions shall be added (except that Zero Lot Line Building or Development shall be applicable to this amendment only and shall not amend Local Law #1, 1986).

A. Add to Sec. 4.3 the following definitions:

COMMUNITY DEVELOPMENT PROJECT. A contiguous area of land of at least five acres in one ownership, designed and built, or to be built, as a complete project providing a road system and water and sewer facilities as necessary, and used for residential purposes and designed and developed in accordance with the provisions of Sec. 9.11 of this law.

DWELLING, TOWNHOUSE. A building containing three or more dwelling units, each of which has one or two sidewalls that are party or lot-line walls built in common with side walls of an abutting dwelling.

ZERO LOT LINE BUILDING OR DEVELOPMENT. One or more detached single family dwellings that have no side yard on one side of the lot and that are constructed in accordance with an approved plan and in accordance with applicable provisions of this local law .

Section 2. Section 9.11 of said Zoning Local Law shall be amended to read as follows:

Sec. 9.11. Community Development Project

In any Agricultural-Forestry or Residential District there may be developed, after approval of a site plan by the Village Planning Board, a residential Community Development Project (CDP). In such projects a greater freedom of design may be permitted with respect to the use of land, area of lots, size of yards and floor area, even though compliance in all respects to the

provisions of this local law is not maintained. The purpose of a CDP is to substitute an approved development plan, including appropriate specifications and covenants, for the conventional regulations in this zoning law, with such approved development plan to become the basis for continuing land use controls in the CDP.

The following regulations shall apply to Community Development Projects:

- (a) A complete development plan for the CDP area shall be submitted to the Village Planning Board for review and approval pursuant to the provisions of Sec. 7-725 of Article 7 of Village Law.
- (b) Approval of the Cattaraugus County Health Department shall be obtained as appropriate.
- (c) The development plan shall be determined by the Planning Board to be consistent with the intent and purpose of this Sec. 9.11. In making this determination the Planning Board, after review of the plan and supporting documentation, shall find that the following objectives, conditions and performance standards have been complied with:
 - (1) The tract to be developed shall be at least five acres in area with at least 200 feet of frontage on an improved public road.
 - (2) The overall gross residential density for the proposed CDP shall be no more than 4 dwelling units per acre (i.e., no more than 20 units on a minimum parcel of 5 acres.)
 - (3) Dwelling units permitted in the CDP may be, at the Planning Board's discretion, detached single-family units, two-family units, townhouses, or some combination thereof.
 - (4) The Planning Board may require that up to 20 percent of the gross CDP parcel be devoted to usable recreation area or undeveloped open space. All such land shall be offered to the Village and the Village Board, after recommendation from the Planning Board, shall determine, in each case, whether or not to assume ownership.
 - (5) If public ownership of any recreation land or undeveloped open space in the CDP is determined by the Village Board to be inappropriate, the Planning Board shall establish such conditions on ownership, use and maintenance as it deems necessary to assure preservation of such land for its intended purpose.
- (6) The proposed CDP shall, by its design, preserve and enhance natural features, minimize erosion and stormwater runoff, capitalize on views and solar orientation, and mitigate serious environmental impacts.

- (7) Approved utility support systems (water, sewerage, electricity and gas, if available) shall be required. Electrical distribution and telephone lines shall be put underground.
- (8) The proposed CDP shall consider, and not exceed, the existing capacity and limitation of streets, intersections, drainage ways and community support systems such as fire protection, solid waste disposal and schools unless improvements to such infrastructure systems are proposed as part of the CPD.
- (9) All provisions of this Law related to off-street parking and signs shall be compiled with, as shall any related provisions imposed as a result of the review process.

In evaluating and reaching a decision on the proposed CDP the Planning Board shall consider, among other things, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the CDP would be located, and the safeguards provided to minimize possible detrimental effects of the proposed CDP on adjacent property. If any of the above objectives, conditions and performance standards are determined by the Planning Board to be inappropriate or unwarranted due to unusual circumstances, it may be modified by the Planning Board with the reasons for such modification being included, in writing, in the public record of the project.

- (d) The Planning Board shall fix a time within 60 days from the day an application for a CDP is submitted for a public hearing. Notice of such hearing shall be given by publication in the official newspaper at least 5 days prior to the date thereof.
- (e) Within 60 days after the public hearing the Planning Board shall act to approve, approve with conditions or disapprove the proposed CDP.
- (f) An approved development plan for a CDP, including any conditions attached thereto, shall be considered authorization for the Building Inspector to issue a zoning and building permit when all other applicable codes and regulations have been complied with.
- (g) An approved development plan for a CDP shall be substituted for the conventional regulations of this zoning law. No modifications of such approved plan shall be made without Planning Board review and approval.
- (h) A Certificate of Occupancy shall be issued in conformance with the provisions of Article X of this Law.
- (i) An environmental assessment of the proposed CDP shall be prepared for Planning Board review and submitted with the application. When the Planning Board determines that there might be a significant adverse environmental impact, an environmental impact statement shall be required pursuant to the provisions of Part 617 of the regulations of the N.Y. State Department of Conservation and any local law related thereto.
- (j) Before taking final action on an application for a CDP, the Planning Board shall refer such application to the Cattaraugus County Planning Board in accordance with the provisions of Sec. 239 1 & m of General Municipal Law,

Section 3. This Local Law shall take effect upon filing in the office of the Secretary of State.

Village of.....Ellicottville.....

Local Law No......3..... **of the year 1989**

A local law to amend the zoning. Local law of the village of Ellicottville, New York, being local law number one llo rithe year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the Board of Trustees..... **of the Village of**.....Ellicottville.....**as follows:**

(c) The following described lands and premises, heretofore forming a portion of an "R-3 - Residential District:* are hereby reclassified and rezoned to form a portion of an "I-Industrial District" and the Zoning District Map of the Village of Ellicottville, New York, is hereby amended accordingly; such land and premises being more particularly described as follows:

ALL THAT TRACT PR PARCEL OF LAND situate in the Village of Ellicottville, County of Cattaraugus and State of New York, being part of Lot 56, Township 4. Range 6 of the Holland Land Company's survey bounded and described as follows:

Commencing at an iron on the southeast bounds of Parkside Drive, said iron being 248.09 feet north westerly of the intersection of the center of Main Street with the southeast bounds of Parkside Drive; thence northeasterly turn ing a counter-clockwise angle of 90 degrees a distance of 71.88 feet to an iron; thence northwesterly turning a clockwise angle of 90 degrees 10 minutes 00 seconds a distance of 25.0 feet to an iron; thence northeasterly turning a clockwise angle of 241 degrees 59 minutes 00 seconds a distance of 66.0 feet to an iron; thence northwesterly turning a clockwise angle of 118 degrees 01 minutes 00 seconds a distance of 66 feet to an iron, at the northwesterly corner of C.H. Matteson, said iron being the point of beginning; thence north easterly turning a counter-clockwise angle of 117 degrees 35 minutes 10 seconds a distance of 118.98 feet to an iron in the east bounds of the Village of Ellicottville; thence northerly turning a clockwise angle of 118 degrees 17 minutes 30 seconds along the east bounds of said Village a distance of 1,039.3 feet to a point in the south bounds of the Cattaraugus County Extension Serra ice Association as recorded in Liber 585 of Deeds at Page 409; thence westerly turning a clockwise angle of 85 degrees 30 minutes 40 seconds along said south bounds of the Cattaraugus County Extension Service Association à distance vi 429 feet to an iron at the point of beginning containing 2.17 acres more or less. (added by LL #3 Year 1989, eff. 8/14/89).

Village of.....Ellicottville.....

Local Law No.....5.....of the year 1989

A local law to amend, the zoning, local law of the village of Ellicottville, New York, being local law number one of the year nineteen hundred sixty-four of said village, to change the zoning classification of certain lands.

Be it enacted by the Board of Trusteesof the Village of.....Ellicottville.....as follows:

Section 1. Section 6.6 of the zoning law of the Village of Ellicottville, New York being local law number one of the year nineteen hundred sixty-four of the Village of Ellicottville as added by local law number three of the year nineteen hundred eighty-nine of said village is hereby amended by adding thereto a new subdivision (d) to read as follows:

(d) The following described lands and premises, commonly known as number 24 Rockwell Avenue, heretofore forming a portion of a "I Industrial District" and the Zoning District Map of the village of Ellicottville, New York, is hereby amended accordingly; such lands and premises being more particularly described as follows: ALL THAT TRACT OR PARCEL OF LAND, situated in the Village of Ellicottville, County of Cattaraugus and State of New York, described as follows: Beginning at the northeast corner of the Sunup Holiday Park, thence northerly 157 feet, along the westerly boundary of lands owned by the Baltimore and Ohio Railroad, thence westerly on a line perpendicular with Jefferson Street 143 feet, thence northerly at a right angle 25 feet, thence westerly at a right angle approximately 117 feet to the centerline of the Great Valley Creek, thence southerly along said centerline to the northwest corner of Sunup Holiday Park, thence southeasterly along the northerly propertyline of Sunup Holiday park 298.05 feet to the place of beginning, being .7 acres more or less.

Section 2. Contingencies to the rezoning of the aforesaid described lands being as follows:

- 1. Landscape barriers to be in place on the northern and western boundaries.
- 2.If right-of-way is granted to owners of the mobile home park for access to their property through the lands of John Burrell that the road be constructed conforming to village road specifications.
- 3. Village Planning Board will have site plan approval.

Section 3. This local law shall take place immediately.

Village of.....Ellicottville.....

Local Law No.....6.....**of the year 1989**

A local law Temporary Moratorium granting of approval of Subdivision, Condominium, Planned Units and Community Development,

Be it enacted by the.....Board of Trustees.....**of the Village of**.....Ellicottville.....**as follows:**

SECTION 1. TITLE:

This law shall be known as the Subdivision Moratorium Law of 1989 of the Village of Ellicottville.

SECTION 2. LEGISLATIVE INTENT:

The Village Board of Trustees in conjunction with the Town Board of the Town of Ellicottville has taken steps to study and analyze the existing land use, population trends, and fiscal, institutional, human and environmental resources of the Village and surrounding Town in an effort to determine the sufficiency of the existing zoning ordinance and the possible need for revision of the said zoning ordinance. Until the aforesaid study and planning process is completed, the Village Board finds it necessary to impose a moratorium on the grant of approval of subdivisions, condominium developments, planned unit developments and community development projects as hereinafter provided. This action is necessary in order to protect the natural resources, public services and facilities of the Village of Ellicottville and the public health, safety and welfare of the residents of the Village.

SECTION 3. APPLICATION:

This law shall apply to all areas within the Village of Ellicottville.

SECTION 4. MORATORIUM:

For a period of six months from the date of adoption of this Local Law the Planning Board is prohibited from granting preliminary or final plat approval and site plan approval for subdivisions, condominium developments, planned unit developments and community development projects in the village of Ellicottville, except for those subdivisions or developinents for which preliminary plat approval was granted by the Planning Board prior to the effective date of this Local Law, for which the Planning Board inay, during the period of the moratorium hereby imposed, grant final plan approval.

SECTION 5. CONFLICT WITH OTHER LAWS:

This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supersedes Section 7-728 (3) and (4), and 7-725(2) of the Village Law which require, respectively, that the Planning Board act upon applications for preliminary plat approval, final plat approval, and applications for approval of site plans within 60 days after the holding of a public hearing on such application.

SECTION 6, EFFECTIVE DATE: This Local Law shall take effect immediately and shall remain in force and effect for a period of six months from the date of its adoption by the Board of Trustees.

Village ofEllicottville.....

Local Law No......1.....**of the year 1990**

A local law Imposing a Temporary Moratorium on the Granting of Approvals of Subdivisions, Condominium Developments and Planned Unit Developments; and Community Development Projects.

Be it enacted by the Board of Trustees..... **..of the Village of** Ellicottville **as follows:**

SECTION 1. TITLE:

This law shall be known as the Subdivision Moratorium Law of 1990 of the Village of Ellicottville.

SECTION 2. LEGISLATIVE INTENT:

The Village Board of Trustees is continuing to take steps to study and analyze the existing land use, population trends, and fiscal, institutional, human and environmental resources of the Village and surrounding Town in an effort to determine the sufficiency of the existing zoning ordinance and the possible need for revision of the said zoning ordinance. Until the aforesaid study and planning process is complete, the Village Board finds it necessary to impose a moratorium on the grant of approval of subdivisions, condominium developments, planned unit developments and community development projects as hereinafter provided. This action is necessary in order to protect the natural resources, public services and facilities of the Village of Ellicottville and the public health, safety and welfare of the residents of the Village.

SECTION 3. APPLICATION:

This law shall apply to all areas within the Village of Ellicottville.

SECTION 4. MORATORIUM:

For a period of six months from the date of adoption of this local Law the Planning Board is prohibited from granting preliminary or final plat approval and site plan approval for subdivisions, condominium developments, planned unit developments and community development projects in the Village of Ellicottville, except for those subdivisions, condominium developments, planned unit developments, and community development projects for which preliminary plats were under consideration by the Planning Board prior to the effective date of the Subdivision Moratorium Law of 1989 of the Village of Ellicottville, for which the Planning Board may, during the period of the moratorium hereby imposed, grant preliminary plan approval and final plan approval.

SECTION 5. CONFLICT WITH OTHER LAWS:

This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supercedes Section 7-728(3 and(4), and 7-725(2)of the Village Law which require, respectively, that the Planning Board act upon applications for preliminary plat approval, final plat approval, and applications for approval of site plans within 60 days after the holding of A public hearing on such application.

SECTION 6. EFFECTIVE DATE:

This Local Law shall take effect immediately and shall remain in force and effect for a period of 6 months from the date of its adoption by the Board

Village ofEllicottville

Local Law No. 3 **of the year 1990**

A local law Imposing a Temporary Moratorium on the Granting of Approvals of Subdivisions, Condominium Developments and Planned Unit Developments, and Community Development Projects.

Be It enacted by the Board of Trustees..... **of the Village of** Ellicottville..... **as follows:**

SECTION 1. TITLE:

This law shall be known as the Subdivision Moratorium Law of the Village of Ellicottville,

SECTION 2, LEGISLATIVE INTENT:

The Village Board of Trustees in conjunction with the Town Board of the Town of Ellicottville has taken steps to study and analyze the existing land use, population trends, and fiscal, institutional, human and environmental resources of the Village and surrounding Town in an effort to determine the sufficiency of the existing zoning ordinance and the possible need for revision of the said zoning ordinance. Until the aforesaid study and planning process is completed, the Village Board finds it necessary to impose a moratorium on the grant of approval of subdivisions, condominium developments, planned unit developments and community development projects as hereinafter provided. This action is necessary in order to protect the natural resources, Public services and facilities of the Village of Ellicottville and the public health, safety and welfare of the residents of the Village.

SECTION 3. APPLICATION:

This law shall apply to all areas within the Village of Ellicottville.

SECTION 4. MORATORIUM:

For a period from the date of adoption of this local law to February 28, 1991 the Planning Board is prohibited from granting preliminary or final plat approval and site plan approval for subdivisions, condominium developments, planned unit developments and community development projects in the Village of Ellicottville, except for those subdivisions or developments for which preliminary plat approval was granted by the Planning Board prior to the effective date of this Local Law, for which the Planning Board may, during the period of the moratoriu hereby imposed, grant final plan approval.

SECTION 5, CONFLICT WITH OTHER LAWS:

This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supersedes Section 7-728 (3) and (4), and 7-725(2) of the Village Law which require, respectively, that the Planning Board not upon applications for preliminary plat approval final plat approval, and applications for approval of site plans within 60 days after the holding of a public hearing on such application.

SECTION 6. EFFECTIVE DATE:

This Local Law shall take effect immediately and shall remain in force and effect to February 28, 1991' from the date of its adoption by the Board of Trustees

ZONING LOCAL LAW

Local Law No.1 _____

AN LOCAL LAW ADOPTING THE ZONING LOCAL LAW OF 1991 TO PROVIDE FOR A COMPREHENSIVE ZONING PLAN OF THE VILLAGE OF ELLICOTTVILLE AND ADOPTING AN OFFICIAL ZONING MAP FOR THE VILLAGE OF ELLICOTTVILLE, NEW YORK.

Be it ordained by the Village Board of Ellicottville:

SECTION 1 - GENERAL PROVISIONS/PROCEDURES

1. AUTHORITY. Pursuant to the authority conferred by Article VI-A of the Village Law of 1901 of the State of New York, and by Article 7 of the Village Law of 1972 of the State of New York, and for each of the purposes specified therein, the Board of Trustees of the Village of Ellicottville, County of Cattaraugus, New York, pursuant to the authority conferred by Subdivision 2 of Section 10 of the Municipal Home Rule Law of the State of New York, 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 Ellicottville.
2. SHORT TITLE. This local law shall be known as the Village of Ellicottville Zoning Local Law, and is referred to herein as this Code or the Code.
3. STATEMENT OF PURPOSE. The Code is designed and enacted to implement the objectives of the Village of Ellicottville Comprehensive Plan and to promote the general health and welfare of the present and future inhabitants of the Village, and to protect property values of the Village and the neighborhoods within the Village and to create an atmosphere attractive to visitors and residents. It is the intention of the Village in adopting this Code to fully exercise all of the powers granted to the Village by the provisions of New York Law, and all other powers granted by statute or by common law for the regulation of land uses and improvements. The intention of the Village is to assure the proper and sensitive development of land within the Village of Ellicottville to protect and enhance the quality of life in general. The Code is intended to allow development in a manner that encourages the preservation of scenic values, historic structures, the

unique urban scale of original Ellicottville, and provides for well-planned- commercial and residential centers, smooth traffic circulation, and efficient delivery of municipal services.

The Code seeks to prevent development that adds to existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and safety in the community or detract from the quality of life in the community.

4. CONFLICT. The Provisions of this Code are in addition to all other Village ordinances, the Laws of the state of New York, the Laws of the United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

5. EFFECT ON PREVIOUS LOCAL LAWS AND MAPS. The existing zoning ordinances of the Village of Ellicottville, including the official zoning maps adopted with those local laws, are hereby amended in their entirety to conform to the provisions of this Code, provided that this Code is a continuation of those existing local laws, and not a new enactment, in so far as the substance of the old and new provisions are the same. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built prior to the adoption of this local law, or for which building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this local law, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old enactments shall not be affected by this Code, unless the Code is changed in a manner that makes the use conforming to the zone.

6. AMENDMENTS TO THE ZONING LOCAL LAW AND ZONING MAP.
 - A. Village Board May Amend. The Village Board may by local law, on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations, restrictions and other provisions of this local law and the boundaries of the districts hereby created. The adoption of any such local law shall be in accordance with the requirements of Section 7-708 of the Village Law.

- B. Review By Planning Board. Every such proposed amendment or change, whether initiated by the Village Board or by petition, shall be referred to the Planning Board for report thereon. Referral to the Planning Board shall be made thirty (30) days before the public hearing hereinafter provided for. If the Planning Board shall fail to submit a report following any such referral, it shall be deemed that the Planning Board has approved the proposed amendment or change.
- C. Contents of Petition. A petition to change the zone of any land **within** Ellicottville shall be filed first with the Village Board on a form prescribed for that purpose. The form shall contain a legal description of the land affected by the petition and a statement of the petitioner's interest in the land included within the petition. The petition shall state the current zone of the property and the zone which the petitioners desire to have applied. In the event that petitioners desire to have a new zone designation established, the petition shall so state and give same a petition for a zone change. To change or amend the zone within a legally recorded subdivision, the petition must include signatures of owners of at least fifty-one percent (51%) of the platted lots in the subdivision.
- D. Public Notice. The Village Board by resolution shall fix the time and place of a public hearing on any proposed amendment and shall cause notice to be given as follows:
- 1) At least ten (10) days' notice of the time and place of such hearing shall be published in the official newspaper of the Village, which notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents and shall state that copies of the proposed amendment may be examined in the Office of the Village Clerk prior to the date of such hearing;
 - 2) By giving written notice of any proposed change or amendment affecting property within five hundred (500) feet of the boundaries any Village, County, State Park or Parkway pursuant to the requirements of Section 7-706 of the Village Law.

- 3) Act-ion by Planning Board. Prior to the public hearing, the Planning Board shall forward formal recommendations to the Village Board regarding the matter before it, approving, disapproving, or modifying the proposal. The Planning Board shall act on the proposal prior to the public hearing unless the proponent or petitioner has requested the matter be tabled for further consideration, or the petition is withdrawn. If the Board fails to act at its regularly scheduled meeting, the proposal shall be forwarded to the Village Board for consideration without recommendation.
- 4) Hearing Before Village Board. The Village Clerk shall publish a notice of the hearing in a newspaper having general circulation in the community not less than ten days prior to the hearing, not including publication on the date of the hearing. Following the hearing, the Board shall approve, disapprove, or modify and approve the proposal before it. The hearing may be continued, if necessary, without republication of notice. The recommendations of the Planning Board are advisory only, and the Village Board may overrule the recommendations of the Planning Board. The Village Board may act on the petition at the time of the hearing.

7. CREATION OF DISTRICTS AND ZONE MAP. In order to carry out the purposes of the Code, zone districts have been established as set forth in Section 3 of the Code. These zone districts are identified on the official zoning map, which is adopted as a part of this Code. In interpreting the zoning map, the following standards shall apply:

- A. The zoning boundary lines are intended to conform to existing property boundary lines when not in a public right-of-way or to follow the center line of drainage ways, streams or public rights-of-way (including prescriptive rights-of-way), unless the lines are located by specific dimensions, in which case the dimensions shall control. Where the zoning district lines approximately follow the lot lines as they exist at the date of adoption of this Code, the district lines shall conform to the lot lines.
- B. Where the zoning district lines appear to have intentionally divided a lot or parcel between two or more districts, the applicable zoning for each portion of the lot or parcel shall be determined by using the scale

shown on the map. If the placement of the district line cannot be determined, the standards of the zone allowing the less intensive land use shall be applied to the entire parcel.

8. VIOLATIONS AND PENALTIES.

- A. Complaints and Violations: Whenever a violation of this local law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Code Enforcement Officer who shall properly record such complaint and immediately investigate and report thereon to the governing body.
- B. Procedures for Abatement of Violations:
- 1) In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this local law, notification of the violation will be issued in writing by the Zoning Code Enforcement Officer and compliance of the local law must be met within the specified period of time.
 - 2) After the specified number of days, the Village Board, or with their approval the Zoning Code Enforcement Officer, or any other proper person, authority or official, may commence an action to enforce this local law.
- C. Penalties: A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. Violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- D. The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Village Law of the state of New York or any other Law.
9. PERMITS. All departments, officials and public employees of the Village who are vested with the duty or authority to issue permits shall conform to the provisions of this Code, and shall issue permits only in conformance with the provisions of this Code.
10. ZONING MAP ADOPTED. The zoning map for Ellicottville as presented to the Village Board and executed by the Mayor is the official zoning map for Ellicottville. Upon amendment to the zoning map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.
11. PROCEDURE UNDER THE CODE. No building permit shall be issued for any building project unless the plans for the proposed structure have been submitted to and approved by the Code Enforcement Officer. Proposals submitted to the Code Enforcement Officer shall be reviewed according to either the Permitted Use Review process or the Conditional Use Review process, which includes Small Scale Master Planned Developments. Subdivisions, long-range development master plans, and Large Scale Master Planned Developments are initially reviewed by staff and submitted to the Planning Board for review and final approval. No planning review shall occur until all applicable planning application fees have been paid, and no final approval shall be effective until all other fees assessed by local law, including applicable staff review and engineering fees, have been paid. Upon issuance of final planning approval under either review process, the plans shall be forwarded to the Building Department for building permit issuance under the provisions of the New York State Uniform Fire Prevention and Building Code.
12. NOTICE. When the application being processed requires a hearing, and requires notice to nearby property owners, the Village Clerk shall mail notice of the filing of the application. The application is available from the Village. The applicant shall provide the Village with a list of the owners of record of all properties located entirely or partly within 200 feet from any boundary of the property subject to the application, and the Village shall mail notice to the owners listed. The mailed notice shall state that the application has been filed, the nature of the application and that complete information is available at the Village offices. The applicant shall reimburse the Village for the actual costs of mailing, including duplication costs. Notice by publication shall be given by publishing a notice that the application has been filed. The notice shall be published

once in the official newspaper of the Village and shall be on file with the Village Clerk.

A. Notice to Condominiums. If a condominium project is one of the adjoining properties, or within the 200 foot radius from the applicants' property, notice shall be given to the Management Committee, Board of Directors, or person designated to receive service of process on behalf of the condominium owners' association, rather than to all individual unit owners.

B. Defects in Notice. Notice shall be deemed adequate if notice was mailed to all property owners as listed on the last available tax assessment rolls and shall not become defective because of unrecorded or subsequent transfers of title, or uncertainties concerning ownership not discernible from the tax assessment rolls.

C. Notice of Zone Changes. When a petition has been received for the change of the zoning on a particular tract, notice shall be posted on that tract of land. If the request is for an open area consisting of four or more parcels in separate ownerships, notice shall be posted in at least three conspicuous places in the area affected by the petition.

13. APPEALS AND CALL-UP PROCESS. Except as otherwise provided by the laws of the State of New York and the Village of Ellicottville, final decisions of the Planning Board are appealed to the Zoning Board of Appeals. Appeals of final decisions of the Planning Board relating to site plan review, conditional use permits, and subdivision approval shall be appealed to the Supreme Court pursuant to section 7-725 and Section 7-728 of Village Law. Any person who is the owner of any property within 200 feet of the boundary of the subject site, and the owner of the subject site shall have standing to appeal a decision of the Planning Board. Appeals from Planning Board action shall be filed by letter addressed to the Zoning Board of Appeals. The letter or petition shall contain the name, address, and telephone number of the petitioner, his or her relationship to the project or subject property, and the reasons for requesting review, including specific provisions of this Code, if known, that are violated by the action taken.

A. Written Findings Required. The Planning Board shall prepare detailed written findings on any application that it denies. These findings shall state the reasons for denial and the provisions of this Code or other Village local laws or applicable state or federal laws or regulations that would be violated by approval, and the proposed conditions of approval.

B. Non-owner Petitions. Any person who is the owner of any property within 200 feet of the boundary of the subject site has the right to appeal to the Zoning Board of Appeals any final decisions of the Planning Board which is appealable to the Zoning Board of Appeals pursuant to this section. The petition must be filed in writing with the Village Clerk within ten calendar days of the filing of the Planning Board's final decision with the office of the Village Clerk. The petition for the appeal shall state the name, address, and telephone number of the petitioner and his agent, if any, the name of the project, and the grounds for the appeal. The Zoning Board of Appeals shall set a date for the hearing, which shall be no more than 30 calendar days from the date the notice of appeal is filed with the Clerk. The Village Clerk shall notify the petitioner and the owner of the project of the hearing date. The Village Clerk shall obtain the findings from the Planning Board, as well as all other pertinent information, and transmit them to the Zoning Board of Appeals.

C. Petitions by the Owner. The owner of any project has the right to appeal to the Zoning Board of Appeals from any final decision of the Planning Board affecting the project which is appealable to the Zoning Board of Appeals pursuant to this section. The petition must be filed in writing with the Village Clerk within ten calendar days of the filing of the Planning Board's final decision in the office of the Village Clerk. The petition for the appeal shall state the name, address, and telephone number of the owner and his agent, if any, the name of the project, and the grounds for the appeal.

The Village Clerk shall set a date for the hearing, which shall be no more than 30 calendar days from the date the notice of appeal is filed with the Clerk. The Village Clerk shall notify the petitioner and the owner of the project of the hearing date. The Village Clerk shall obtain the findings from the Planning Board and all other pertinent information and transmit them to the Zoning Board of Appeals.

D. Actions on Petitions. The Zoning Board of Appeals may affirm, reverse, or affirm in part and reverse in part any decision of the Planning Board. The Zoning Board of Appeals may remand the matter to the Planning Board with directions for specific areas of review or clarification. Hearings on petitions for review shall be limited to consideration of only those matters raised by the petition(s), unless the Zoning Board of Appeals by motion, enlarges the scope of the hearing to accept information on other matters.

E. Finality of Action. If no appeal or call-up has been taken at the end of ten days from the date of the filing of the Planning Board's final decision in the office of the Village Clerk, the right of appeal or call-up shall terminate.

F. Appeal from the Zoning Board of Appeals. Any officer, department, board or bureau of the Village with the approval of the Board of Trustees, or any person or persons aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for relief pursuant to the provisions of Section 7-712 (3) of the Village Law. The decision of the Zoning Board of Appeals shall stand, and those affected by the decision may act in reliance on it unless and until the court enters an interlocutory or final order, providing otherwise.

14. TERMINATION OF PROJECTS. It is the policy of the Village to require developers submitting projects to the planning process to move their projects to either approval or denial in a reasonably expeditious manner. The time required in the planning review process will vary with the size and complexity of each proposal, and the establishment of exact time requirements for review is impractical. It is the policy of the Village to formally deny projects submitted to the process which remain inactive for long periods of time due to acts or omissions of the developer.

A. Inaction Defined. A project shall be deemed inactive and subject to denial on the basis of inactivity if, through the act of omission of the developer and not the Village:

- 1) More than three months have passed since the last meeting of the Village and the developer;
- 2) More than three months has passed since a request for additional information was made by the Village which request has not been complied with or the developer's reasons for non-compliance are not stated;
- 3) The developer is more than 60 days in default of the payment of any fee assessed by local law, or has not paid the fee under protest;
- 4) The developer has stated his intent to abandon the project; or
- 5) The application appears to have been filed in bad faith for the purpose of attempting to vest rights prior to a zoning change, without actual intent to construct the project applied for.

Delays occasioned entirely by internal delays of the Village Planning Board shall not be cause for termination.

- B. Reinstatement. A developer may appeal the Planning Board's denial of a project for inactivity to the Village Board in the same manner as any other appeal. The Village Board may reinstate subject to payment of full or partial submission fees, reinstate subject to specific local law changes, or deny reinstatement. If reinstatement is denied, all interest in the application ends. If the developer desires to proceed with the project, he must start at the beginning of the process with a new submission and payment of new submission fees, and shall be subject to all local laws then in effect.
15. APPEARANCES BEFORE PLANNING BOARD, VILLAGE BOARD, AND ZONING BOARD OF APPEALS. All persons speaking before any Village agency, department, commission or board of the Village Board on behalf of the owners or any project shall provide reasonable evidence of their agency relationship with the owner. This agency shall be presumed if the spokesman is associated with the architect or engineer whose name appears on the plans, or if the owner is present. The Planning Board may request other persons appearing to speak in any agency position with any project to provide a statement signed by the owner indicating the nature of the relationship and the authority of the agent to make decisions or representations concerning the project.
16. VARIANCES. Any variances required shall be granted by the Zoning Board of Appeals under the provisions of Section 9 of this Code prior to the issuance of any conditional use, master planned development, or other approval by the Planning Board. All action on an application shall be stayed upon learning that a variance is required until the applicant shall have obtained the variance or his request is denied by the Zoning Board of Appeals. Appeals from final action of the Zoning Board of Appeals shall be made to the court with jurisdiction as provided by state law, and not to the Village Board.
17. VESTING OF ZONING RIGHTS. Upon payment of the application fees and submission of a completed application to the Village, the applicant's rights under this local law shall vest as to matters related to zoning and land use, including without limitation, setback, building height, land use, density, and development credits. Subsequent changes shall not reduce the rights of the project owner after the complete application has been filed. The project owner may take advantage of changes in zoning that would permit greater density or more intense use of the land, provided however, that these changes may be deemed a modification of the plan and subject to the payment of additional planning review fees. Vesting terminates on the expiration or termination of approvals or permits.

Non-zoning related matters will not vest until the project has been given final approval and building permits are issued. Water connection availability, costs of water connection, and applicable building codes will vest only upon payment of the building permit application fees and submission of the materials necessary for the issuance of a building permit.

18. PLAT APPROVAL. Subdivision plat approval shall be in accordance with the Land Division Regulations of the Village of Ellicottville.
19. PROPERTY IN EXCESS OF 25% IN SLOPE. Construction of any public or private roadways, access, or streets on slopes in excess of 25% shall be prohibited. Construction of such roadways will be allowed if it is necessary to cross an area of land with a slope in excess of 25% in order to access an otherwise inaccessible area of land which has a slope less than 25%. In no case shall a structure (residential or non-residential) be constructed on ground which has a slope in excess of 25% if the roadway which is serving the structure is on ground in excess of 20% in slope. Density credit shall be allowed for land in any zone that has a slope greater than 25% at Conservation District density. Land in approved and platted subdivisions as of the date of this local law that exceed 25% in slope shall be exempt from this requirement and are to be considered to be "grandfathered".
20. SEWER TREATMENT. All densities greater than LD shall connect to the existing Village sewer treatment facilities or provide a central sewage facility as approved by appropriate agencies.
21. STATE ENVIRONMENTAL QUALITY REVIEW. This local law shall not preclude any of the requirements of the State Environmental Quality Review (Environmental Conservation Law) of the State of New York (Chapter 6, NYCRR Part 617, Section 8-0113).
22. SEPARABILITY

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances and the Village Board hereby declares that it would have enacted this local law or the remainder thereof without the invalid part, provision or application as the case may be, had the invalidity of such provision or application thereof been apparent.

SECTION 2 - DEFINITIONS

DEFINITIONS: For the purposes of this Code, certain words and phrases shall be defined as herein provided. The word "shall" is mandatory and not directory, and the word "may" is permissive. Words used in this Code but not defined herein shall have the meaning as defined in any other code or local law adopted by the Village, or in common usage.

Access: The provision of vehicular and/or pedestrian ingress and egress to structures or facilities.

Accessory Building: A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is (1) clearly incidental to, and customarily found in connection with such principal building or use and (2) is operated and maintained for the benefit of convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.

Agriculture: The tilling of the soil, the raising of crops, horticulture, gardening, the keeping or raising of domestic animals or fowl, and including any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals or similar uses.

Agricultural Storage Structure: A storage or maintenance building used in the operation of an agricultural industry or business.

Alley: A public or private right-of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Apartment House: A multiple dwelling; see Dwelling, Unit/Multi-Unit.

Appeal: A request for a review of the Zoning Code Enforcement Officer or the Planning Board's interpretation of any provision of this local law, or of any of his official actions or decisions hereunder.

Applicant: The owner of land or his representative who applies for a zoning permit. Consent shall be required from the legal owner of the premises.

Arcade: A passageway which is open to a street or court and is generally accessible to the public, and which is covered by a canopy or roof attached to, and projecting from, a building.

Area, Building: The area measured on a horizontal plane at the main grade level of the principal building exclusive of uncovered porches, terraces and steps.

Arterial: A road intended to move through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, recreation areas, and similar traffic generators with the governmental unit; and/or as a route for traffic between communities or large areas.

Attached Building: Units connected on one or more side to an adjacent unit or units by a common party wall with separate exterior entrance for all unit(s). This shall apply to commercial as well as residential units.

Automotive Repair: The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Awning: A roof-like mechanism, retractable in operation, which projects from the wall of a building.

Balcony: A platform that projects from the wall of a building and is surrounded by a railing or balustrade.

Base Flood: The flood having one percent chance of being equalled or exceeded in any given year.

Base Flood Elevation: The projected elevation in feet of the water surface of the base flood - see the Flood Insurance Rate Map prepared and issued by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development for the Village.

Bed and Breakfast Inns: A dwelling in which two or more rooms are rented out by the day, offering overnight lodging to travelers, and where one or more meals is provided to the guests only, the price of which may be included in the room rate.

Billboard: Any structure or portion thereof situated on private premises upon which are signs or advertisements containing written or pictorial information not directly related to the principal use of the land upon which it is located.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of way, shore lines of water ways, or boundary lines of municipalities.

Boarding House: A building other than a hotel, cafe, or restaurant with two or more bedrooms where for direct or indirect compensation lodging and/or kitchen facilities or meals are provided for boarders and/or roomers not related to the head of the household by marriage, adoption, or blood.

Board of Appeals: The Zoning Board of Appeals of the Village.

Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this local law have been complied with.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind, and includes any structure.

Building, Attached: (See Attached Building.)

Building, Detached: Any building or structure separated from another building on the same lot by at least six feet.

Building Height: The vertical distance measuring from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between the eaves and ridge for gable, hip, and gambrel roofs.

Building, Main: The principal building, or one of the principal buildings on a lot, or the building or one of the principal buildings housing a principal use upon a lot.

Building Public: Structures constructed by or intended for use by the general public such as libraries, museums, the municipal buildings, etc.

Building Setback Line: A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this local law.

Business Office: Any office used for the purpose of conducting business services.

Canopy: A roof structure constructed of fabric or other material placed so as to extend outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and supports extended to the ground directly under the canopy or cantilevered from the building.

Child Nursery: An establishment intended for the care and/or instruction, whether for compensation or not, of three or more children other than members of the family residing on the premises, but not including a public or private school.

Club or Lodge: A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for social, educational or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

Collector Roads: A road intended to move traffic from local roads to arterial roads. A collector road serves a neighborhood or large subdivision.

Common Open Space: Facilities and yard areas identified within projects for the use and enjoyment of the residents and maintained and operated by an organization of property holders.

Conditional Use: A use requiring special consideration and review in the manner set forth in Section 6, of this code.

Condominium: Any structure which has been submitted to condominium ownership under the provisions of the New York Condominium Ownership Act. This includes residential, non-residential, and any other space.

Convalescent Home: An institution other than a hospital wherein people may gradually recover from an illness.

Cottage Enterprise: Sale of arts or craft items made on site within a residence.

Coverage: Lot area covered by a building

Credit Multiplier: A unit calculation for density allocations in certain zones. Credit multiplier is a simplified method of calculating density based on relative sizes of unit configurations.

Cul-de-sac: A local street with only one outlet and an appropriate terminal for the safe and convenient reversal of traffic movement.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Developer: The person, persons, corporation, firm or partnership owning the land proposed to be developed or a designated representative. Consent shall be required from the legal owner of the premises.

Development Credits: Points allocated to parcels of ground in certain districts based on the parcel's square footage. Development credits shall be used to determine volume of allowed uses. Development credits are non-transferable.

Dump: A lot or lang or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Dwelling Unit: A building or portion thereof designed for use as the residence or sleeping place of one or more persons or families with cooking and bathroom facilities, but not including hotel, motel, lodge, bed and breakfast or nursing home rooms.

Dwelling, Multi-Family: A building arranged or designed to be occupied by three families or more living independently of each other in separate but attached dwellings.

Dwelling, Single Family: A building arranged or designed to be occupied by only one family; a structure having only one dwelling unit.

Dwelling, Two Family: A building arranged or designed to be occupied by two families; a structure having two dwelling units.

Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Equivalent Population: A population estimate based upon the year-round average occupancy of all permanent and transient units.

Escrow: A deposit of cash with the Village or approved alternate in lieu of an amount required and still in force on a performance or maintenance guarantee. such escrow funds shall be deposited in a separate account.

Essential Services: The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.

Family: As defined in New York State Fire Prevention and Building Code.

Farm: An area which is used for growing the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on th premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of animals on open lots where no feed is raised

on the premises, or the commercial feeding of poultry broilers, or laboratory animals_ such as mice, rats, rabbits, etc.

Fence: A structure constructed for reasons of privacy, security, or aesthetics which is located in such a manner as to separate or divide areas. Includes hedges and masonry walls and may or may not be sight obscuring or light tight.

Flexible Zoning: Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, master planned developments, group housing projects, community unit projects, average density or density zoning projects.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Plain Area: An area adjoining a 100-year storm ie: river, stream, or water course, or other body of standing water in which a potential flood hazard exists due to inundation or overflow of water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses. Any area designated as a flood plain by the Department of Housing and Urban Development of the United states Government.

Floodproofing: Any combination of structural or non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to land, structures or contents of structures.

Flood Way: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Flood Fringe: Land that is subject to a one percent or greater chance of flooding in any given year that lies outside the bounds of the floodway all as defined in the Local Law for Flood Damage Prevention (Village of Ellicottville Local Law No. 1 - 1987).

Floor Area: The floor area is the area of a building that is enclosed by surrounding exterior walls, excluding vent shafts and courts. In portions of the building not within the exterior walls, such as covered balconies, the usable floor space under the horizontal projection of the roof of the structure or any floors above the open area shall be included within the calculation of floor area. For purposes of bulk calculation, spaces with a floor

level at least eight feet below natural grade, measured at the center of each 50 foot interval of facade width, shall not be included in the floor area calculation. Covered porches which are open on two sides, may increase the allowable floor area by 5% without inclusion in the floor area calculation. Floor area is computed as provided in the New York State Uniform Fire Prevention and Building Code, except as provided herein.

Frontage: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side or a corner lot.

Frontage, Block: All property abutting one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line.

Frontage Street: Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

Garage, Private: A detached accessory building, or a portion of a main building, used for the storage of motor vehicles for the tenants or occupants of a specific building and not by the general public.

Garage, Public: A building or a portion thereof, other than a private garage, used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

Gasoline or Filling Station: An area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, including major repairs, collision service or painting.

Geologic Hazard: A hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements, due to the movement, failure, or shifting of the earth.

Governing Body: Village Board of the Village of Ellicottville, New York.

Grade: The slope of a road, street, or other public way, specified in percentage terms.

Grade, Natural: Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or any previous site disturbance. Natural grade, when not readily

established due to prior modifications in terrain, shall be fixed by reference elevations and slopes at points where the prior disturbance appears to meet the undisturbed portions of the subject property or the adjacent property's undisturbed grade. The estimated natural grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining walls, or abrupt differences in the visual slope and elevation of the land; and not change the direction or flow of run-off water.

For the purpose of measuring the height of any building from natural grade, the measurement shall be the vertical distance measured from the average elevation of the natural undisturbed grade or proposed finished grade, whichever is more restrictive, at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Guarantee: Any form of security including a letter of credit, escrow agreement, or instrument of credit in an amount and form satisfactory to the Village. All guarantees shall be approved by the Village wherever required by these regulations.

Guest House: An accessory building intended for the inhabitation by non-rent paying guests, provides separate cooking and sleeping quarters and is maintained and owned by the primary residence.

Habitable Space (Room): Habitable space (room) is space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage, or utility space, and similar areas are not considered habitable.

Health Department and Health Officer: Cattaraugus County Department of Health.

Height: The vertical distance from natural undisturbed grade or proposed finished grade, whichever is more restrictive, to the highest point of a flat roof or to the deck line of a mansard roof or to a point midway between the lowest part of the eaves or cornice and ridge of a hip roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line or maximum zone height, whichever is lower. Roofs not fitting clearly any of the above three classifications shall be classified by the Planning Board in accordance with the roof it most closely resembles. Roofs which drain to the center shall be considered as flat or mansard depending on their configuration.

Highway, Limited Access: A freeway, or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the New York state

Department of Transportation, having jurisdiction over such traffic way.

Home Occupation: An accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate and in connection therewith there is not involved the keeping of stock in trade, provided that said use does not occupy more than one fourth of the floor area in said principal residential building or such equivalent in accessory building(s) and that not more than one paid assistant be therein employed. Mortuary establishments, stores, eating establishments, tourist homes and manufacturing establishments of any kind shall not be deemed to be home occupations.

Home Retail and Service Trade: An accessory use involving retail sales, or product servicing, conducted on the premises by the residents thereof, and not more than one paid employee, which is clearly secondary to the use of the building for living purposes and does not change the character of the neighborhood. Full line grocery stores, whether local or chain are specifically excluded, but specialty grocery products, natural foods, farm products may be sold. The product or services may be conducted in a basement, on the first floor, attached garage not exceeding one-half the square footage of the residential ground floor, or a separate building whose square footage does not exceed three-fourths the square footage of the main residence ground floor. Sales & Service of vehicles, that require state registration, and boats are specifically prohibited.

Hotel/Motel: A building containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels or hotel apartments. This does not include lock-outs or boarding houses.

Hotel Room: A unit consisting of one room, without a kitchen, intended for temporary living and sleeping purposes and including a separate, exclusive bathroom.

Hotel Suite: Two interconnected rooms in a hotel with a single corridor or exterior access and without a kitchen, intended for the temporary occupancy of guests.

Impact Analysis: A determination of the potential effect of a proposed land use upon the community and services it must provide.

Improvements: See Lot Improvements or Public Improvements.

Inspector. Building: The administrative officer appointed by the Village Board to enforce New York State Fire Prevention and Building Code.

Joint ownership: Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

Junk Yard: A lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags or similar materials, but not including pawn shops and establishments for the sale, purchase, or storage of used furniture, household equipment or clothing; purchase or storage of used motor vehicles or salvaged machinery to be used for the purpose for which originally manufactured.

Kitchen: A room or space within a room equipped with such electrical or gas hook-up which would enable the installation of a range, oven, or like appliance for the preparation of food.

Liftway: The necessary right-of-way, both surface and air space, for the operation of any tram covered by this local law.

Liftway Setback: The minimum allowable distance between the side line of the liftway and any structure.

Line, Street: The dividing line between the street right of way and the lot.

Loading and Unloading Space. Off-Street: An open hard-surfaced area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, thirty-five feet in length and fourteen feet in height, exclusive of access aisles and maneuvering space.

Local Government: The Village of Ellicottville, New York.

Local law: Any legislative action, however denominated, which has the force of law, including any amendment or repeal of any local law.

Local Road: A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

Lockout Room or Unit: An area of a dwelling not to exceed one room with separate exterior access and toilet facilities, but not kitchen. Such a room may be rented independently of the main dwelling but shall not be sold independently. Only two lockout

rooms are permitted for each dwelling. for density purposes, the lockout is counted as an additional bedroom of the dwelling it is a part of, and not counted as an independent unit. Nightly rental of lockout rooms is a conditional use.

Lot: A parcel or unit of land describable either by metes and bounds, or by other legal plat designation held or intended to be held in separate ownership or leasehold, or a parcel or unit of land shown as a lot or parcel on a recorded subdivision map, or shown on a plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger tract into smaller units.

Lot Area: The net area contained within lot lines.

Lot, Corner: A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135°.

Lot Coverage: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot Depth: The minimum distance measured from the front property line to the rear of same property boundary.

Lot Improvement: Any building structure, **work** of art, or other object, or improvement of the land on **which** they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly guaranteed as provided in these regulations.

Lot Line, Front: The property line dividing a lot from the right-of-way of the street. On a corner lot, the owner shall have the option of designating which line is the front of the lot.

Lot Line, Rear: The property line opposite the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: Any lot of which, individually or as a part of a subdivision, a description has been recorded or filed in the office of the Clerk of Cattaraugus County.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

Lot Width: The minimum distance between the side property lines.

Master Plan, Comprehensive: A comprehensive plan for development of the Village, prepared and adopted by the Planning Board and Village Board, pursuant to state law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Master Planned Development: A development designed and reviewed under the Master Planned Development review processes described in Section 4 of this Code.

Mobile Home: A structure, transportable in one or two sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers, or modular homes.

Mobile Home Lot: A site or plot of ground within a mobile home park or mobile home subdivision designed for the accommodation of one mobile home.

Mobile Home Park: A plot or parcel of ground containing thereon two or more mobile homes, vehicles or other portable structures being used for dwelling or sleeping purposes.

Mobile Home, Dependent: A mobile home which lacks a flush toilet and a bath or shower.

Model Home: A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision. Such dwelling units may be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Planning Board, by permitting a portion of a major subdivision involving no more than two lots.

Municipality: The Village of Ellicottville, New York

Nightly Rental: the rental of a room, apartment, or house or lockout room for a time period of less than 30 days.

Non-Conforming Use: The use of a building, structure, or land which does not conform to current use regulations for the district in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was in existence prior to the establishment of use regulations for the district in which it is situated.

Nonresidential Subdivision: A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

Nursery, Child: (See Child Nursery)

Nursery, Greenhouse: A place where young plants are raised for experimental purposes, for transplanting, or for sale.

Nursing Home: A institution described also as a "rest home", or "convalescent home", other than a hospital, in which persons are lodged and furnished with care rather than diagnoses or treatment.

Office (Business & Professional): A building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, realtors, teachers, and others who, by virtue of training and/or license, are qualified to perform services of a professional nature, and/or where storage of goods and sale of merchandise is minimal and secondary to performance of the service.

Off-Site: Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

Official Zoning Map: The map established by the Village Board pursuant to law showing the streets, highways, and parks theretofore laid out, adopted and established by law, and any amendments or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

Official Master Plan: See Master Plan.

One Bedroom Apartment: A dwelling consisting of a living room, a kitchen (which may be apart of the living room), a single room designed and intended as a bedroom, and a bathroom for the exclusive use of that unit, all having a combined floor area of not more than 1,000 square feet.

Owner: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the real property.

Parking, Public: A parking area or facility on private or public property to be used by the public. Fees for the use thereof may or may not be involved.

Parking Lot: An area other than a street used for the parking of more than four automobiles.

Parking Lot, Commercial: A lot used for the temporary parking of automobiles for compensation.

Parking Space: An area maintained for the parking or storage of an automobile or other vehicle, which is graded for proper drainage and is hard surfaced or porous paved.

Parking Structure: A fully enclosed structure designed and intended for parking or storage of more than four vehicles.

Passenger Tramway: Shall mean a mechanical device for the primary purpose of transporting passengers by means of chairs or enclosed compartments which are suspended from cables or travel along cables on or above the ground, the devices described in Section 3 and also passenger carrying devices operating on rails.

Perimeter Street: Any existing street to which the parcel of land to be subdivided abuts on only one side.

Permitted Use: A use of land for which no conditional use permit is required.

Person: Any individual or group of individuals, corporation, partnership, association, trust or other entity, including state and local governments and agencies.

Planning Board: Planning Board of the Village of Ellicottville, New York.

Principal Use: The main use of land or buildings as distinguished from a subordinate or accessory use.

Professional Activities: The office or studio of a resident physician, surgeon, dentist, or other person licensed by the State of New York to practice a healing art, or as a lawyer, architect, engineer, real estate broker or salesman, or insurance broker or agent.

Property Line: A line indicating boundary of a piece of property shown on a recorded document.

Public Use: A use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety, or general welfare, and including uses such as public schools, parks, playground, and other recreational facilities, administrative, service facilities, and public utilities.

Public Utility: Any person, firm, corporation or municipal department duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, cable television or water.

Quasi-Public Use: A use operated by a private nonprofit educational, religious, recreational, charitable, or philanthropic institution, such use having the purpose primarily of serving the general public, such as churches, private schools, and universities, or similar uses.

Recreation. Commercial: Recreation facilities operated as business on private or public property and open to the public for a fee, such as a golf course, ski lift, tennis court, equestrian center, skating rink, etc., and support facilities customarily associated with the development.

Recreation, Private: Recreation facilities operated on private property and not open to the public.

Recreation, Public: Recreation facilities operated by a public agency and open to the public with or without a fee.

Recreational Vehicle: A mobile home intended primarily for highway use which is propelled by a power within itself.

Registered Engineer: An engineer properly licensed and registered in the State of New York.

Registered Land surveyor: A land surveyor properly licensed and registered in the State of New York.

Restaurant: A building in which food is prepared and served for consumption within the premises, or to take out.

Restaurant, Drive-In: A building in which food is prepared and served for consumption on the premises, and which includes a facility which allows food to be ordered and taken from the premises for consumption elsewhere, without leaving a vehicle.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, cable, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining

such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Roads. Classification: For the purpose of providing for the development of the streets, highways, roads, and right-of-way in and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road, and right-of-way, and those located on approved and filed plats, have been designated on the Official Zoning Map of the Village and classified therein. The classification of each street, highway, road, and right-of-way is

b.ased upon its location in the respective zoning districts of the Village and its present and estimated future traffic volume and its relative importance and function.

Road. Dead End: A road or portion of a street with only one vehicular traffic outlet.

Road Right-of-Way Width: The distance between property lines measured at right angles to the center line of the street.

Roadside Stand: A structure for the display and sale of farm and related produce.

Rooming House: A dwelling in which three or more, but less than twenty-five boarders, roomers or lodgers are housed or lodged in less than ten sleeping rooms for hire, with or without meals, other than a tourist home.

Sale or Lease: Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contact, plat, map, lease, devise, interstate succession, or other written instrument.

Same ownership: Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Screening: Either (a) a strip at least ten feet wide, densely planted (or having equivalent natural growth) **with** shrubs or trees at least four feet high at the time of planting, of a type that will provide for a year-round dense screen at least six feet high: or (b) an opaque wall or barrier or uniformly painted fence at least six feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except the following: for each entrance, one directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

Seasonal Residence: Summer or winter cabins, cottages, hunting camps, farm labor housing and similar housing designed, intended and/or used for seasonal, non-permanent residential use.

Semi-Detached Building: Units connected on one side by a common or party wall **with** separate exterior entrance for each unit.

Semi-Public Use: Churches, private schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

Service Commercial: A retail or wholesale business requiring office space, warehouse space, service and repair facilities, etc.

Setback: A line parallel to the street line at a distance from it, regulated by the front yard requirements defined in this local law.

Sign: Any structure, display, device or representation which is designed or used to advertise or call attention to any thing, person, business, realty subdivision or development, activity or place and is visible from a highway, street, or other public right-of-way. This definition is not to be restricted to traditional and familiar forms but will include any new and evolving technologies such as, but not limited to, laser lights. The flag or pennant of any nation or state shall not be construed to be a sign.

Sign, Arcade: A sign attached to, and hanging beneath an arcade.

Sign, Changing: A sign, such as a time and temperature sign, message center or reader board, where different copy changes from time to time.

Sign, Flashing: An illuminated sign on which the artificial light is not maintained constant or stationary in intensity or color at all times when such sign is in use. Time-temperature signs are not considered to be flashing signs for the purpose of this local law.

Signs, Freestanding: A sign erected on a free-standing frame or structure on one or more masts or poles, and not attached to any building. A self-supporting or ground sign.

Sign, Identification: Any sign portraying information which promotes or directs attention to a person, place, business, product, service, entertainment or other activity located on the same lot where the sign is located.

Sign, Movable: Any sign not permanently attached to the ground or a building. A mobile sign.

Sign, Off Premise: A sign of any description that is displayed on any property other than the actual site of the thing, person, business, realty subdivision or development, activity, or place advertised on the sign.

Sign, Projecting: A sign, normally double faced, which is affixed to a wall of any structure or building, and any part of which projects by more than 12 inches from such wall.

Sign, Roof: A sign erected on, against or above a roof and which extends above any point of a building with a flat roof, above the main ridge line of a building with a pitched roof or the deck line of a building with a mansard roof.

Sign, Sandwich Board: A temporary sign which is self-supporting resting on its own legs, and designed to be readily movable.

Sign, Structure: Any structure which supports, has supported or is intended to support or help maintain a sign in a stationary position, including any decorative covers or roofs or embellishments extending above such sign.

Sign, Wall: A sign fastened to, or painted on, the wall of a building in such a manner that the wall becomes the supporting structure for, or forms that background surface of, the sign, and which does not project more than 12 inches from such building.

Sign, Window: A sign, whether or not lighted, which is applied or attached to a window in such a manner that it can be seen from a public sidewalk, passageway, street or highway.

Site Development Standards: Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open space, and any other special regulations deemed necessary to accomplish the goals and purposes of the underlying zoning district.

Special Flood Hazard Area: The land in the floodplain within the Village subject to a one percent or greater chance of flooding in any given year; and is divided into Floodway District and Floodway Fringe over-District.

Specialized Animal Raising and Care: The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses, or other domestic animals of similar nature.

Special Use: Any use of land or structures, or both, described and permitted herein, subject to the provisions of Section 11.4

start of Construction: The point in time when actual construction work begins on a project or permit.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

Street: A public or private way which affords the principal means of access to abutting properties.

Street. Public: A thoroughfare which has been dedicated and accepted by the Village, which the Village has acquired by prescriptive right or which the Village owns, or accepted for dedication on an approved final plat, or a thoroughfare which has been dedicated or made public by right of use and which affords access to abutting property, including highways roads, lanes, avenues, and boulevards.

structure: Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground and which imposes an impervious material on or above the ground; definition includes "building". All structures must maintain the minimum set-backs for the district in which they are located, above the ground.

Structural Alterations: Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

Studio Apartment: A dwelling unit consisting of a single room equipped for cooking, living, and sleeping, having a separate bathroom or kitchen for the exclusive use of that apartment, all having a combine floor area of not more than 1,000 square feet.

Substantial Improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and was being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (a) any project for improvement of a structure to comply with existing state or local health, sanitary or safety codes specifications which are solely necessary to assure safe living conditions, or (b) any alteration of a structure listed on the National Register of Historic Places of the New York State Register of Historic sites and Objects. A structure is SUBSTANTIALLY IMPROVED **when** it has undergone "substantial improvement".

Support Commercial Facilities: Those commercial uses which are located on the site of a master planned development, and oriented toward the internal circulation of the development, for the purpose of serving the needs of the residents or users of that development, and not the general public or persons drawn from off the site of the Master Planned Development. Examples of support

commercial uses are barber shops, beauty salons, travel agencies, clothing stores, gift shops, convenience stores, art galleries, auto rentals, camera stores, liquor stores, pharmacies, sporting goods stores, day care nurseries, information centers, tennis or golf pro shops, or other hotel lobby type uses. No use occupying more than 2,000 gross square feet of floor area will be considered as support commercial.

Tandem Parking: Parking designs which necessitate parking one vehicle behind another. Such parking may not include more than two vehicles in depth, and may not require occupants of separate dwelling to park behind each other. Tandem parking is only permitted for single family and duplex dwellings.

Temporary Improvement: Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance guarantee.

Temporary Use: Use of a structure for a designated period of time, usually one year or less.

Time Share Conversion: The conversion into a time share project of any real property and the existing structure(s) attached thereto, which were not subject to a time share instrument prior to the date of such conversion, including, without limitation, the conversion into a time share project of (a) any existing motel, hotel, or apartment building, (b) any existing unit or units within an existing condominium project or (c) any dwelling unit or units within an existing planned unit development.

In the event the developer of a condominium or similarly owned project reserves in the declaration of ownership establishing such condominium project the right to create time share intervals within (a) all or any portion of any additional land that may thereafter be added to the project, (b) any convertible land within the project, or (c) any convertible space within the project, then the subsequent creation of time share intervals within any portion of such additional land, convertible land, or convertible space shall not be deemed to be a time share conversion as defined in Section 10 of this Code, so long as (a) such right to create time share intervals is specifically reserved by the developer in accordance with the requirements of the New York law, (b) the reservation of such right to create time share intervals is fully disclosed in writing to the Village at the time the Village's approval to develop the project is sought by the developer, and (c) such right to create time share intervals expires no later than seven years from the date the declaration establishing such project is recorded in the office of the County Clerk.

Time Share Estate: An ownership or leasehold estate in property devoted to a time share fee (including without limitation, tenants in common, time span ownership, interval ownership, and cooperative

time share ownership) created by a time share instrument and the documents by which it is granted.

Time Share Instrument: Any instrument whereby the use, occupancy or possession of real property has been made subject to either a time share estate or time share use, and whereby such use, occupancy or possession circulate among (a) nine or more purchasers of the time share intervals, according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three years in duration.

Time Share Interval: A time share estate or a time share use.

Time Share Off-Premises Contacting Activity: Activity occurring outside of a time share project that is engaged in by off-premise time share contacting personnel in an effort to induce persons willing to attend a time share sales presentation. Off-premises time share contacting must be confined to a fully enclosed building and is subject to business license regulation.

Time Share Off-Premises Contacting Location: A location within the Village, but outside of a time share project, at which off-premises time share contacting personnel attempt to induce persons to attend a time share sales presentation. Such location must be within a fully enclosed building.

Time Share Off-Premises Sales Office: An office located within the Village, but outside of a time share project, wherein time share sales presentations are made and other marketing related activities are conducted in an effort to generate time share interval sales or resales.

Time Share on-site Sales Activity: Time share sales activity occurring within a time share project in an enclosed building.

Time Share on-Site Sales Office: An office located within a time share project within the Village wherein time share sales presentations are made and other marketing related activities are conducted in an effort to generate time share interval sales.

Time Share Project: Any real property that is subject to a time share instrument, including a time share conversion.

Time Share Sales Presentation: (1) An offer to sell or reserve a time share interval; (2) an offer to sell an option to purchase a time share interval; (3) the sale of a time share interval, or an option to purchase a time share interval; or (4) the reservation of a time share interval, whether the time share interval is located within or without the State of New York, where such offer, sale or reservation is made within the Village •

Time Share Unit: That unit of real property and time where possession and use are allowed under a contract from seller to purchaser.

Time Share Use: Any contractual right of exclusive occupancy created by a time share instrument which does not fall within the definition of a "time share estate" (including, without limitation, a vacation license, club membership, general partnership interest, limited partnership interest, vacation bond or beneficial interest in a trust) and the documents by which it is transferred.

Tourist Home: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation; provided that not more than fifteen sleeping rooms, or accommodations for not more than ninety persons are used for that purpose.

Travel Trailer: A mobile home intended primarily for highway use and not to be located in any one place for long periods of time, which must be moved by a power outside itself; also sometimes designated a "vacation trailer".

Unit Equivalent: The relative density factor applied in the Code to different sizes and configurations of dwelling units and commercial spaces within a Master Planned Development.

Usable Open Space: Landscaped area, including required yards, that is free of buildings, structures, and other substantial improvements, and includes without limitation (a) outdoor swimming pools, swimming pool areas, hard surface recreational areas, and other recreational areas that are unenclosed, and fences, canopies, bath houses, and accessory structures for recreation use, whether enclosed or unenclosed; (b) driveways that cross the required yard at approximately right angles and serve less than three parking spaces; (c) the ground surface above underground facilities, provided it otherwise qualifies as usable open space under the provisions of this section; and (d) pedestrian ways to plazas within a building that are directly oriented to the major pedestrian entrance to the building and are open to view and use by the public; and (e) decks, porches, patios, terraces, and steps under 30 inches high.

Usable open space excludes without limitation a) public or private rights-of-way for streets or **highways**; (b) roofs; (c) open parking areas; (d) parking garages or structures.

In all zones no more than 50% of the usable open space can be in excess of 25% in slope.

Use: The purpose for which land or a structure thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Use, Intensity: The maximum number of residential units, or commercial, or industrial space within a specified land area designated for that purpose.

Variance: Relaxation of the regulations of this Code.

Village: The Village of Ellicottville, in the County of Cattaraugus, New York

Village Attorney: The licensed attorney designated by the Village to furnish legal assistance for the administration of these regulations.

Village Board: The Village Board of the Village of Ellicottville, County of Cattaraugus, State of New York.

Village Clerk: The Village Clerk of Ellicottville, New York.

Village Engineer: The licensed engineer designated by the Village to furnish engineering assistance for the administration of these regulations.

Village Staff: The employees of Ellicottville charged with the duties of performing ministerial or administrative functions under this Code. When specific job titles are referred to in this Code, it is done for convenience in designating the person or department primarily responsible for that particular function. All Village staff functions are under the direction of the Village Mayor. The use of a specific job title shall not be construed as vesting authority with that person or department as all staff actions are under the direction of the Village Mayor and the departmental structure established by the Mayor for the effective operation of Village affairs.

Yard: A required space on a lot other than a court, unoccupied and unobstructed by buildings from the ground upward, except as otherwise provided herein. Yard areas for below grade structures must be provided unless a variance is obtained.

Yard, Front: A required space between the front line of the main building and the front lot line or closer right-of-way line of an abutting street or right-of-way and extending across the full width of a lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the closest main building.

Yard, Rear: A required space between the rear line of the building and the rear lot line, or closer public street and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the main building.

Yard. Side: A required space between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

Zero Lot Line Building or Development: One or more detached single family dwellings that have no side yard on one side of the lot and that are constructed in accordance with an approved plan and in accordance with applicable provision of this local law.

Zoning Board of Appeals: The Zoning Board of Appeals of the Village of Ellicottville, New York.

Zoning Code Enforcement Officer: The person designated by the Village to enforce the Zoning Local Law.

Zoning Map: The map or maps incorporated in the current Zoning Local Law of the Village of Ellicottville, which designates the various Zoning Districts.

Zoning Districts: The Districts as designated in this Code.

Zoning Permit: Any permit issued by the Zoning Code Enforcement Officer authorizing a use of land and/or structures.

SECTION 3 - DISTRICTS AND REGULATIONS

1. CONSERVATION DISTRICT (C),:

- A. Purpose: The purpose of the Conservation District is to establish and preserve important view corridors, wetlands, floodways, flood plains. These areas are to remain essentially free of development and continue to be open space.
- B. Uses: Uses shall be limited to those uses shown on the land use table as either permitted or conditional in the zone.
- C. Density Allocation: Uses allowed in this zone shall be one dwelling unit per 5 acres.
- D. Lot and Site Regulations: All buildings or other structures shall be at least 100 feet from the front, rear and side yard property lines. The minimum lot width shall be 300 feet.
- E. Building Height: No building shall be erected to a height of more than 30 feet measured from the natural grade or proposed finished grade, whichever is more restrictive, to the point as defined in Section 2, page 8 under Height. Agricultural storage structures shall be exempt from this height requirement.

2. VILLAGE RESIDENTIAL DISTRICT (VR):

A. Puroose: The purpose of the Village Residential District (VR) is to allow the preservation of the present land uses and the present character of the residential areas of the Village of Ellicottville and to encourage the preservation of historic structures and the construction of new structures that preserve and contribute to the character of the district, and to encourage densities of development that will preserve the desirable residential environment.

B. Perinitted Uses: In the VR district, no building or structure shall be erected which is arranged, designed, or intended to be used, or which is used for any purpose other than those -purposes designated on the Land Use Table as being perinitted uses (designated by the letter "P") or conditional uses (designated by the letter "C"). All other land uses are prohibited.

C. Lot Size and Coverage Regulations:

1) Lot Size: Lot areas and sizes shall be as presently platted in this zone.

2) Side Yard: The minimum side yard for any structure shall be 10' with a 30' total side yard.

3) Rear Yard: The minimum depth of the rear yard for all main buildings shall be 35 feet and for accessory buildings shall be one foot from the rear property line. On corner lots which rear upon the side yard of an adjacent lot, accessory buildings shall be located no closer than 5 feet to the rear property line.

4) Front Yard: The minimum depth of the front yard for all main buildings and accessory buildings, including garages, shall be 25 feet. Open parking spaces may be permitted in the front yard area, but not within the minimum side yard area. "Open parking spaces" does not include carports.

5) Minimum Building Size: Minimum building size or footprint of structure shall be 1,000 square feet.

D. Special Parking Regulations:

1) To encourage the location of parking in the rear, common driveways may be perinitted along shared side yard property lines where those drives provide access to parking in the rear of the main building.

Restrictions on the deeds to both properties must provide for the preservation of such a shared drive.

- 2) Common parking facilities may be permitted, upon approval of the Planning Board, where such a grouping may facilitate the development of individual buildings that more closely conform to the scale of historic structures in the district.

E. Building Height: Structures shall be erected to a height no greater than 35 feet, or 2.5 stories. No volume or area above this 35 foot height may be used for facade variation open space.

F. Special Requirements for Conditional Uses: The following impacts shall be considered in reviewing conditional uses:

- 1) Scale of the building in relation to historic structures in the district.
- 2) The need for increased yard areas and the resulting impact on the established setbacks in the block.
- 3) The impact of noise on nearby residences.
- 4) The impact of traffic and on-street parking in the block.

G. Criteria for Bed and Breakfast Inns: Bed and Breakfast Inns may be approved as conditional uses by the Planning Board. In making a determination whether or not a Bed and Breakfast Inn use is appropriate, the Planning Board shall consider the following criteria:

- 1) Bed and Breakfast Inns are to be considered for structures of historical significance, whether or not they are officially listed on the National Register of Historic Places. As a part of the renovation of a structure as a Bed and Breakfast Inn, every attempt will be made by the applicant to restore the structure to its original condition so that it may become eligible for listing on the National Register.
- 2) Bed and Breakfast Inns should have a minimum of two rentable rooms. The maximum number of rooms will be determined by the applicant's ability to demonstrate that impacts such as parking and neighborhood compatibility can be adequately mitigated.

- 3) The length of stay for patrons of Bed and Breakfast Inns will be limited to less than 30 days (nightly rental).
 - 4) It is preferable that Bed and Breakfast Inns have an owner/manager living on the site, but may, as a minimum requirement, have 24 hour onsite management and check in. The check-in facility may be offsite if it is in proximity of the Bed and Breakfast Inn.
 - 5) Common kitchen facilities are allowed for the benefit of guests only and are not intended to serve outside visitors. Individual kitchens within rooms shall not be permitted.
 - 6) Signs shall be limited to one sign which shall not exceed twelve square feet in size. A permit must be obtained for the sign and it must comply with the provisions of the Village Sign Local Law.
 - 7) Parking shall be provided on site at a rate of one space per rentable room. If no onsite parking is possible, parking in close proximity to the Inn shall be provided. The Planning Board may waive the parking requirement if it is found that no onsite parking is possible and all alternatives for other parking have been explored and exhausted. The burden of proof in requesting a parking exception shall be on the applicant.
- H. Cottage Enterprises: May be allowed in this District. It is a conditional use.
- I. Resubdivision of Lots: No resubdivision of any lot shall be allowed in this zone.
- J. Duplex Uses: No duplexes shall be allowed in this zone.
- K. Lockout Rooms or Units: One lockout unit (apartment) is allowed in residences in this zone. Conditional use approval must be obtained from the Planning Board.
- L. Architectural Review: All new structures and exterior remodeling of existing structures shall be subject to architectural control and review by the Planning Board, per Section 12, page 17.

3. RESIDENTIAL DEVELOPMENT DISTRICT - LOW DENSITY (LD):

- A. Purpose: To allow residential uses in areas of developable land within the Village of Ellicottville that will be compatible with the Village's development objectives and growth capabilities; and to allow recreational activities that are in harmony with residential neighborhoods.
- B. Uses: Uses shall be limited to those uses shown on the land use table as either permitted or conditional uses in this zone. All other uses are prohibited. In using the tables, the letter "P" indicates permitted use, the letter "C" indicates conditional use, and an "NP" indicates a use which is not permitted in the zone.
- C. Lot and Site Regulations:
- 1) Lot Size: Lots in approved standard subdivisions shall have one acre average per single-family dwelling and one and one half acres for a duplex (lots below the average must be specifically approved by the Planning Board). No lot shall be less than 150 feet wide at the front yard setback line.
 - 2) Side Yard: Side yards of 25 feet will be provided for all structures.
 - 3) Front Yard: The minimum depth of the front yard for all buildings shall be 50 feet.
 - 4) Rear Yard: There shall be a 35 foot rear yard for main buildings and ten foot rear yard for accessory buildings provided.
 - 5) Minimum Building Size: Minimum building size or footprint of structure shall be 1,000 square feet, duplex 800 square feet each side.
 - 6) Open Space: At least 60% of the total site shall be devoted to useable open space.
- D. Height Regulations: No buildings shall be erected to a height greater than 28 feet, measured from natural grade or proposed finish grade, whichever is more restrictive, at the building site. On lots specifically designated by the Planning Board and recorded on the subdivision plat, no building shall be erected to a height greater than 12 feet above natural grade for uphill lots within the area between the ten-foot setback allowed for garages and the 50-foot setback. On lots with a downhill

orientation, no building shall be erected to a height greater than 12 feet above grade measured at the top back of curb within the area between the ten-foot setback allowed under special consideration and the regular 50-foot setback.

4. RESIDENTIAL DEVELOPMENT DISTRICT - MEDIUM DENSITY (VMD):

A. Purpose: To allow continuation of medium density residential housing in the residential areas of the Village of Ellicottville; and to allow recreational activities that are in harmony with residential neighborhoods.

B. Uses: Uses shall be limited to those uses specifically identified in the land use tables as either permitted or conditional uses in this zone district. All other uses are prohibited. In using the tables, the letter "P" indicates permitted use, the letter "C" indicates conditional use, and an "NP" indicates a use which is not permitted in the zone.

C. Lot and Site Regulations:

1) Lot Size: Minimum lot size for single-family dwellings is 12,500 square feet and duplex is 20,000 square feet. Minimum lot width at the front setback line is 80 feet.

2) Minimum Building Size: Minimum building size or footprint of structure shall be 1,000 square feet, duplex 800 square feet each side.

3) Side Yard:

a) The minimum side yard for any dwelling or other building shall be 10 feet, 30 feet total, except that a side yard between connected structures shall not be required where structures are designed with a common wall on a lot line. The longest dimension of a building joined at the property line shall not exceed 100 feet.

b) On corner lots, the side yard which faces on a street for both main and accessory buildings shall not be less than 35 feet.

4) Front Yard: The minimum depth of the front yard for all main buildings and accessory buildings shall be 35 feet. At least 20 feet shall remain open space.

5) Rear Yard: The minimum depth of the rear yard for all main buildings shall be 25 feet, and for the accessory buildings ten feet except on corner lots which abut upon the side yard of another lot, in which case the setback shall be ten feet.

6) Open Space: At least 60% of the total site area shall be devoted to usable open space.

D. Building Height: Buildings shall be erected to a height no greater than 28 feet, measured from natural grade or proposed finished grade, whichever is more restrictive, at the building site.

5. RECREATION COMMERCIAL DISTRICT - HIGH DENSITY (HD) :

A. Purpose: To allow for the development of high density residential, hotel, and convention accommodations in proximity to the commercial district. This district allows a relatively high density of transient housing with appropriate supporting commercial and service activities.

B. Uses: Uses within the zone are limited to those shown on the land use tables as permitted or conditional uses for the zone. All other uses are prohibited. In using the tables, the letter "P" indicates permitted use, the letter "c" indicates conditional use, and an "NP" indicates a use which is not permitted in the zone.

C. Lot and Site Requirements:

1) Development credits will be allocated on the basis of one credit per 1,000 square feet of lot area. To determine the number of units or square footage of commercial space permitted, multiply the number of development credits for the parcel by the credit multiplier for desired uses.

2) Credit Multiplier Table:

<u>Type of Use</u>	<u>Credit Multiplier</u>
Hotel or studio unit	2.00
One bedroom unit or hotel suite	1.00
Two bedroom unit	0.66
Three bedroom unit	0.50
Four bedroom unit	0.40
commercial spaces (approved as part of Master Plan Approval), for each 1,000 square feet of gross floor area, exclusive of common corridors, or for each part of a 1,000 square foot interval	.50

3) For purpose of density calculation, every habitable room in addition to the primary living room in one bedroom and larger units, except kitchens designed only for the preparation and consumption of food and bathrooms, shall be counted as a bedroom. To calculate the Unit Multiplier for units larger than four bedrooms, divide two by the number of habitable rooms, except kitchens designed only for the preparation and consumption of food and bathrooms.

- 4) Side Yard: A 15 foot side yard shall be provided for all uses.
- 5) Front Yard: All uses shall provide a 35 foot front yard for main and accessory buildings. At least 15 feet shall remain open space, no parking.
- 6) Rear Yard: A 15 foot rear yard shall be provided for all uses.
- 7) Open Space: On any lot at least 60% of the lot shall be devoted to usable open space.
- 8) The minimum lot or site area shall be 15,000 square feet and each site shall have a minimum width of 80 feet.

D. Building Height: Buildings shall be erected to a height no greater than 28 feet, measured from natural grade or proposed finished grade, whichever is more restrictive, at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 4 - Page 6 (E. Variations in Height Requirements).

E. Apartments: Apartments, available for nightly or monthly rental, are allowed in this zone through conditional use approval. (See Multi-Dwelling Structure, page 3-21).

F. Facade Length and Variations:

- 1) Structures greater than 60 feet, but less than 120 in length must exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a 10 foot change in roof line height, or a combined change in facade and roof line totaling 10 feet.
- 2) Structures which exceed 120 feet in length on any facade shall provide a prominent shift in the mass of the structure at each 120 foot interval (or less if the owner desires) reflecting a change in function or scale. The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in roof line. A combination of both a roof line and facade change is encouraged and to that end, if the combined

change occurs at the same location in the building plane, a 15 foot total change will be considered as full compliance.

6. VILLAGE COMMERCIAL DISTRICT (VC):

- A. Purpose: To allow the use of land for retail service, commercial, recreational, industrial and institutional purposes with customary accessory uses to enhance and foster the continuation of the visual character, scale, and vitality of the Village central business district, and to encourage the preservation of historic structures within the district.
- B. Permitted Uses: In the Village Commercial District, no building or structure shall be erected which is arranged, intended, or designed to be used for other than one or more of the uses designated on the Land Use Table as a permitted use (shown by the letter "P" or a conditional use (shown by the letter "C")).
- C. Prohibited Uses: Any use not designated on the Land Use Table as permitted or conditional is a prohibited use.
- D. Lot & Site Regulations: Subject to the New York State Building Code and the following:
- 1) Front Yard Setback: No setback is required on Washington Street from Jefferson to Mill Streets. No setback is required on Monroe Street. On all other streets in this District a ten foot (10') setback is required.
 - 2) Side Yard Setback: No side setback is required in this zone. There shall be a twenty-five foot (25') setback from all residential zones with the exception of all structures presently in use.
 - 3) Rear Yard Setback: A five foot (5') rear yard setback is required in this zone. As with the side yard setback above, a twenty-five foot (25') setback shall be required when adjacent to residential zones with the exception of all structures presently in use.
 - 4) Building Height: Buildings shall be erected to a height no greater than forty feet (40') measured from natural ground or proposed finished grade, whichever is more restrictive, at the building site. No volume or area above this forty feet (40') for facade variation shall be allowed. Buildings shall not exceed four stories.
 - 5) Minimum Lot Width: No lot may be built on with a width of less than twenty feet (20').

6) Open Space: On any lot at least 20 % shall be devoted to open space.

E. Canopies and Balconies: Canopies and balconies attached to a building may extend into public right-of-way over the sidewalks and pedestrian ways only. Supports for canopies may not exceed 18 inches square, and are permitted only within existing sidewalk areas. Canopies are allowed only on the second floor level. Canopies and balconies shall provide clearance of not less than 10 feet from the sidewalk. A canopy or balcony may not be enclosed. With reasonable notice, the Village may require that canopies be removed from Village property without compensating the building owner. No canopy shall be erected, enlarged, or altered over the sidewalk without advance approval by the Village Board.

1) Insurance Required: No canopy or balcony projecting over Village property shall be erected, re-erected, located or relocated, or enlarged or modified structurally or changed in ownership, without first receiving approval of the Village Board, and submitting a certificate of insurance or a continuous bond protecting owner and Village against all claims for personal injuries and/or property damage in the standard amount determined by the Village Board. The Village must be named in the Certificate of Insurance as an Additional Insured. A thirty (30) day written notice to the Village of cancellation or expiration must be included in the Insurance Certificate. The name of the owner of the canopy or balcony must be clearly identified on the application for a permit as an official corporation, partnership, or sole proprietorship with appropriate names of individuals involved.

F. Storage Within Enclosed Building: All storage shall be within a completely enclosed building.

G. Loading Areas: Each new structure shall include an off-street loading and trash storage area.

H. Main Street Access: Vehicular access across Washington Street sidewalks is prohibited in this zone.

I. Off-Street Parking: Each new structure shall provide off-street parking spaces, as provided in Chapter 5, with these exceptions:

- 1) Structures designated as historic buildings by the Village Board and renovations of those structures are exempt from off-street parking requirements.
- 2) The Planning Board may recommend to the Village Board that new additions to historic structures be exempt from a portion of all parking requirements where the preservation of the historic structure has been guaranteed through covenant or easement donation to a responsible public or private non-profit agency engaged in promoting historic preservation.
- 3) Fully enclosed parking spaces and associated maneuvering space required to satisfy local law requirements for the structure in which the spaces are located shall not count as floor area in this zone.
- 4) Apartments, available for nightly or monthly rental, are allowed in this zone through conditional use approval. All apartment uses shall be within buildings of historical significance.

J. Mechanical Service: All mechanical equipment to be installed on the roofs or walls of buildings must be shown on the plans prepared for architectural review by the Building Department, and the Building Official must approve the location, screening or painting of such equipment as part of the architectural review process. Screening and mechanical equipment shall not exceed the maximum height limitation for the zone, except as allowed by this Code for architectural details such as chimneys, steeples and cornices. All structures in the VC zone must provide a means of storing refuse generated by the structure's occupants and such refuse service area shall be on the site and accessible. Refuse service areas shall be fully enclosed and properly ventilated so that the enclosed trash does not become a nuisance due to odor or unsanitary conditions.

K. Architectural Review: All new structures and exterior remodeling of existing structures shall be subject to architectural control and review by the Planning Board as per Section 12, page 12-17 of this Local Law.

7. INDUSTRIAL ZONE (I):

- A. Purpose: The Industrial Zone (I) is established to provide areas in the Village where manufacturing firms can engage in processing, assembling, manufacturing, warehousing and storage; and for incidental service facilities and public facilities to serve the manufacturing area. The zone is intended to encourage sound development, by providing and protecting an environment for such development, subject to regulations necessary to assure the orderly growth of the Village of Ellicottville and the protection of residential and commercial land uses from noise and other disturbances.

This zone is to be characterized by flat, open land suited for industrial uses because of the proximity to major transportation routes and the availability of utilities necessary for successful manufacturing or process. The areas in which this zone will be applied may provide for land reserves for industrial and manufacturing uses. Some land may therefore be placed in agricultural and other open land uses until its industrial and manufacturing potential is realized.

- B. Uses: Representative uses within the zone are manufacturing, fabrication, processing, storage warehousing, and wholesale distribution. Uses which generate excessive noise, vibration, smoke, odor, dust, fumes or danger of explosion shall be excluded from this zone.

C. Lot and Site Requirements:

- 1) Loading and Unloading: The loading and unloading of goods shall take place entirely upon the site. Loading areas shall be screened from general public **view.**
- 2) Open Space: At least 30% of the total site area shall be devoted to usable open space.
- 3) Lot Size: The minimum lot or site area shall be one acre and each site shall have a minimum width of 150 feet.
- 4) Side Yards: There shall be a minimum 20 foot side yard.
- 5) Front Yard: The minimum front yard shall be 35 feet.
- 6) Rear Yard: There shall be a 20 foot rear yard.

- D. Building Height: Buildings shall be erected to a height no greater than 28 feet measured from natural grade or proposed finish grade, whichever is more restrictive, at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 4 - Page 6 (E. Variations in Height Requirements).
- E. No industrial structure shall be closer than 50 feet to an existing residential building.
- F. Where an Industrial Zone abuts a residential zone, a buffer yard of not less than 50 feet, meeting the requirements of useable open space, shall be required.
- G. Facade Length and Variations:
- 1) Structures greater than 60 feet, but less than 120 in length must exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a 10 foot change in roof line height, or a combined change in facade and roof line totaling 10 feet.
 - 2) Structures which exceed 120 feet in length on any facade shall provide a prominent shift in the mass of the structure at each 120 foot interval (or less if the owner desires) reflecting a change in function or scale. The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in roof line. A combination of both a roof line and facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as full compliance.

8. SPECIAL FLOOD HAZARD AREAS:

A. Purpose: The purpose of the Special Flood Hazard Areas is, in compliance with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and other statutes amendatory thereof and supplementary thereof, some or all of the permanent provisions of which constitutes the National Flood Insurance Program (42 U.S.C. 4001-4128) and Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations promulgated thereunder, to delineate the area in which zoning regulations to protect the future health, safety and welfare of the inhabitants of the Village from hazards due to periodic or intermittent flooding are to be enforced. These zoning regulations shall include those for the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside the Special Flood Hazard Area or uses permitted within the Special Flood Hazard Area will be free from flooding or flood damage. The Special Flood Hazard Area consists of:

- 1) The Floodway District (FW), being the floodways established by the Federal Insurance Administrator on the Flood Boundary and Floodway Map for the Village; and is a separate zoning district.
- 2) The Floodway Fringe Over-District (FF), being those portions of other zoning districts adjoining the FW (Floodway District) located within the Special Flood Hazard Area established by the Federal Insurance Administrator on the Flood Boundary and floodway map for the Village; and the zoning regulations applicable at any point thereof are those of the underlying zoning district. Applicant must have agency or an engineers approval to develop in the Floodway Fringe area .

9. HISTORIC DISTRICT OVERLAY ZONE (HOO):

- A. Policy and Purpose: As a community partially dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for the residents and property owners of the Village of Ellicottville. It is in the best interests of the general welfare of the community to protect the aesthetic values of the community through the elimination of those architectural styles, and those building materials which, by their nature, are foreign to this area, and this climate, and therefore tend to detract from the appearance of the community. The Village's older neighborhoods are an Historic District, which is a point of considerable importance to the tourism industry. New development, while distinct from the Historic District Overlay Zone, should not detract from it. The effects of one development are felt on the community as a whole. It is the policy of the Village to foster good design within the constraints imposed by climate, land ownership patterns, and a unified architectural theme.
- B. Historic District Overlay Zone: All uses within the Historic District Overlay Zone, both permitted and conditional, are subject to design review by the Historic District Commission or Planning Board for compliance with the Architectural Guidelines adopted by the Village. Those guidelines are incorporated into this Code by this reference, but may be revised from time to time by resolution of the Village Board. Review by the Historic District Commission is limited to matters of design compliance, with all functional review (of conditional uses) performed by the Village staff.
- C. Conditional Use Review: Conditional uses within the Historic District overlay Zone are subject to design review by the Historic District Commission or Planning Board, with a right of appeal to the Zoning Board of Appeals. The standards of review are set forth in this Code, but additional design review standards may be adopted by resolution of the Village Board, provided that the resolution is consistent with the provisions of this Code.
- D. Permitted Use Review: Permitted uses in all zones within the Historic District overlay Zone are subject to design review by the Historic District Commission or Planning Board. The standards of review are set forth in this resolution of the Village Board.

Single family houses are subject to design review by the Historic District Commission or Planning Board, when the house is within the Historic District Overlay Zone, and may be subject to extensive design regulation covenants within the subdivision covenants, conditions and restrictions. The Village does not attempt to enforce those private covenants, but strongly advises property owners to investigate those covenants prior to incurring the expense of designing a house.

E. Architectural Review: All conditional and permitted uses in all zones within the Historic District Overlay Zone shall be reviewed by the Planning Board as per Section 12, page 12-17.

F. Facade Length and Variations:

- 1) Structures greater than 60 feet, but less than 120 in length must exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a 10 foot change in roof line height, or a combined change in facade and roof line totaling 10 feet.
- 2) Structures which exceed 120 feet in length on any facade shall provide a prominent shift in the mass of the structure at each 120 foot interval (or less if the owner desires) reflecting a change in function or scale. The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in roof line. A combination of both a roof line and facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as full compliance.

10. SCHEDULE OF REQUIREMENTS - LAND USE TABLES:

To facilitate public understanding of this local law and for better administration and convenience of use thereof, the following schedule of "permitted uses" and conditional use for the various zoning districts is hereby adopted and declared to be a part of this local law, and may be amended in the same manner as any other part of this local law.

Uses: In each zoning district any use category not expressly permitted shall be deemed excluded. If a question arises as to whether a specific use does or does not come within the following expressed use categories, any property owner or his representative may apply to the Planning Board for a determination as to whether a specific use is expressly permitted. In using the following tables, the letter "P" indicates permitted use, the letter "C" indicates conditional use, and an "NP" indicates a use which is not permitted in the zone.

LAND USE TABLES

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Single family detached dwelling	p	p	p	p	p	NP	NP
Two dwelling structure, duplex	NP	NP	p	p	p	NP	NP
Three dwelling structure, triplex	NP	NP	NP	NP	p	NP	NP
Four dwelling structure, fourplex	NP	NP	NP	NP	p	NP	NP
Multi-dwelling structure, more than four, not more than eight	NP	NP	NP	NP	C	NP	NP
Multi-dwelling structure, more than eight dwellings	NP	NP	NP	NP	C	NP	NP
Apartment	NP	C	NP	C	C	C	NP
Rental of dwellings for periods less than 30 days	p	C	C	C	p	p	NP
Accessory building and uses	p	p	p	p	p	C	p
Guest house	C	C	C	C	C	NP	NP
Lock-out rooms or units	C	C	C	C	p	C	NP
Home occupations	C	C	C	C	C	C	NP
Public and quasi-public institutions, churches, schools, private schools with curriculum similar to public schools	C	C	C	C	C	C	C

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Group care facilities, including halfway houses, rehabilitation centers, group foster care, senior citizen group homes, day care centers, and child nurseries	C	C	C	C	C	C	C
Activities for conservation of soil, water, and wildlife	P	P	P	P	P	P	P
Agriculture, crop production, orchards, flower production, forest land, but not retail sale	P	P	P	P	P	P	P
Roadside Stand	NP	NP	NP	NP	NP	C	C
Raising and grazing of livestock, horses and poultry	NP	NP	NP	NP	NP	NP	NP
Cemetery	P	NP	C	NP	NP	NP	NP
Essential municipal and public utility uses, facilities, services and buildings (provided business offices, repair storage, production facilities not included)	C	C	C	C	C	C	C
Professional offices, medical and dental clinics, business office	NP	NP	NP	NP	NP	C	C
Temporary building for construction project management and temporary sales, in conjunction with active building permit for development project	NP	NP	NP	NP	C	C	C

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Temporary building or trailer for living purposes during the period that construction work on a residence under a valid building permit is in progress, for a period not to exceed that of the validity of the building permit	NP	NP	NP	NP	NP	NP	NP
Home Retail & Service Trade	C	C	C	C	C	P	NP
Commercial parking lot or garage	NP	NP	NP	NP	C	C	C
Passenger tramway stations and base facilities	C	C	C	C	C	C	C
Liftway, no loading or unloading	C	C	C	C	C	C	C
Retail commercial establishments limited to the following and similar uses: antique store, art gallery, art supply store, bakery, book store, camera store, clothing store, candy store, tobacco and cigarette store, florist, food store, gift shop, liquor store, office supply store, pharmacy, sporting goods store, and variety	NP	NP	NP	NP	C	C	C
Retail commercial establishments limited to the following and similar uses: automobile sales, plant nursery stock production and sales; and service commercial establishments limited to the following and similar uses: auto rental customer outlet, business office, financial institutions, handicraft production, personal services, including barber and beauty shops, dry cleaning pick-up station, laundromat, studio for instruction in the arts, travel agency job printing shop, department store	NP	NP	NP	NP	C	C	C

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Service commercial establishments limited to the following and similar uses: catering service, mortuary, animal hospital, tailoring and shoe repair, radio or television broadcast facility	NP	NP	NP	NP	C	C	C
Service commercial establishments limited to the following and similar uses: automobile repairing and washing, bulk dry cleaning and laundry, transportation services, trucking services, printing shops, product assembly, auto rental, or storage lot, wholesale business	NP	NP	NP	NP	NP	C	C
Gasoline service station	NP	NP	NP	NP	NP	C	C
Restaurant	NP	NP	NP	NP	C	C	C
Restaurant, outdoor dining	NP	NP	NP	NP	C	C	C
Restaurant, drive-in, or drive-up window	NP	NP	NP	NP	C	C	C
Bar, tavern, liquor store, fraternal organization	NP	NP	NP	NP	C	C	C
Hospital, emergency medical care facility	NP	NP	NP	NP	C	C	C
Indoor entertainment such as bowling alleys, skating rinks, movie theatre, performing arts center	NP	NP	NP	NP	C	C	C
Public golf courses, outdoor entertainment and public recreation facilities	C	NP	C	C	C	C	C

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Time share projects	NP	NP	NP	NP	C	C	NP
Time share conversions	NP	NP	NP	NP	C	C	NP
Time share sales office, off-site within an enclosed building	NP	NP	NP	NP	C	C	NP
Recreation facilities owned by a private home owner for private use	P	C	P	P	P	C	C
Recreation facilities owned by property owners association for private use by members, including tennis court, and swimming pool	NP	C	C	C	C	C	C
Commercial recreation facility, racquet club, athletic club, or gymnasium, not including stables	NP	NP	C	C	C	C	C
Commercial stables, riding academy	C	NP	NP	NP	NP	NP	NP
Sawmills	NP	NP	NP	NP	NP	NP	C
Lumber milling, storage and light manufacturing	NP	NP	NP	NP	C	C	C
Manufacturing of finish goods from raw materials	NP	NP	NP	NP	NP	NP	C
Hotel, motel, inn, boarding house with 16 or more rooms	NP	NP	NP	NP	C	C	NP
Hotel, motel, inn, boarding house with fewer than 16 rooms	NP	NP	NP	NP	C	C	C
Bed and Breakfast Inns	C	C	C	C	C	C	NP

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
Master planned development including service and limited retail commercial support services	NP	NP	NP	NP	C	C	C
Master planned development with full commercial uses, heavy retail, and services designed for general public use rather than support services	NP	NP	NP	NP	C	C	C
Master planned development with residential and transient lodging uses only	NP	NP	NP	NP	C	C	NP
Master planned developments with moderate income housing	NP	NP	C	C	C	C	NP
Mobile homes	NP	NP	NP	NP	NP	NP	NP
Mobile home parks	NP	NP	NP	NP	NP	NP	NP
Commercial campgrounds	NP	NP	NP	NP	NP	NP	NP
Publicly owned campgrounds	NP	NP	NP	NP	NP	NP	NP
Commonly owned garage for four or more cars, above grade or below, and not connected to dwellings or commercial structures	NP	NP	NP	C	C	C	C
Mining, sand & gravel extraction	C	NP	NP	NP	NP	NP	C

SECTION 4 - MASTER PLANNED DEVELOPMENTS

1. PURPOSE: The Master Planned Development (MPD) concept of development is allowed in the Village of Ellicottville in order to encourage the establishment of common open space, achieve economy in the provision and maintenance of public facilities, allow design flexibility in development, and to preserve the natural and scenic features of open areas. To this end, the clustering of structures, whether single or multiple, may be undertaken; structures may be joined by party walls or be separated by minimal but adequate side yards, and conditional uses may be integrated into the development. Densities within clusters may exceed those allowed for standard housing development when appropriate open space and buffer areas are provided elsewhere on the site.
2. SCOPE: Application for Master Planned Development may be made for land located in certain zoning district, as specified in the Land Use Tables. Unless expressly provided in this Section, there shall be no density increase or height increase in the number of dwelling units which can be constructed under the applicable basic zone regulations; however, there may be density transfer between zoning districts provided the proposed Master Planned Development cluster is found to be compatible in terms of building types and character with the surrounding area and would not alter the essential character of the district.
3. LAND USE INTENSITY ALLOWANCE: The density and type of development permitted on a given site will be finally determined as a result of impact and site plan analysis.
4. PROCESSING: An application for approval of a Master Planned Development may be filed by the owners of the property for which the approval is requested and shall be made on a form provided by the Village and must include written consent by the owners of all property to be included in the Master Planned Development. The review procedure is described in Section 1.
5. PRE-APPLICATION CONFERENCE: A pre-application conference may be held with the Village Planning Board in order for the applicant: 1) to become acquainted with the Master Planned Development procedures and related Village requirements; 2) to obtain from the Planning Board a written list of what the formal application should include; and 3) to obtain from the Planning Board copies of guidelines to the interpretation of provisions of this section.

6. THE APPLICATION: The Master Planned Development application must be submitted to the Planning Board with a completed application form on a form supplied by the Village. The application shall be supported by the following (three sets required):

A. Map of Existing Site: A map of the existing site shall show the following information for the site:

Vicinity map (not less than 1" = 100');

Scale and north arrow;

Site boundaries and dimensions;

Topography with contours at no greater than two foot intervals, less on flatter sites; if required by Village Engineer.

Vegetation, location, and type;

Soil type and engineering properties;

100 year flood plain and high water areas;

Existing structures and their current uses;

Existing roads and other improvements;

Location of public utilities and utility easement; and other data as may be required.

B. The Site Plan: The site plan portion of the application shall consist of a plan showing the major details of the proposed Master Planned Development prepared at a scale of not less than 1" = 100' (or 1" = 50' for sites of less than five acre). The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the Master Planned Development proposed. The site plan shall contain, insofar as applicable, the following minimum information:

Scale and north arrow;

Proposed name of the development;

Identity of a subdivision Master Development Plan of which the site may be a part;

Topography with existing and proposed contours at no greater than five foot intervals, less on flatter sites; if required by Village Engineer.

The location and size of all existing and proposed buildings, structures, and improvements;

Natural and proposed vegetation and landscaping, streets, walkways, and easements to be reserved for public use;

Location and general dimension of all proposed impervious paved areas such as streets, walks, parking lots, tennis courts, plaza, etc.;

Proposed open spaces with an indication as to use and ultimate ownership, if applicable;

Proposed drainage systems and runoff control shall be controlled by New York State DEC regulations.

Proposed utility distribution;

Proposed traffic circulation with anticipated average daily traffic volumes, and access to the existing street system;

Perspective sketches showing general architectural concepts of all new or remodeled buildings;

Maximum height of all buildings, dimensions, and square footage of all lots or parcels proposed with project;

A general landscape plan at time of initial submission to be followed by a detailed landscaping plan, once the site plan has been approved, showing the spacing, sizes and specific types of landscaping material;

Lighting plan.

- C. Written Statement: The written statement is to be submitted with the Master Planned Development application and must contain the following information (three sets required):

A statement of the present and future ownership and tenancy and a legal description of the land included in the Master Planned Development application, including identification of all mortgages easements

covenants or restrictions on land use, liens, and judgements which may affect the site;

A development schedule indicating the approximate date when construction of the Master Planned Development, or stages of the development, can be expected to begin and be completed;

Copies of any special agreements, conveyances, restrictions, or covenants, which will govern the use, maintenance, and continued protection of the Master Planned Development and any of its common areas;

A mailing list of the owners of abutting properties and properties located within 100 feet of the property lines of the land included in the Master Planned Development as required by Section 1 of this Code;

An explanation of the objectives to be achieved by the Master Planned Development, including building descriptions, variations in building setbacks, parking, height or other requirements that are being sought; sketches of elevations, or other information as may be required to described objectives.

7. PROPERTY POSTED. NOTICE MAILED: Upon receipt of a fully completed application form and the submission of the accompanying information, and upon the payment of the fee for review as prescribed by local law, the Village shall cause notice to be given as described in Section 1.
8. FINAL PLAN REQUIREMENTS: The final plan shall be presented on permanent mylar final sheets; all drawings showing proposed site development shall have a scale of no less than 1" = 100' (1" = 50' for sites less than five acre), with one sheet showing the entire project, its vicinity within the Village, and a key to the detailed drawings. The final plan shall include all information required by the Master Planned Development application, plus the following:
 - A. Accurate dimensions for all lines, angles, and curves used to describe streets and other public right-of-ways sufficient to satisfy final plat requirements.
 - B. Detailed sizes and dimensions for the utility and drainage systems with specific locations of all infrastructure.

C. Architectural drawings of proposed new or remodeled structures with floor plans and elevations at a scale no less than one-eighth inch to a foot. Drawings shall indicate all exterior materials.

9. GENERAL CRITERIA FOR REVIEW: A Master Planned Development shall implement the purposes of this local law and of this section, and in addition, shall meet the following standards and requirements.

A. Uses Permitted: The uses in a Master Planned Development must be uses that are shown on the land use table in Section 3 as permitted or conditional uses in the zoning district in which the Master Planned Development is located. In addition the approving agency may permit limited commercial uses (as shown on the Land Use Table) not generally associated with the residential zone if, in the opinion of the approving agency, such uses are primarily for the service and convenience of the residents of the development and the immediate neighborhood. Such uses, if any, shall not change or destroy the predominantly residential character of the Master Planned Development. The amount of area and type of such uses, if any, to be allowed in a residential Master Planned Development shall be established by the approving agency on the basis of these criteria:

1) Relationship to the Purpose and Policies of the Comprehensive Plan: The Master Planned Development must be consistent with the purposes and policies of the Comprehensive Plan as set forth therein.

2) Relationship to Surroundings: The Master Planned Development's relationship to its surroundings shall be considered in order to avoid adverse impacts caused by traffic circulation, building height or bulk, lack of screening, or intrusions on privacy.

B. Maximum Density Requirements: The requirements of Section 3 (Use Tables) regarding maximum densities shall apply to all Master Planned Development except that the approving agency may increase the number of permitted units to the maximum bonus levels found in this Section if it finds that the site plan contains areas allocated for useable space in a common park area as authorized in this section, or that an increase in density is warranted by the design and amenities incorporated in the Master Planned Development site plan, and the needs of the residents for usable open space can be met.

- C. Off-Street Parking: The number of off-street parking spaces in each Master Planned Development may not be less than the requirements stated in Section 5 (Off-Street Parking) except that the reviewing agency may increase or decrease the required number of off-street parking spaces in consideration of the following factors:
- 1) Probable number of cars owned or required by occupants of dwellings in the Master Planned Development;
 - 2) Parking needs of any non-dwelling uses, including the traffic attracted to commercial uses from off-site;
 - 3) Varying time period of use, whenever joint use of common parking areas is proposed;
 - 4) Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the approving agency shall obtain assurance that the nature of the occupancy will not change. No parking reductions shall be granted for developments requiring eight or fewer parking spaces. Parking requirements are stated in Section 5.
- D. Variations in Setbacks: The setback requirements of Section 3 shall apply to Master Planned Developments except that the Planning Board may reduce setbacks in consideration of site planning issues addressed in this Section. Variations in setback, if requested, shall be addressed in the written statement and shall be specifically called out on the Master Planned Development site plan, or shall be handled through a Master Planned Development control document to be submitted as part of the written statement. Minimum setbacks along the boundaries of the site must be observed.
- E. variations in Height Requirements: The height requirements of Section 3 shall apply to Master Planned Developments, except that after review by the Planning Board, the Planning Board may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all of the buildings in the development by up to 25% of the maximum building height established for that zone in Section 3 of this Code after due consideration of the following site specific review standards, in addition to the other standards established for Master Planned Developments by this Section.

- 1) ~~The~~ geographical position of the building and possible visual effects on existing structures on or off-site;
- 2) Potential problems on neighboring sites caused by shadow, loss of solar access, loss of air circulation, closing of views, or ridge line intrusion;
- 3) The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;
- 4) Appropriateness of the uses within the building in the neighborhood;
- 5) Landscaping and buffered areas or other physical separations that may be proposed to buffer the site from adjacent uses;
- 6) The size of the side yard areas between buildings and adjacent streets and alleys and their relationship to pedestrian traffic and open space;
- 7) The provision of more than the required useable open space within the project;
- 8) Reduction of the height of other buildings or portions of a building to a point that is lower than the underlying zone maximum;
- 9) In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage or building volume (above grade) over that which is, or would be, possible under normal zone standards for the zone in which the site is located.
- 10) The amount of any increased height is specified for each zone district as the maximum allowable height that is compatible with good planning practices. Good design is a site specific review item. The burden of establishing the needs and benefits of a height increase is on the developer, and in the absence of a satisfactory showing that the additional height will result in a superior plan and project, the zone height shall be applied.

F. Nightly Rentals, Timesharing. and Condominiumization to be Declared: If nightly rentals are desired in a Master Planned Development, this must be declared at the time of Application. If timesharing is desired in a Master Planned Development that has already been approved by the Village, a conditional use permit must be obtained and the project instruments must either be drafted initially or amended by the required majority (in no event less than 65%) to explicitly and prominently authorize timesharing within the project.

G. Site Planning: The Planning Board must be satisfied that the site plan for the Master Planned Development has met each of the following criteria or can demonstrate that one or more of them is not applicable, and that a practical solution consistent **with** the public interest has been achieved for each of these elements.

- 1) The relationship of these areas to other areas, structures, and uses within the Master Planned Development.
- 2) The degree to **which** these areas contribute to the quality, livability, and aesthetics of the Master Planned Development.
- 3) Common park areas are encouraged and may be counted as part of the required open space within a Master Planned Development provided they are to be used and are suitable for scenic, landscaping, or recreational purposes and they are on land which is accessible and available to persons for whose use the common park area is intended, and ownership is vested in a way that preserves the open space.
- 4) Common open spaces in a Master Planned Development site shall be preserved and maintained as provided for in an irrevocable dedication declaration, or restrictive covenants approved by the reviewing agency and filed and recorded in the office of the County Recorder, or other mechanisms acceptable to the approving agency. The irrevocable dedication, covenant, and declaration shall take place as mutually agreed upon by the approving agency and the applicant, provided, however, no building permit shall be issued for the Master Planned Development until the dedications, covenants, and declarations have been filed and recorded. The areas designated in the covenants as common open space shall be maintained, repaired, preserved, and retained as open spaces by the owners in common of the property and/or the developer.

- 5) Circulation in terms of an internal street circulation system designed for the type of traffic generated, safety, separation from living areas, convenience, access, noise, and exhaust control. Private internal streets may be permitted if they can be used by police and fire department vehicles for emergency purposes. Width, and cul-de-sac design must accommodate fire fighting apparatus. All streets and roadways within private developments shall be constructed to Village Standard Regulations for Dedicated Roads. Bicycle traffic shall be considered and provided for and, where appropriate, connection of the bike and pedestrian system to other Village systems shall be addressed. Proper circulation in parking areas in terms of safety, convenience, separation, and screening shall also be considered.
- 6) Utilities shall be addressed in terms of adequacy, availability, and locations of services.
- 7) Variety shall be addressed in terms of housing type, densities, facilities, and open space.
- 8) Privacy shall be addressed in terms of the needs of individuals, families and neighbors, and adjoining land owners.
- 9) Pedestrian circulation shall be addressed in terms of safety, separation, convenience, access to points of destination, and attractiveness in MD, HD & GC zones.
- 10) Building type shall be addressed in terms of appropriateness to density, site relationship, and bulk.
- 11) Building design shall be addressed in terms of orientation, spacing, materials, color and texture, storage, signs and lighting, and compliance with the architectural criteria contained in this local law.
- 12) Landscaping of the total site shall be addressed in terms of purpose of planting such as screening or ornamentation; hard surface materials used, if any; maintenance, water needs, suitability, and effect on the neighborhood.

H. Building and Lot Requirements: Buildings may be attached, semi-detached, or individual units. The uses within buildings may be mixed. The separation between detached building shall be minimum of ten feet.

- 1) Structures greater than 60 feet but less than 120 feet in length should exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a ten foot change in roof line height, or a combined change in facade and roof line totaling ten feet. This requirement shall not apply to single family or two family dwellings.
- 2) Structure shall not exceed 120 feet in length without complying with the following guidelines:
 - a) A prominent shift in the mass of the structure shall occur at each 120 foot interval (or less) reflecting a change in function or scale. The shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in foot line.
 - b) A combination of both a roof line and a facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as compliance with this section.

I. Support Commercial Facilities: Within any Master Planned Development in those zones which permit mixed uses within Master Planned Developments, no more than 10% of the total gross floor area may be devoted to support commercial facilities as defined by this Code. All support commercial facilities shall be oriented to the internal pedestrian circulation system of the Master Planned Development. Signage on support commercial facilities must be visible only from within the development, and shall not orient to the adjacent public streets or off-site circulation areas.

10. APPROVALS: Approvals of Master Planned Developments shall be granted in the following manner:

- A. Master Plan Approval: The approval for a Master Planned Development shall be given in a form that states the density allocated to the property as a number of units. The configuration and mix of the units can be adjusted by the developer according to the table provided herein.
- B. Project Site Plan: Approval of the site plan for the project or development shall be granted by the Planning Board for all development within Master Planned

Developments. Commission action will still be required for final plat approval, subdivision approval, and any other approvals or reviews.

- C. Form of Approval: Once a density range and preliminary plan have been approved by the Planning Board, a master plan shall be signed by the Planning Board and the developer. In the case of a large scale Master Planned Development, in which density transfers from one portion of the site to another may have occurred, the approval shall take the form of a recordable instrument which states the legal description of the land affected by the approval, and is sufficient to put subsequent purchasers of all or parts of the tract on notice that the density allowed on that property may be different from what basic zoning would suggest as a result of the Master Plan Approval.
 - D. Construction: Commencement of construction within two years is required to preserve a large scale Master Plan Approval. Construction on a small scale Master Planned Development must commence within one year, or the approval will expire as defined in Section 1-19E.
 - E. Transferability: Approved Master Plans are transferrable with the title to the property to which the approval pertains, but no portion of the density allocation within any approval may be transferred off-site.
- 11. CREDIT MULTIPLIER: The developer shall have the right to make his election of how to apply the unit equivalency on his site at any time in the review process, provided, however, that commercial uses and hotel uses of specific development parcels may be designated or prohibited on the Large Scale Master Plan Approval when the Planning Board finds that there are neighborhood, traffic, or similar considerations for limiting or clustering these uses. The election of the final unit configuration must be made at the time the application for final site plan is submitted, and the election of unit mixes is part of the conditional use process that the final site plan is reviewed under.
 - 12. PARKING: Parking within a Master Planned Development shall be required as provided in Section 5, unless the Planning Board finds that a reduction in parking is justified as provided by this local law. Parking is based on the unit configuration as set forth in Section 5, and not on the basis of unit equivalents.
 - 13. MASTER PLANNED DEVELOPMENTS IN ALL ZONES: See Section 3 for density and development requirements in each zone.

14. MASTER PLANNED DEVELOPMENT REVIEW PROCESS. Applications for developments ,to be built according to a master plan which provides for mixed uses, and/or density transfers and concentrations within the site, commonly referred to as planned unit development (without regard to the manner in which title to the project will be held) are divided into two review processes depending on the size and nature of the project. These review processes are described as follows:

A. Small Scale Master Planned Development Review. Those projects having 25 or fewer unit equivalents, and/or less than 15% of the total project floor area (exclusive of parking) devoted to non-residential uses, are reviewed as Small Scale Master Planned Developments. The review process is identical to the conditional use process. Also reviewed as Small Scale Master Planned Developments are individual building projects within a previously approved Large Scale Master Planned Development, regardless of the number of unit equivalents or the residential/commercial mix in the development proposal.

B. Large Scale Master Planned Development Review. Those projects having more than 25 unit equivalents, and/or 15% or more of the total project floor area (exclusive of parking) devoted to non-residential uses shall be reviewed as Large Scale Master Planned Developments according to the procedure described in Section 4 of this Code. The nature of the density transfers and zoning concessions **within** the project are set forth in Section 4. The substantive requirements for master planned developments are described in Section 4 of this Code.

15. REVIEW BY PLANNING BOARD.

A. Application And Criteria For Review. All proposals for Large Scale Master Plan Development approval shall be reviewed by the Planning Board. An application must be filed with the Village on a form as described in Section 4. Large Scale Master Planned Development shall include those projects which propose more than 25 Unit Equivalents and/or 15% or more of the floor area (exclusive of parking) for non-residential use. In reviewing requests for Large Scale Master Planned Development approval, the Board shall consider the overall planning for proposed projects, including:

- 1) Site planning for the project;
- 2) Traffic circulation **within** the project and on the adjoining streets, both existing and proposed;

- 3) Land uses within the proposed project area including the mixture of commercial and residential;
- 4) Density of development;
- 5) Identification of development parcels within the larger tract, and the order in which development is proposed or should be permitted to allow for the orderly and economic expansion of Village services;
- 6) Compatibility with surrounding land uses;
- 7) Other pertinent planning and land use issues that are affected by the project, such as the effects on schools, fire protection, water and utility services, drainage, wetland and flood plain locations, and similar on and off site issues;
- 8) Geologic hazards;
- 9) Compatibility with comprehensive plans adopted by the Village;
- 10) Utility capacity;
- 11) Emergency vehicle access;
- 12) Internal circulation system;
- 13) Fencing, screening, and landscaping to separate the use from adjoining uses;
- 14) Building mass, bulk, and orientation, and the location of buildings on the site;
- 15) Usable open space;
- 16) Signage and lighting;
- 17) Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing, and general architectural theme;
- 18) Noise, vibration, odors, steam, smoke, or other mechanical factors that affect people and property off-site;
- 19) Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up area;

20) Expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies;

B. Nature of Approval. Upon review and consideration of the proposal, the Planning Board may approve, disapprove, or modify and approve the request for development. The approval process shall establish the following items:

- 1) Designation of land uses within the project area.
- 2) Designation of identifiable development parcels within the total project area. These development parcels are not required to be divided or platted as subdivision lots, but may be designated on maps as a part of the approval with a final legal description of the parcels to be required at the time each is developed or sold, leased, or otherwise transferred or separated from the whole tract.
- 3) Designation of land use or mixture of uses for each development parcel.
- 4) Designation of density ranges in Unit Equivalents for each development parcel identified.
- 5) Designation of the order of development to ensure economical expansion of Village services.
- 6) Designation of specific conditions to the development of any parcels which are by their nature more subject to development constraints than the typical parcel in the proposed development.
- 7) Designation of density transfers from one parcel to another, if any.
- 8) Whether or not there will be commercial uses on all or some of the development parcels identified, and if so, the specific parcels that will include commercial uses.
- 9) The general architectural theme and character of the overall development.

C. Length of Approval. The Large Scale Master Planned Development approval granted by the Planning Board shall be effective so long as construction is proceeding in accordance with the approved phasing plan. Approval will lapse after two years of inaction, unless extended for up to two years by the Planning Board. Zone changes

occurring while the approval is in effect shall not affect the approval. Modifications to the proposal shall be brought before the Planning Board for consideration and shall be incorporated into the master plan when the modification is granted. Modification shall act as an extension of the approval.

- D. Record of Approval. When Large Scale Master Development approval is granted, the approval shall be noted in a recordable document, furnished by the Village Engineer, stating the legal description of the property involved, and at least the general nature of the approval. The notice shall direct interested persons to the Planning Board to review the actual master plan. The purpose of the recording is to put prospective purchasers on notice that the land has been included within a master plan that has established density ranges and land uses that might be more or less restrictive as to individual parcels than the underlying zoning regulation might imply.
- E. Development on Planned Parcels. Development proposals for each development parcel within the Large Scale Development Master Plan approval are reviewed by the Planning Board as Small Scale Master Planned Developments under the conditional use process, regardless of the size or nature of the development.
- F. Inactive Projects. Termination of inactive projects shall be as described in Section 1.

SECTION 5 - PRIVATE ROADWAYS AND OFF-STREET PARKING

1. REQUIREMENT: Except as may be provided elsewhere in this Code, there shall be provided at the time of erection of any building or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions for independent ingress and egress by standard size automobiles. If any land, structure, or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this section. Required parking must be provided on the same lot as the main building. All private roadways and parking lots shall be built to Village Road Standards and shall be approved by the Village Engineer.

2. PARKING LOT CHARACTERISTICS: Each parcel of land developed for off-street parking in response to the requirements of this section shall provide the following characteristics:
 - A. Surfacing: Each parking lot shall be surfaced in accordance with the Village road standards, as may be amended from time to time, and be maintained in good condition and kept clear in an unobstructed and usable condition at all times. Responsibility for maintenance of the lot shall rest with the property owner. The lot shall provide adequate access to a street or alley.

 - B. Grading: Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. Adequate control curbs shall be installed to control drainage and direct vehicle movement. Parking lot drainage shall be controlled on site and channeled to storm drain or gutter as approved by the Village.

Maximum driveway access grades shall not exceed 10% in slope, and shall provide a minimum 20 foot staging or transition area at no greater than 2% slope beginning at the back of the curb where existing, or as otherwise approved by the Village Engineer in anticipation of future street improvements.

 - C. Lighting: Parking lots shall be illuminated with standards arranged so as to reflect light away from any adjoining residential building.

D. size of Spaces: Structured parking: Parking within a fully enclosed parking structure where the weather does not affect the availability of spaces; shall require the following;

- 1) 9 feet x 18 feet minimum parking space dimensions;
- 2) 24 foot minimum aisle width (for 90 degree layout);
- 3) any reduction proposed in stall length (no width reductions allowed) require conditional use approval; and
- 4) in addition to the specification of minimum stall dimensions, all parking structures shall be reviewed for provision of adequate circulation and to ensure that each required space is readily accessible as well as usable. Column and wall locations shall be specifically addressed in terms of maneuvering and where automobile doors will swing open.

outside Parking: Each parking space not within a fully enclosed parking structure shall measure at least nine feet wide by eighteen feet long.

Outside Parking Lots: Where parking availability will be affected by weather conditions and snow removal, the above design criteria shall apply in addition to the following:

- 1) adequate, non-hard surfaced and landscaped snow storage areas shall be provided adjacent to each surface lot in a usable, readily accessible location.
- 2) said snow storage areas shall be on-site and the equivalent of 10% of the total hard surfaced area; including, parking spaces, aisles, driveways, curbing, gutters, and sidewalks. Reductions below the 10% requirement outlined shall be treated as conditional uses and reviewed on a case-by-case basis.
- 3) required landscaping shall be designed so as to accommodate snow removal and storage on-site.

E. Design of Parking Areas for Use by More than Four Automobiles: The design of parking areas for use by five or more standard sized automobiles shall provide adequate ingress and egress. The design of parking facilities shall not necessitate backing cars onto adjoining public sidewalks, parking strips, or roadways in conducting

parking operations. The spaces shall be independently accessible so that the access of any required space may not be obstructed by any other required space. All parking lots shall maintain the required front yard and side yard setback as would be required for a structure on the property. Wherever a parking lot or driveway to a parking lot abuts a residential use, a substantial light-tight fence constructed of natural materials not less than four or more than six feet high shall be constructed and maintained along the property line up to the building setback line. An earth berm may be substituted for the fence where adequate area exists. Driveways must not exceed 30 feet in width where they cross a sidewalk, adjacent driveways must be separated by any island of the following widths: single-family residential - minimum width 10 feet, residential, multi-family - minimum width 18 feet, commercial - minimum width 24 feet; and driveways must be at least ten feet from the property line of any intersecting street.

F. Street Access: Off-street parking areas shall have unobstructed access to a street or alley.

Driveways: The following width and curb cut dimensions are required.

<u>Use</u>	<u>Minimum Width</u>	<u>Maximum Curb Cut</u>
1 & 2 Family Residential	10 feet	15 feet
Residential, Multi-Family	18 feet	25 feet
Commercial	24 feet	30 feet

Spacing is defined as the distance between the closer edges of adjoining driveways or driveways and right-of-way lines of intersecting streets. Access drives shall be spaced according to the following:

<u>Street Type</u>	<u>Minimum Spacing</u>	<u>Minimum Distance From Intersection</u>
Local	15 feet	25 feet
Collector	50 feet	75 feet
Arterial	75 feet	150 feet

A minimum of 75 feet spacing between major commercial driveways is recommended. Joint use of commercial drives is strongly recommended. The center line of intersections of the driveways of major traffic

generators entering from opposite sides of roadway shall be either perfectly aligned or offset by a minimum of 150 feet.

- G. Tandem Spaces: Parking designs which necessitate parking one **vehicle** behind another are only permitted for single family and duplex dwellings.
- H. Clear View of Intersecting Streets: In all zones, no obstruction will be permitted to the view of drivers and pedestrians entering and exiting in excess of two feet in height above road grade on any corner lot within a triangular area formed by the streets at property line and a line connecting them at points twenty-five feet from the intersection of the street right-of-way lines, except a reasonable number of trees pruned high enough to permit automobile drivers and pedestrians an unobstructed view.

3. SPECIFIC REQUIREMENT FOR EACH LAND USE:

- A. Required off-street parking shall be provided for each land use as listed in this section. In some zones, the parking requirement may vary depending on the size of the project and its proximity to major destinations within the Village, where experience has shown a greater or lesser demand for parking.
- B. Non-Residential Requirements: In projects which are non-residential in nature, or for non-residential space associated primarily with residential structures, the following parking requirements shall apply to the non-residential space:

Golf course, tennis court
and similar recreation
areas:

Determined by specific
review by Village Engineer
based on hourly capacity
and the location of the
facility with respect to
the anticipated users•
living accommodations.

Hotel, motel, lodge,
boarding house and similar
uses:

One space per 200 square
feet of restaurant,
banquet, assembly, meeting
or similar space, subject
to specific review by the
Village Engineer for
reduction based on site
specific mitigating
factors.

Intensive retail, commercial shops selling directly to public: Three spaces for each 1,000 square feet of shop space.

Less intensive retail or commercial such as furniture, appliance, lumber and hardware stores: One space for each 1,000 square feet of commercial space.

Offices, personal services, medical and dental clinics: One space for each 500 square feet of space plus one space per employee per shift, or one space per 200 feet of net usable office space, whichever is greater.

Restaurants, bars, dining rooms: One space for every 100 square feet, including kitchen areas.

Churches, auditoriums, assembly halls: One space for every five seats.

Industrial and wholesale establishments: One space for every two employees in the largest shift plus one space for each vehicle used in conducting the business.

Hospitals, schools, civic buildings: Determined by Village Engineer on a site specific review, based on numbers of employees, numbers of patrons or visitors that can be reasonably anticipated.

Shopping centers or complexes of multi-tenant retail spaces: At least 3.5 parking spaces per 1,000 square feet of rentable floor area, excluding corridors.

- C. Parking in Master Planned Developments: Parking in Master Planned Developments shall be provided according to the underlying zone. Commercial spaces within the Master Planned Development shall provide parking as required by this Section. The Planning Board may, in the approval of the Master Plan, upon good showing that these formulas result in a surplus of parking, reduce the overall parking requirement. Evidence that the parking demand from various uses within the development can be

satisfied by overlapping use shall be required. Developments requiring eight or fewer parking spaces shall not be granted any reduction in parking required.

4. CALCULATION OF SPACES: When calculating the number of parking spaces required for a given project, and a dwelling unit or commercial space could be classified as more than one kind of use, the classification resulting in the higher number of parking spaces shall be applied.

5. OFF-STREET LOADING SPACE: On the same premises with every building or structure which is erected or increased in capacity which is to be used for any purpose which involves the receipt or distribution of materials or merchandise by vehicle, there shall be provided and maintained adequate space for standing, loading, or unloading services off the street. All such loading areas or berths shall be so located that no vehicle loading or unloading merchandise or other material shall be parked in any required front yard or in any street or alley or other public way. When any required or permitted loading dock or area is constructed adjoining a residentially zoned district, said loading dock or area shall be screened from the adjoining property by completely landscaping the required side yard area and the construction of a substantial light-tight fence or wall constructed of natural materials not over six feet or under four feet in height on the common boundary line.

6. MULTI-DWELLING PARKING REQUIREMENT TABLE:

	Hotel Room	Hotel Suite/ Stud. A12t	1 Bdrm A12t.	2 Bdrm. Apt. or other A12t.	A:gt.	Apt. in Excess of
	650	1,000	1,000	1,500	2,000	2,500
	Sg.Ft.	Sg.Ft.	Sg.Ft.	Sg.Ft.	Sg.Ft.	Sg.Ft.
LO	1	2	2	2.5	2.5	3
MD	1	2	2	2.5	2.5	3
HD1	1	2	2	2.5	2.5	3
HD2	1	1.5	1.5	2.0	2.0	2.5
HD3	1	1.5	1.5	2.0	2.0	2.5
VC	1	1.5	1.5	2.0	2.0	2.5
I	N/A	N/A	N/A	N/A	N/A	N/A
C	N/A	N/A	N/A	N/A	N/A	N/A

1. HD1 - Projects having 1 through 25 development credits.
2. HD2 - Projects having more than 26 development credits and fewer than 50.
3. HD3 - Projects having 51 or more development credits.

SECTION 6 - CONDITIONAL USE

1. CONDITIONAL USE REVIEW PROCESS. Although each zone district is an attempt to segregate predominant land uses within identified residential, commercial, and similar districts, there will be proposals that are generally compatible in land use with other permitted uses in the zone, and if properly and carefully planned, these uses, which are different from the predominant use, or more intensive than permitted uses in the same zone, may become compatible and appropriate for the zone in question. For example, the location and nature of the proposed use, the character of surrounding development, traffic capacities of adjacent and feeder streets, environmental factors such as drainage, erosion, and soil stability, all may dictate circumstances where a more intensive use may or may not be appropriate for the zone. The conditional use procedure is intended to provide greater flexibility in land uses while at the same time, preserving neighborhood characteristics and assuring compatibility between the conditional uses, the uses on adjoining properties, and the Village at large. Development of conditional uses will be subject to review by the Planning Board, and may be allowed subject to conditions imposed for the purpose of preserving the character of the zone district, and subject to mitigating, potentially adverse effects of the conditional use. Where conditions to the use cannot be devised to satisfactorily mitigate adverse effects of the conditional use, the application for a conditional use permit shall be denied. Any land use that is defined in this Code as a conditional use for the zone in which it is proposed shall be reviewed according to the following procedure:
2. PRE-APPLICATION CONFERENCE. A pre-application conference may be held with the staff to determine the nature of the use and the general nature of conditions that might be imposed. At the pre-application conference, the Zoning Code Enforcement Officer and applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the conditional use.
3. THE APPLICATION. A conditional use application shall be filed on a form prepared by the Village, and shall be supported and accompanied by the following information (seven sets are required):

A map of the site showing the existing conditions prior to the demolition of any existing structures and any grading, showing north arrow and scale at 1" = 50 feet;

A map identifying the subject site in relation to adjoining public streets and the neighborhood in which it is located with north arrow and scale;

The boundaries of the site, and any easements of record or known prescriptive easements;

Topography with contours shown at intervals of not more than five feet;

Vegetation type and location;

Soil type and engineering properties;

100 year flood plain and high ground water areas, known spring and seep areas;

All existing roads, fences, and drainage facilities;

Location of public utility facilities and easements;

Site plan of the proposed conditional use showing building locations;

Proposed road locations and other circulation features;

Proposed finish grade;

Compliance with drainage control plan;

Proposed location of all site improvements such as plazas, tennis courts, pools, and similar improvements;

Proposed easements for new utility services or relocated utility services;

Proposed landscaping;

Designations of proposed ownership of areas shown on site plan as being part of a condominium unit, common area, and dedicated open space;

Proposed intersections with existing public streets;

General architectural concept drawings of proposed buildings;

Lighting plans, if any;

Sign plans, if any; and

Hydrologic information.

Other information as may be useful or necessary for the meaningful review of the project;

Additional information may be requested at the pre-application conference based on the nature of the project or the site.

4. WRITTEN STATEMENT. A written statement shall be submitted containing the following information:

A preliminary title report showing the title to the property, and listing all encumbrances, covenants, easements, and other matters affecting title, and a legal description of the site;

Copies of any covenants or easements which are referred to in the title report;

A development schedule indicating phased development, if any, and the estimated completion date for the project;

A mailing list of all property owners within 200 feet of the perimeter of the site and their current mailing addresses as shown from the most recently available county assessment rolls, provided that the name and address of the registered agent for a condominium project is sufficient in lieu of each owner;

A general description of the project, prospective tenants or types of tenants or occupants whether condominium ownership, time share ownership, or nightly rental uses are proposed, and the proposed property management structure for time share or nightly rental;

Any other information that might be helpful to the Department in reviewing the proposed use.

5. NOTICE/POSTING. Upon receipt of the complete conditional use application and payment of all applicable fees, the Village shall cause notice to be given to the public by property posting as follows:

Publication in the official newspaper at least ten days prior to the date of hearing.

Posting on official bulletin board for at least five days.

Certified mail to all adjoining property owners.

6. PUBLIC COMMENT. The posted, mailed, and published notice shall advise the public that a conditional use application has been filed on the site, and shall state that interested persons may review the application at the Village Clerk's office during normal business hours. The notice shall provide a public comment period of not less than 15 days during which written comments may be submitted for staff consideration while reviewing the project. Comments filed after the close of the comment period may be considered or disregarded by the Planning Board. All persons who have submitted written comments shall receive notice of the approval or denial of the application and the conditions imposed.

7. VILLAGE ACTION. Within 45 working days from the receipt of the application, the Planning Board and other appropriate Village departments or officials shall have reviewed the project and proposed a conditional use permit encompassing all conditions of development and approval. The permit shall incorporate the site plans and architectural plans for the project. If the developer accepts the conditions imposed, the conditional use application shall be placed on the agenda of the Planning Board for final approval. After action by the Board has become final, building permits are to be issued as provided in the New York State Uniform Fire Prevention and Building Code and this Local Law.

If the Planning Board and the developer are not able to agree on conditions of approval, the Planning Board may deny the application. The developer may appeal the denial to the Village Zoning Board of Appeals for review of the Planning Board action, or may withdraw the application. The appeal shall appear on the agenda for the next regularly scheduled meeting. Priority shall be given to appeals in preparation of the agendas.

If the Planning Board has not acted on an application or has not indicated to the developer what aspects of the plan are not acceptable as proposed within 60 working days after submission, the application is deemed approved.

- 8 • TRANSFERABILITY. A conditional use permit is transferrable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

9. EXPIRATION. Conditional use permits shall expire one year from the date of the Planning Board approval of the conditional use, unless construction activity has commenced on the project. Substantial construction activity is evidenced by the developer's obtaining building permits for

the project (or for the first phase of a phased project). Permits may be issued in stages, but the issuance of a footing and foundation permit is not evidence of substantial construction activity unless the permits for the remainder of the structure (or remainder of the phase, in phased projects) are paid for within six months of the issuance of the footings and foundation permit. Demolition permits do not evidence substantial construction work for purposes of extending a conditional use permit. Whether construction has commenced or not, the Planning Board may grant an extension of the conditional use permits for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the start of construction, such as inclement weather, delays in financing, or similar factors.

10. STANDARDS FOR REVIEW. No conditional use permit shall be issued unless the Planning Board finds 1) that the application complies with all requirements of this Code; 2) that the use will be compatible with surrounding structures in use, scale, mass and circulation; 3) that the use is consistent with the Village of Ellicottville Comprehensive Master Plan; and 4) that the effects of any differences in use or scale have been mitigated through careful planning. The Planning Board shall review each of the following items when considering a conditional use permit.

Size and location of the site;

Traffic considerations including capacity of the existing streets in the area;

Utility capacity;

Emergency vehicle access;

Location and amount of off-street parking;

Internal circulation system;

Fencing, screening, and landscaping to separate the use from adjoining uses;

Building mass, bulk, and orientation, and the location of buildings on the site including orientation to buildings on adjoining lots;

Usable open space;

Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing;

Noise, vibration, odors, steam, or the mechanical factors that might affect people and property off site;

Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up areas;

Expected ownership and management of the project as primary residences, condominiums, time interval ownership, nightly rental, or commercial tenancies.

Impact upon existing infrastructure, if review for such impact would be required for a permitted use involving a similar structure under the provisions of Section 7 of this Local Law.

SECTION 7 - PERMITTED USES

1. PERMITTED USE REVIEW PROCESS. On any proposal to construct a building or other improvement to property which is defined by this Code as a permitted use in the zone in which the building is proposed, the Zoning Code Enforcement Official shall review the submission to determine whether the proposal:
a) is a permitted use within the zone for which it is proposed; b) complies with the requirements of that zone for building height, setback, side and rear yards, and lot coverage; and c) that the applicable parking requirements have been satisfied. Upon finding that the proposal complies with the applicable zoning requirements and can be adequately serviced by existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit issuance by the Building Inspector. If the submission does not comply with the requirements of the zone, the Zoning Code Enforcement Officer shall so notify the owner of the project or his agent, if any, stating specifically what requirements of the zone have not been satisfied, and also stating whether the project could be reviewed as submitted as a conditional use for that zone.

2. APPLICATION FOR PERMITTED USES. The application for a building permit for a permitted use shall contain the following information, in addition to information required by the New York State Uniform Fire Prevention and Building Code:

Complete construction drawings for the structure.

A site plan showing the lot and the location of the proposed structure on the lot. The site plan must be drawn to scale. A certified survey done by a land surveyor licensed by the State of New York may be required on projects with structures on or near the lot lines or when the lot lines are difficult to determine from existing plats and monuments. Topographic data may be required when the site is sloping or when the building height cannot be readily determined from the elevations without topographic data.

A statement of the name, address, and telephone number of the owner or responsible agent.

The location of the proposed structure by street address or by reference to existing structures so that the location can be identified and assigned a street address.

Approval of permitted uses shall be noted by the issuance of a building permit in compliance with the provisions of the New York State Uniform Fire Prevention and Building Code.

The location and size of adjacent utility lines.

A letter indicating availability of sewerage facilities shall be obtained prior to issuance of Building Permit.

SECTION 8 - PLANNING BOARD

1. PLANNING BOARD: There is in existence a Village Planning Board consisting of five members. Members shall be appointed as provided by New York State Law.
2. PURPOSES: The Planning Board is intended to act as a non-political, long range planning body for the Village. Review of specific projects shall be limited to those matters specifically requiring their consideration.
3. POWERS: The Planning Board shall have the power set forth herein and all necessary powers conferred on Planning Boards pursuant to New York State Law, as amended. Specifically, but not in limitation of the foregoing powers, the general planning and review of specific development projects by the Planning Board shall be divided into the following functions:
 - (a) Village Comprehensive planning and zoning review, (b) subdivision approval, (c) Large Scale Master Planned Development approval (d) Small Scale Master Planned Development approval (e) Notification of conditional use applications, (f) Plat approval, (g) Review of trams and lifts, (h) Termination of inactive applications, (i) Site Plan Review, (j) Conditional Use Review and Granting Conditional Use Permits. The scope of review for each of these functions is as follows:
 - A. Village Comprehensive Master Planning. The Planning Board shall have the primary responsibility to initiate long-range master planning for the Village, including planning for adequate streets, parks, trails and recreation facilities, long-range zoning objectives, and periodic review of existing plans to keep them current. The Board shall review proposed annexation to the Village and recommend action and zoning on land to be annexed. The Board shall initiate or recommend zone changes and review the development standards within zones. The Board shall hear all requests for zone changes.
 - B. Subdivision Approval. The Planning Board shall review all applications for subdivisions under the provisions of the Subdivision Local Law.
 - C. Review of Passenger Tramway Proposals. The Planning Board shall hold hearings and perform the review of proposals for passenger tramways and liftways located in zones where they are conditional uses. Although these uses are conditional uses in these zones, the neighborhood impacts are such that specific review by the

Planning Board is required. Conditional use permits for passenger tramways and liftways shall be voted on by the Planning Board. In the zones where passenger tramways or liftways are permitted uses, no Planning Board action is required.

- D. Interpretation of this Zoning Code. The Planning Board shall have responsibility to interpret any conflicts or contradictions regarding this Local Law, subject to the appeal provisions of Section 1 (13).
4. STAFF: In order to assist the Planning Board in carrying out its duties, the Planning Board may request the assistance of the Zoning Code Enforcement Officer. See Section 13 for duties and responsibilities of the ZCEO.
 5. HEARINGS: The Planning Board shall establish procedures for its own hearings governing presentations of projects and public responses, and public impact or comment on specific projects or general issues.
 6. MINUTES: The Planning Board shall keep official minutes of its meetings, which shall be permanently stored with the Village Clerk.
 7. DECISIONS: All decisions of the Planning Board shall be included in the minutes. Where written findings are required, the findings may be prepared separately, but shall be incorporated into the minutes.
 8. QUORUM REQUIREMENT: The Board shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of a simple majority of the appointed members of the Board, including the Chairman for computation purposes.
 9. VOTING: Actions of the Board pass by majority vote. A majority is a simple majority of those members present at the meeting entitled to vote on the matter under consideration. The vote of the Chairman shall be counted only when he votes in order to break a tie vote of the other Board members. Voting to remove an item of business from the consent agenda for ratification of departmental actions shall require an affirmative vote of a simple majority of the members present to pass.

SECTION 9 - ZONING BOARD OF APPEALS

1. ZONING BOARD OF APPEALS: In order to carry out the provisions of New York Law relating to planning and zoning, a Zoning Board of Appeals has been named.
2. POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS: The Zoning Board of Appeals shall have the following powers:
 - A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by a Village official in the enforcement of the Code.
 - B. To hear and decide special exceptions to the terms of this Code upon which such board is required to pass under this Code, including variances for the preservation of historic structures;
 - C. To authorize upon appeal in specific cases such variance from the terms of the Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Code will result in unnecessary hardship, and so that the spirit of the Code shall be observed and substantial justice done, provided that before any variance may be authorized, however it must be shown that (a) the variance will not substantially affect the comprehensive plan of zoning in the Village and that adherence to the strict letter of the Code will cause difficulties and hardship, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan; (b) special circumstances do not apply generally to other property in the same district; (c) because of said special circumstances, property covered by the application is deprived of the privileges possessed by other property in the same district, and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
 - D. To hear and decide non-conforming use review applications in accordance with the provisions of Section 9.
3. HEARINGS BEFORE THE BOARD: Without limiting the powers with which the Board is vested by Section 7-712 of the Village Law, the Board shall hear the following classifications of cases:

- A. Variance Applications: Whenever any application or permit has been stayed or denied by the Planning Board or Village staff on the basis that approval of the requested permit or application would violate the provisions of this code relating to set back, building height, side yard, lot size, site requirements, parking requirements, or some similar provision of the Code that has the effect of depriving the applicant of the reasonable use of his property, **when** others similarly situated are entitled to make such use of their property, the Board may hear the matter, and grant a variance from the strict enforcement of this code. No such variance shall be contrary to the public interest. In reviewing applications for a variance, the Board shall insure that the spirit of this Code shall be observed and substantial justice done, provided that before any variance may be authorized, it must be shown that (a) the variance will not substantially affect the comprehensive master plan of zoning in the Village and that adherence to the strict letter of the Code will cause difficulties and hardship, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan; (b) special circumstances do not apply generally to other property in the same district; (c) because of said special circumstances, property covered by the application is deprived of the same privileges possessed by other property in the same district and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
- B. Modifications of Non-Conforming Uses: The Board shall have the power to rule on all requests for enlargements, modifications, or changes in the character of any non-conforming use, and to have hearings to determine whether the use in question is in fact non-conforming use, as opposed to a violation of the local law or an allowable use within the zone. Non-conforming uses are addressed in Section 10 of this Code.
- C. The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by a Village official in the enforcement of the Code.
- D. The Zoning Board of Appeals shall hear and decide special exceptions to the terms of this Code upon which the Board is required to pass under the Code, including variances for the preservation of historic structures.

4. MEETINGS: Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Zoning Board of Appeals may determine. The Zoning Board of Appeals shall meet at least monthly unless there are no matters to be heard.

The Zoning Board of Appeals shall keep minutes of its proceedings showing the roll call of votes upon all questions and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Village Clerk and shall be public record.

5. APPLICATION FOR VARIANCE REVIEW: An application for variance or appeal review must be filed with the Village Zoning Board of Appeals, and the required fee paid in advance. The application shall state the nature of the hardship and the nature of the variance requested. If the request for a variance is a result of a denial of any building permit or conditional use approval, the application shall so state, and all documents on file concerning the matter shall be forwarded to the Zoning Board of Appeals for review as a part of the request. The applicant or the Village may present any information as might be reasonably required by the Zoning Board of Appeals in evaluating the request.
6. HEARING: The Zoning Board of Appeals shall, upon receipt of and application for review, hold a hearing thereon as required by the Village Law.
7. DECISION: In exercising the above-mentioned powers the Zoning Board of Appeals may, in conformity with the provisions of the Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the official or board from whom the appeal is taken.
8. JUDICIAL REVIEW OF BOARD DECISION: All decisions of the Zoning Board of Appeals are subject to review pursuant to Article 78 of the civil Practice Law and Rules.

SECTION 10 - NON-CONFORMING USES

1. PURPOSE: This section describes the status of the uses of land or structures which were lawful before these regulations were passed or amended but which are now or became prohibited, restricted, or substandard. While permitting non-conforming uses, structures and improvements thereto to continue, this section is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by the Code. The purpose of the non-conforming review is to look at the impacts of the proposed changes and evaluate them based on the character of the surrounding area, traffic capacities of adjacent streets, and potential environmental effects. In addition, applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the structure and site through such measures as landscaping, building design, or the improved function of the use in relation to other uses.

2. OCCUPANCY:
 - A. Continuation: The occupancy of a building or a parcel of land by a non-conforming use existing at the time of passage of the Code may be continued.

 - B. Occupation Within Two Years: A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became non-conforming. Occupation shall mean a full resumption of the use with the intent that it continue indefinitely.

 - C. Use of Land: The non-conforming use of land existing at the effective date of this Code or amendments affecting that use may be continued, provided that no such non-conforming use of land shall in any way be expanded or extended either on the same or adjoining property except in accordance with the provisions of this section and provided that if such non-conforming use of land, or any portion thereof, is abandoned or changed for a period of one year, any future use of such land must be in conformity with the provisions of this Code.

 - D. Abandonment of Use: Any non-conforming use in existence or created by the adoption of this code is deemed abandoned by the owner of that use unless the non-conforming use and the rights established as a non-

conforming use, are exercised for at least twelve weeks during every calendar year. It shall be the obligation of the owner of such a use to provide evidence that the right to maintain the non-conforming use was so exercised by providing affidavits or other evidence of the exercise of the use upon request of the Village.

E. Change or Expansion of Non-conforming Use: Pursuant to the procedures provided in Section 9-3B of this Local Law, a non-conforming use may be:

- 1) Increased in size or expanded within a building or upon the same lot;
- 2) Changed to another non-conforming use, provided that a change in use (not a change in tenancy) requires the parking to be brought up to the standards of Section 5.

3. ADDITIONS AND ENLARGEMENT:

- A. A single non-conforming principal building upon a lot, or any accessory buildings which have less than 50% of their building area situated in the required yards, may be structurally altered, repaired, or enlarged; provided however, that any addition conforms to the setback requirements of the district in which it is located, and in the case of principal buildings, all current development requirements and conditions of this Code and other Village codes are complied with.
- B. Minor additions, alterations, or repairs to improve the appearance, safety, or efficiency of the building and which do not constitute an expansion of the use within a non-conforming building, may be permitted.
- C. A building on a non-conforming lot may be structurally altered, repaired, or enlarged to improve appearance, safety and/or efficiency, in accordance **with** the required setbacks of the district in which it is located, when the addition or alteration does not constitute an expansion of the principal use.
- D. Any building or other structure containing a non-conforming use or any non-conforming building or portion thereof declared unsafe under the Village's Building Code or other codes may be strengthened or restored to a safe condition and the use may continue.
- E. A non-conforming building or a building containing a non-conforming use which has been damaged by fire, flood, wind, or other calamity or Act of God may be restored to

its original condition, provided such work is started within twelve months of such calamity and completed within 24 months of the time the restoration is commenced, and the intensity of use is not increased or changed.

4. PROCESSING: An application for approval for changes, additions or expansions to non-conforming uses may be filed by a person having an interest in the property for which the non-conforming use is requested and shall be made on a form provided by the Village.

A. Criteria for Review: Approval of request for changes, additions, or expansions under this section shall be granted only when it can be shown that the following criteria, insofar as applicable, are met.

- 1) All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood; i.e., objectionable conditions, visual or noise pollution, vehicular traffic, or on-street parking.
- 2) All changes, additions, or expansions shall comply with all current development requirements and conditions of this section and other applicable Village codes, except as to use.
- 3) Additions to buildings will provide for storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage.
- 4) The building as it exists, and/or the land or use involved cannot reasonably be utilized under the provisions of this code, or cannot reasonably be made to conform with this code.

B. Application: Upon filing of the application, the Village shall post the property indicating that a modification of a non-conforming building or use has been filed and that more detailed information may be obtained from the Village Clerk. When modification or extension of a building only is involved, the Village Clerk shall notify by mail the owners of abutting properties. When any change, extension, or expansion of any non-conforming use is involved, all owners of properties located within 200 feet of the property lines of the land for which such application has been filed shall be notified that they may review the application during the Village's regular office hours, provided however, if a condominium is located within 200 feet of the property, notification of

the condominium management committee shall suffice for that owner. The aforementioned notice by mailing is to reasonably ensure that surrounding property owners are aware of a proposed non-conforming use being considered, but any minor omission or defect in the mailing shall in no way impair the validity of the proceedings. If any omission or defect in the mailing is brought to the attention of the Zoning Board of Appeals, at or prior to the public hearing, the Board shall consider the defect or omission prior to proceeding on the application. If the Board finds that the omission or defect impairs, or has impaired a surrounding property owner's ability to participate in the public hearing, then the Zoning Board of Appeals shall continue the public hearing on the proposed non-conforming use for at least ten days. Any omission or defect in the aforementioned notice which is not serious enough to have impaired a surrounding property owner's ability to participate in the public hearing by the Zoning Board of Appeals shall in no way impair the validity of the proceedings for the proposed non-conforming use.

- C. Notification of Abutting Property Owners: The applicant shall include with his application a list of owners of abutting properties and properties located within 200 feet of his property, along with the current mailing addresses of all such owners; provided however, if a condominium is located within 200 feet of subject property, the addresses for the condominium management committee shall suffice.

- D. Zoning Board of Appeals Hearing: Within 30 days of receipt of a complete application by the Village, and after giving public notice, the Zoning Board of Appeals shall hold a public hearing on the non-conforming use application. The Zoning Board of Appeals shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application.

SECTION 11 - MISCELLANEOUS REQUIREMENTS

1. SIGNS: The purpose and intent of this section of the Zoning Local Law addressing signs is:
 - A. To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the use of land and intensity of development permitted in the Village; to reduce hazards caused by signs overhanging or projecting onto public right-of-way, and by signs that impede or distract traffic or otherwise interfere with public safety.
 - B. To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry; and
 - C. To enhance and protect natural beauty, historic and aesthetic qualities and neighborhood values through the Village; to insure the tasteful display of signs in the high density commercial and residential area of Route 219 south and Route 242 west and to secure economic stability in property values.
 - D. The following General Standards shall be adhered to for all signs.
 - 1) Signs shall be maintained in a safe, legal, and undeteriorated condition at all times.
 - 2) Frames, poles, braces, supports, etc. must be kept painted and maintained free of weeds, brush and debris.
 - 3) Removal and Maintenance of Signs
 - a) The Zoning c.E.O. may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.
 - b) Unsafe and unlawful signs must be removed or altered within 5 days after notification by the Zoning C.E.O. In addition to any costs incurred pursuant to this paragraph, the violator may be subject to penalties as described in Section 1, No. SC of this Local Law.

- c) Other damaged or deteriorated signs must be repaired or replaced within 30 days. In addition to any costs incurred pursuant to the provisions of this paragraph, the violator may be subject to Article X, Section 10.3 penalties.
 - d) When the 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 7 days.
 - e) Any non-conforming, abandoned, unsafe or illegal sign existing on the effective date of this law shall be removed or repaired within a 5-year period, as applicable, by the owner of the premises upon which such sign is located after written notice as provided herein. Upon removal of any wall sign the surface area of the facade shall within 30 days of removal be restored to a condition substantially equivalent to the remaining portion of the face in appearance. The Zoning C.E.O., upon determining that any 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 2a-2d above from the date of such notice. Upon failure to comply with such notice within the prescribed time, the Zoning C.E.O. shall remove or cause removal of such sign, and shall assess all costs and expenses incurred in the said removal against the property on which such sign is located.
- 4) Village approval shall in no way eliminate the need for a permit from the New York State Department of Transportation (D.O.T.), when sign is visible to traffic on a State Primary route (e.g. Route 219).
 - 5) 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 "homemade" or amateurish appearance.
 - 6) Signs not requiring a permit will not be charged a permit fee. A permit fee of \$25 is required on permitted signs of 32 square feet or less. A charge of \$50 will be made on permitted signs in excess of 32 square feet.

- 7) Off premise signs will be limited to no more than a total of 3.
 - 8) At this time, the sign committee is the Village Planning Board.
- E. The following signs will not be permitted in the Village of Ellicottville.
- 1) 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", "DRIVE-IN", "DANGER" or other word, phrase, symbol or character in such a manner as to interfere **with**, mislead or confuse traffic.
 - 2) If the Zoning C.E.O. '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 of the provisions of this chapter, notice shall be given in writing by the Zoning C.E.O. to the beneficial user and owner of the premises on which sign is located. If the beneficial user/owner fails to remove or alter the structure so as to comply with the standard herein set forth within 5 days after such notice, such sign or other advertising structure may be removed or altered to comply by the Zoning c.E.o. at the expense of the owner of the property upon which it is located. The C.E.O. may cause any sign or other advertising structure **which** is an immediate peril to persons or property to be removed summarily and without notice.
 - 3) Indecent, pornographic, or defamatory signs that malign or belittle, any of the following, but not limited to; a person, product, institution, practice or belief.
 - 4) Signs that contain flashing, moving, or animated parts.
 - 5) Signs in excess of 96 square feet (equivalent of 3 - 4 1x8 I) •

- 6) 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 20 foot maximum height is not violated.
- 7) Signs painted on sidewalks, streets, or curbs.
- 8) Signs painted on buildings (including murals).
- 9) Signs higher than the building identifies or 20 feet from ground to the top of the sign; whichever is less.
- 10) Signs with more than two uprights for a sign with two faces, three uprights for a three faced sign, or four uprights for a sign with four faces (i.e. square or rectangular).

F. Signs Not Requiring a Permit: The following types of signs shall not require a permit, provided that any such sign is not illuminated and that no more than one such sign shall be located on each street or road line of a lot:

- 1) Temporary signs, consisting of:
 - a) Signs of a temporary nature, such as special events posters, political posters, banners and similar signs, provided that such signs do not overhand 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 within 24 hours after the advertised event or within 30 days from installation, whichever is earlier.
 - b) For temporary cloth signs, banners, streamers, etc. which may be suspended over, or placed on public property, see Paragraph H, page 12-8.
- 2) Signs required by law or needed for official government business or public safety and installed by local, State or Federal authority.
- 3) Non-illuminated real estate signs not exceeding 6 square feet in area which advertise the sale, rental or lease of the premises upon which such signs are located.

- 4) Nameplates not exceeding one (1) square foot in area, containing only the name of the building and name of agent.
- 5) Bulletin boards not exceeding fifteen (15) square feet in area, erected upon the premises of a church, funeral home or public institution for the purpose of displaying the name of the institution and its activities or services.
- 6) 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 32 square feet in area. In no event will more than one sign per location be allowed, and it must be removed within 48 hours after receipt of the Certificate of Occupancy.
- 7) Memorial signs or tablets, names of buildings and dates of erection, provided that such signs do not exceed two (2) square feet in area.
- 8) Any sign painted or lettered directly on a window or other necessary part of a building when the sign is inside of the building.
- 9) Neon signs in the window of a retail establishment not larger than four (4) square feet or 25% of the window area, whichever is less, provided that the sign is lit only during business hours.
- 10) Sandwich board signs meeting the following criteria:
 - a) No sandwich board sign shall be larger than six (6) square feet in area for each face or forty-eight (48) inches in height or width. Such signs shall not be higher than four (4) feet above the adjacent sidewalk or curb.
 - b) Sandwich board signs shall be designed and located so as not to be an obstruction on any public space or walkway.
 - c) Sandwich board signs shall not be illuminated and may be displayed only between sunrise and sunset. While on display, such signs shall be securely fastened so as to prevent accidental tipping or blowing over.

11) Signs not readily visible from a roadway that are necessary and proper to a commercial operation such as, but not limited to, a ski resort or golf course.

G. Upon proper application and payment of the required fee, the Zoning C.E.O. may issue sign permits for:

1) Ground Signs (other than a real estate developer's offering) which meet the following criteria:

- a) does not exceed 32 square feet in area
- b) does not contain more than three colors
- c) set back at least 60 feet from center of road
- d) is not internally illuminated

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

f) Only one sign per location is allowed. A location is defined as follows:

- 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.

- On large commercial properties requiring significant acreage, such as but not limited to, golf courses or ski resorts, 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.

- 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.

g) No ground sign shall be permitted over public property

- h) For safety and appearance, no guide wires will be allowed.
 - i) 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.
 - j) 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.
- 2) Wall signs (other than real estate developer's offering) which meets the following criteria:
- a) does not exceed 32 square feet in area
 - b) does not contain more than three colors
 - c) Structure on which mounted is set back at least 60 feet from center of road
 - d) Is not internally illuminated
 - e) Only one sign for each face of structure to which fastened is permitted
 - f) No wall sign shall cover, wholly or partially, any wall opening
 - g) No wall sign shall project beyond the ends or top of the building wall to which it is attached, nor be set out more than one foot from the face of the building to which it is attached
 - h) 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
 - i) 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.

- 3) 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 72 hours prior to the event, and must be removed within 24 hours after the event.
- H. Upon proper application and payment of the required fee, the sign committee may authorize the Zoning C.E.O. to issue sign permits for:
- 1) Temporary cloth signs, banners, 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 temporary signs shall be removed within 24 hours after the advertised event or at the end of the season if a seasonal event is advertised. The regular permit fee and permit process is waived for signs in this category.
 - 2) Ground signs (other than a real estate developer's offering) in excess of 32 square feet (but not to exceed 96 square feet) and containing one or more variances from the standards listed in this local law. However, maximum height must not exceed 20 feet.
 - 3) Wall signs (other than real estate developer's offering) same as ground signs.
 - 4) Developer's Offering - a permit for a sub-division 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 months. The permit may be renewed without payment of an additional fee. These signs which are expected to be erected for a limited time only, must meet all applicable sign requirements.
 - 5) All projecting signs:
 - a) 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 extend nearer the curb line than one (1) foot.

- b) 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.
- c) 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.
- d) Lighting shall be permitted on projecting signs, provided that illumination is concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.
- e) 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.

6) Hanging and/or Arcade Signs

- a) Every hanging or arcade sign shall be placed so that its lowest point shall be at least eight (8) feet above grade level.
- b) 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.
- c) 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.
- d) 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.**

7) Awnings and Canopies

- a) shall not exceed beyond a point 12" inside the curb line
- b) the lowest portion thereof shall not be less than 8 feet above grade level
- c) Construction of Awnings: Awnings shall be constructed of cloth or metal. However, all frames and supports shall be of metal. Every awning shall be securely attached to an supported by the building.
- d) 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 Zoning C.E.O.
- e) Advertising: No advertising shall be placed on any awning or canopy, except the name of the owner and the business, industry or pursuit conducted within the premises. Said advertising may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portions thereof.

2. CONTROL OF EXCAVATING: Where permitted in the Land Use Tables of this local law, all mining, quarrying, removal of topsoil, and sand and gravel extraction shall conform to the following requirements:

- A. The applicant must personally manage, or be responsible for the management of the activity or business for which the permit is granted.
- B. The applicant must submit to the Village Planning Board a plan of operation including final grading and seeding of the excavation site, or an approved New York State Department of Environmental Conservation Mining and Reclamation Plan.
- C. No excavation or stockpiling shall take place closer than 1,000 feet from any inhabited dwelling in existence when the NYS Mine Reclamation Permit is issued, or 1,000 feet from any adjoining property line.

- D. No excavation shall be performed or proceed to such a depth as to diminish, pollute, or impede the water available to any such person drawing water from a private well located within 2,000 feet of such excavation.
- E. During the excavation for sand, gravel or soil, the applicant shall be responsible for protection of such excavation. All excavations must either be firmly sheeted in an approved manner, or sloped and graded. Excavations made to a water producing depth, shall be sloped to a minimum grade of 1 foot vertical to 1.5 foot horizontal to mean water level. Mine faces below water level will be excavated at a slope of 1 foot vertical to 1.5 foot horizontal at the water perimeter. Excavations not made to a water-producing depth must be graded to a minimum slope of 1 foot vertical to 1.5 foot horizontal on mine faces, and graded in a manner that water will not be impounded on the mine floor. such grading shall be designed to minimize erosion and shall be covered with topsoil and overburden and revegetated.
- F. The applicant shall be required to reclaim all affected areas within one year of the expiration of the Village Permit if said Permit is not renewed. Before the issuance of a permit, the applicant shall execute and file with the Village Clerk, a performance bond, cash deposit, or other security acceptable to the Village Board in an amount to be fixed by the Village Board but not less than Two thousand dollars (\$2,000) per acre affected by any activities required to carry out mining operations but not limited to the actual excavation. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Village Board. In the event the applicant has obtained a New York State Department of Environmental Conservation Mining Permit, the Village Bonding requirements will be waived.
- G. Nothing contained in this local law shall require a person to obtain a permit to remove or prevent a person from removing topsoil, sand, gravel or subsoil from part of his lands to another part of the same premises when such removal is necessary as an accessory use or is made for the purpose of farming or improving said property.
- H. The applicant shall provide the Village Board with the proposed methods for preventing water, air and noise pollution, reducing soil erosion and minimizing the effects of mining on adjacent landowners.

3. SANITATION:

A. The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board and the Cattaraugus County Department of Health. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of New York State and Cattaraugus County Department of Health. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies.

B. The casual dumping of clean fill is permitted in the "I" zone only. Fill may be placed in a floodfringe overzone area only as permitted under the Village of Ellicottville Local Law No. 1-1987 Flood Damage Protection. No fill of any nature is permitted in the Conservation District

(C) •

A permit must be obtained for the dumping of more than 10 truck loads (approximately 100 cubic yards) of such clean fill within any twelve month period or if the owner of the land or the dumper of such fill expects or should reasonably expect that such dumping will change the character of the land surface in such a way as to adversely affect existing drainage, accessibility, or views of the property or adjacent properties.

In any case, all fill dumped in the Village of Ellicottville shall be leveled within 5 working days after being placed unless otherwise stated in the conditions of a valid Dumping Permit issued pursuant to this Section.

The owner of the land, or his agent, shall apply for a Dumping Permit, if required to the Zoning C.E.O. The application shall be made on forms available from the Zoning C.E.O. and a Proposed Site Grading Plan sufficient to illustrate the effect of the fill on drainage, accessibility and views shall accompany the application.

C. No lot, or other piece of property, other than a legally zoned Auto Repair Shop or Automobile Graveyard shall contain more than one ungaraged motor vehicle that lacks a current inspection and is not road worthy.

4. LANDSCAPING REGULATIONS:

A. The purpose and intent of this Section is:

- 1) To conserve and stabilize property values and to otherwise facilitate the creation of a convenient, attractive and harmonious community, and a healthful and pleasant environment by requiring the landscaping of all developments including off-street parking and loading areas.
- 2) To establish minimum standards and criteria for the landscaping of all nonresidential developments, to prevent the unnecessary clearing and disturbing of land and trees, to preserve the natural and existing growth of flora, and to replace removed flora or place new flora indigenous to the Western New York region.
- 3) To relieve the stark, congested and paved appearance of commercial and industrial areas, and reduce the effects of traffic noise and glare.
- 4) Provide unpaved areas for the absorption of surface waters and to prevent soil erosion.
- 5) Reduce the level of carbon dioxide and return pure oxygen to the atmosphere.

B. Applicability of Landscaping Regulations

- 1) Landscaped area is defined as the area required or permitted under this Section to be devoted to landscaping and environmental improvement, which may include existing and new vegetation, fences and walls for screening and contouring purposes, berms, lighting, street furnishings and ornamental features which are integrated with the vegetation.
- 2) The provisions of this Section are applicable to every lot with respect to which a Zoning and/or a Building Permit is required, in every District except the C zone, which shall be exempt from these requirements. MPD's shall be subject to this requirement regardless of District.

C. Required Planting Screens, Fences and Walls

- 1) A landscape plan shall be submitted and approved as a part of conditional use review procedures. The landscape plan shall be drawn to scale, including dimensions and distances, and shall clearly

delineate existing and proposed structures, uses, parking area, access aisles, drainage pattern and the location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and including those existing plant materials that are to be removed and such other information as may be required by the Zoning Code Enforcement Officer.

- 2) Any unenclosed use such as an outdoor storage and loading or service area, trash collection area and litter receptacles or dumpsters, or any other use as may be required by this Article to be landscaped in accordance with this Section, shall provide a fence, screen or landscaping sufficient to obscure such uses from view from abutting properties lying in Residential Districts or from any public right-of-way. Parking lots shall be screened in similar fashion from abutting properties lying in Residential Districts.
- 3) Natural site features and vegetation shall be preserved and integrated into the proposed site development wherever possible. Suitable trees and shrubs shall be provided along all walks and streets, around recreation areas, and along the outer property line of the site. All new trees shall have a minimum of two (2) inch caliper measured six (6) inches above the ground. Vegetation shall be appropriate and compatible with soil and growing conditions on the development site and with the regional climate.
- 4) When tree removal is occasioned by any development or land use or change thereof requiring a site plan, the approval thereof by the Planning Board shall constitute approval to remove, cut down, kill or otherwise destroy the trees other than those designated to be preserved.

D. Fencing

- 1) A fence or wall in the "I" District shall not exceed six (6) feet in height, except where it abuts a nonresidential district, in which event it shall not exceed eight (8) feet in height. For the purpose of screening, the Planning Board may require fences, vegetation or other appropriate material in nonresidential districts where they abut residential districts to assure privacy for adjacent land uses with visual, noise and air quality factors considered. The height of all fences and walls

shall be measured from the average finished grade of the lot.

- 2) On corner lots, no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty-five feet distance from the intersection, measured along said street lines.
- 3) Any fence which is flammable or positioned in such a manner so as to be excessively disruptive to extinguishing a fire shall be prohibited.
- 4) All fences shall be maintained structurally and visually.

5. ARCHITECTURAL DESIGN GUIDELINES: The following architectural design guidelines apply to all conditional and permitted uses, in all zones within the Historic District Overlay Zone and Village Residential District.

A. Prohibited Architectural Styles and Motifs: The following architectural styles and motifs are prohibited in the Village:

- 1) A-frame structures;
- 2) Geodesic dome structures;
- 3) Mediterranean motifs;
- 4) Tudor or mock tudor (half timbering);
- 5) "Swiss" chalets;
- 6) Rustic frontier;
- 7) Other historical or period design motifs which have historical connection with the Village.

B) Prohibited Siding Materials: The following materials have proved to be unsuitable for use in the Village due to the extremes of climate, or because their appearance is such that the values of adjoining or abutting properties are adversely affected:

- 1) Thick shake shingles;

- 2) Ceramic tile;
- 3) Slump block, weeping mortar;
- 4) Simulated stone or brick, cultured stone or brick, synthetic stone products, pre-cast stone or concrete imbedded with stone fragments;
- 5) Lava rock, clinkers;
- 6) Asphalt or hardboard siding;
- 7) Plywood siding;
- 8) Aluminum siding is generally not considered an appropriate material. The Historic District Commission or Planning Board may, however, consider requests for the use of aluminum siding. The design of the structure shall be consistent with the Historic District Design Guidelines. The applicant will be required to bring a sample of the type and color of siding to be approved by the Historic District Commission. When aluminum siding is approved by the Historic District Commission, it shall have a minimum thickness of .019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard or polystyrene foam.

C. Design Ornamentation: Architectural design in the Village has historically been simple. Highly ornate buildings are inconsistent with the architectural patterns of the community, and due to the proximity of one development to another, inconsistent ornamentation may become unsightly and detract from property values. To add architectural interest to buildings, special ornamental siding materials may be used, provided that no more than 25% of any facade of the building may be covered with ornamental siding. Examples of ornamental siding, provided for information purposes only and not as a limitation, are as follows:

- 1) Fish scale cut shingles;
- 2) Half timbered stucco;
- 3) Match-sticked wood or other inlays.

D. Number of Exterior Wall Materials: Different exterior siding materials add interest to a building, and to the community as a whole. The use of too many exterior materials, however, like excessive ornamentation, detracts from the values of adjoining properties.

Exterior walls of any building may be sided with up to three different materials per building, but no more than three materials may appear on any one wall, including ornamental siding. Trim shall not be counted as a siding material, but ornamentation is counted as a siding material if trim covers more than 10% of a side of the building, it shall be counted as a siding material on that side.

E. Roofing Materials: Due to the fact that residents and visitors are frequently in a position to look down on the Village from the adjoining mountains, the appearance of roofs in the Village is of more significance than in other communities. The following roofing materials are prohibited, either because of their appearance, or because they are not likely to perform satisfactorily in the climate of the Village:

- 1) Untreated aluminum or metal (except that copper may be used);
- 2) Brightly colored roofing materials such as bright red, blue, yellow, or similar colors that are highly visible;
- 3) Except on historic renovations or reconstructions with adequate documentation, roof ornamentation such as scroll work, finials, and bead-and-dowel work are prohibited.

F. Roof Shapes: The following roof shapes are prohibited in the Village because they either do not perform well in the harsh climate, or tend to detract from the values of adjoining property:

- 1) Mansard or fake mansard roofs;
- 2) Curvalinier roofs;
- 3) Domed roofs;
- 4) Geodesic domes;
- 5) Conical roofs;
- 6) A-frame or modified A-frame roofs;
- 7) Mechanical equipment on roofs must be hidden with a visual barrier so it is not readily visible from nearby properties.

G. Skylights and Solar Panels: Skylights and solar panels must be designed to fit flush with the roof surface, or

up to a maximum of two feet above the roof's surface. No reflective materials may be used unless thoroughly shielded to prevent reflection into adjoining or nearby properties.

- H. **Window Treatments:** Windows other than rectangular windows may be used as accents and trim, but arched, rounded, or bay windows as the primary window treatment are prohibited. Untreated aluminum or metal window frames are prohibited. Windows which are appropriate for the existing style of the structure are encouraged.

6. REGULATION OF THE PLACEMENT OF SATELLITE RECEIVING:

- A. Definition: "Satellite Receiving Station" shall mean and include any accessory structure, antenna, or equipment located outside of a primary structure, the purpose of which is to receive communication or other signals from orbiting satellites and other extraterrestrial sources. The satellite receiving station includes the antenna itself, often called a satellite dish, a low noise amplifier, both typically located outdoors, and other equipment typically located indoors, with the indoor and outdoor equipment connected with cables. Height of the receiving station shall be measured from the highest point of the apparatus to the ground underneath the apparatus, with the apparatus set in its operating position. It does not include conventional UHF or VHF television antennas.
- B. Permit Required: It shall be unlawful to install any satellite receiving station without first having obtained a building permit from the Village. The installation of satellite receiving stations, unless otherwise provided in this local law, shall be deemed a permitted use, rather than a conditional use.
- C. Permit Fee: The Building Official shall charge a fee of Twenty-Five Dollars (\$25) for the review and inspection of a satellite receiving station installation.
- D. Installation standards: The following standards apply to the installation of a satellite receiving station:
- 1) Each satellite receiving station mounted on the ground shall be screened by planting masses of plant materials, shrubbery or trees, which at maturity, would be of at least the height of the satellite receiving station, and which also fill the area between the trim or browse line of trees and the ground below. When initially installed, vegetative

screening shall consist of at least three (3) ten (10) feet tall shrubs or trees; or six (6), five (5) feet tall shrubs or trees; measured from ground level when planted. Plant massing shall be placed to obscure the view of the satellite receiving station from the adjoining public street. Screening is only required where the receiving station is clearly visible from a public street, park or public golf course, including views across vacant lots that may in the future be improved, so as to obstruct the view. Screening must provide year-round coverage, such as evergreens or dense brush.

- 2) Satellite receiving stations installed on the ground must maintain all normal building setbacks and side yards applicable to the zone in which the station is located.
3. Ground based receiving stations must not be located within the front yard areas in any zone, and regardless of front yard setback, the station must be located behind the main building on the site.
4. Roof or wall mounted satellite receiving stations will be approved only if they do not extend above the ridge line of the roof or wall to which they are attached, are not located on the portion of the roof or wall fronting on any public street, and maintain normal setbacks. Roof or wall mounted receiving stations are not permitted in the Historic District.

E. Subdivision and Condominium Covenants: Many subdivision and condominium covenants may address the location of satellite receiving stations within condominium units and the lots of a subdivision. The Village is not a party to those covenants, and no permit from the Village shall have the effect of overriding or amending those covenants which might be more restrictive than this local law. Applicants for permits for the installation of satellite receiving stations are advised to determine what private land use restrictions apply to their site before applying for the permit from the Village. If the proposed installation is within the common area of a condominium or planned unit development, and the application submitted is not in the name of the Owner's Association or Management Committee, the applicant shall provide a letter from the Owner's Association or Management Committee indicating that consent to the location of the satellite receiving station within the common area has been granted as a part of the permit application filed with the Village.

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F. Cables to be Buried: Cables connecting the receiving station with the house or building to which the antenna is appurtenant shall be buried rather than installed overhead.

SECTION 12 - ADMINISTRATION AND ENFORCEMENT

1. PURPOSE: The purpose of administering and enforcing this local law is to ensure that all citizens and property owners are treated fairly, consistently and with justice, in accordance with the equal protection and due process provisions of state and federal laws and the Village's legally constituted comprehensive planning process. It is not the police power of zoning regulations along that determines the ultimate success of a community's comprehensive planning process. Such success also depends upon the community's voluntary compliance based on an understanding of the public intent of planning and the full and prompt administration and enforcement of zoning regulations in actual practice from one year to the next.
2. APPOINTMENT OF THE ZONING ENFORCEMENT OFFICER: This local law shall be administered and enforced by the Zoning Enforcement Officer who shall be appointed by the Village Board. The Zoning Code Enforcement Officer shall administer the provisions of this local law and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. He shall have no power to vary or waive local law requirements.
3. DUTIES OF THE ZONING ENFORCEMENT OFFICER:
 - A. Review and Approval. The Zoning Enforcement Officer shall:
 - 1) Have the power to review and approve all permitted use applications. No uses shall be issued by him except where all the provisions of this local law have been complied with.
 - 2) Review and make recommendations to the Planning Board, Zoning Board of Appeals and Village Board as may be requested, with regard to all applications for Conditional Uses, Site Plan approvals, Subdivision approvals and Master Planned Development (MPD) approvals.
 - 3) Review applications for proposed development to require that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required. Review applications to assure sites are safe from flooding.
 - B. Report to Village Board. The Z.E.O. shall give a monthly report to the Village Board describing and enumerating

all zoning actions that have been taken and all permits that have been issued.

C. Supervision. The Z.E.O. shall coordinate all zoning procedures and requirements with Village officials and agencies that are involved in matters that affect Village zoning.

D. Referrals of Applications. The Z.E.O. shall make the following referrals along **with** submitting all necessary supporting information:

- 1) All applications for Conditional Use Permit, site Plan approval, MPD's and Subdivision approval shall be referred to the Planning Board for its action.
- 2) All applications for Zoning Amendments shall be referred to both the Planning and Village Boards.
- 3) All applications for variances and all requests for interpretations of this local law or the Zoning Map shall be referred to the Zoning Board of Appeals.
- 4) Any applicant, after being denied a Conditional Use Permit, may appeal the Planning Board's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Z.E.O. shall notify the Chairman of the Zoning Board of Appeals of the request.

E. Site Zoning Violations. The Z.E.O. shall have authority to issue or direct the issuance of orders as follows:

- 1) The Z.E.O. or his representative may inspect plans, permits and enter any premises or building at any reasonable time to determine whether or not same is in violation of this local law.
- 2) For any plan or use on any premises that is found to be in violation of this local law, the Z.E.O. shall issue or cause to be issued an order to the responsible party, in writing, to remedy the conditions. The Z.E.o. shall have the authority to commence proceedings to punish violations pursuant to the provisions of this local law.
- 3) The Z.E.O. shall order discontinuance of any land or building that is not in its proper class or District, by issuing such order to the property owner.

- 4) The Z.E.o. shall order discontinuance of uses of land, buildings or structures or construction of buildings, structures or additions, alterations or other structural changes which are in violation of this local law or any other law. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct the violation or to comply with such order.
 - 5) If the applicant's plans do not meet zoning requirements, the Z.E.O. must deny the permit. The Z.E.O. may not interpret or use discretionary judgment with regard to the provisions of this local law. He shall enforce the "Letter of the Law".
- F.** The Z.E.O. shall compile a list of all buildings and structures that are not in compliance with the Zoning Local Law of the Village of Ellicottville as of December 31, 1991, and file same with the Village Board.
- G.** Public Record. The Z.E.O. shall keep a complete file of all applications, permits, orders, certificates, requirements and decisions affecting each and every application filed with the Village pursuant to his duties and to this local law, and a complete listing of all zoning amendments made thereto. It shall be his/her responsibility to ensure that a complete public record of all zoning actions are placed on file with the Village Clerk, including approvals and denials for Building Permits. The Village Clerk shall make all necessary notations on the Zoning Map.

Village ofEllicottville.....

Local Law No.1.....of the year 1992

A local law Establishing Fees Relating To Applications Under The Zoning Law of 1991

Be it enacted by theBoard of Trusteesof the Village of.....Ellicottville..... as follows:

The Board of Trustees of the Village of Ellicottville, having duly adopted the Zoning Law of 1991, hereby enacts the following schedule of fees:

SECTION 1. Upon the filing of a petition to change the zone of any land within the Village pursuant to Section 1-6-0 of the Zoning Law of 1991, the petitioner shall pay to the Village Clerk a fee of Two Hundred Dollars (\$200.00).

SECTION 2. Upon the filing pursuant to Section 4 of the said Zoning Law of 1991 of an application for approval of a Master Planned Development that does not require subdivision plat approval, the applicant shall pay to the Village Clerk a fee of Fifty Dollars (\$50.00). The fees for Master Planned Developments that require subdivision plat approval shall be governed by the Planning Board Subdivision Regulations.

SECTION 3. Upon the filing pursuant to Section 6 of the said Zoning Law of 1991 of an application for conditional use approval of a site plan that does not require subdivision plat approval, the applicant shall pay to the Village Clerk a fee as set forth in the following schedule:

- Residential (no subdivision required) \$50 or \$50 per dwelling unit whichever is greater
- Institutions \$100
- Group Care Facilities \$100
- Professional/Commercial \$200 or \$20 per 1000 square feet whichever is greater
- Industrial \$200 or \$10 per 1000 square feet whichever is greater
- TimeShare Projects \$200 or \$20 per unit whichever is greater
- Recreational Facilities \$200 or \$20 per room/unit, Hotel, Motel, Inn whichever is greater
- All Other Conditional Uses \$50

SECTION 4. Upon the filing pursuant to Section 9 of the said Zoning Law of 1991 of an application for variance, an interpretation or an application to modify a non-conforming use, the applicant shall pay to the Village Clerk a fee of Fifty Dollars (\$50.00).

SECTION 5. Upon submission of any proposal to construct a building or other improvement to the Zoning Code Enforcement Officer for permitted use review pursuant to Section 7 of the said Zoning Law of 1991, the applicant shall pay to the Village Clerk a fee of Ten Dollars (\$10.00).

SECTION 6. All to the applicant. fees paid pursuant to this local law are nonrefundable

SECTION 7. This local law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1.....of the year 1997

A local law imposing a temporary moratorium on the granting of building permits and other approvals for sexually oriented businesses and on the establishment, opening, operating or carrying on of any such business

Be it enacted by the Board of Trustees**of the Village of**Ellicottville.....**as follows:**

VILLAGE OF ELLICOTTVILLE

LOCAL LAW #1 FOR 1997

A LOCAL LAW IMPOSING A TEMPORARY MORATORIUM ON THE GRANTING OF BUILDING PERMITS AND OTHER APPROVALS FOR SEXUALLY ORIENTED BUSINESSES AND ON THE ESTABLISHMENT, OPENING, OPERATING OR CARRYING ON OF ANY SUCH BUSINESS

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ELLICOTTVILLE, AS FOLLOWS:

SECTION 1. TITLE: This law shall be known as the Sexually Oriented Business Moratorium Law of 1997 of the village of Ellicottville.

SECTION 2. LEGISLATIVE INTENT: The Board of Trustees of the Village of Ellicottville hereby determines that sexually oriented businesses, due to their nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located, particularly when located in close proximity to residential areas and recreational commercial areas. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be adverse to the welfare of the residents of the Village, which is primarily a residential and family oriented community as well as a recreational destination.

It is apparent to the Board of Trustees that the current zoning ordinance is not sufficient to protect the health, safety and welfare of the residents of the village in regard to the siting and operation of sexually oriented businesses and the Village Planner has been authorized to undertake a study for the purpose of analyzing the impact of sexually oriented businesses on the residents of the several zoning districts in geographical areas comprising the village.

The Board of Trustees further finds that once the aforementioned study is complete, consideration must be given to the adoption of new regulations, by amendment to the zoning ordinance or otherwise, to control the undesirable secondary effects of sexually oriented

businesses and that until the aforementioned planning process is complete and the new regulations are in place, it is necessary to impose a moratorium on the issuance of building permits and conditional use permits, on the grant of variances and on the grant of all other approvals to proposed sexually oriented businesses as hereinafter provided. This action is necessary in order to protect the public health, safety and welfare of the residents of the village of Ellicottville and to prevent the development and siting of sexually oriented businesses in a manner which would violate the intent and purpose of the aforementioned proposed regulations .

SECTION 3. DEFINITIONS: For the purposes of the Local Law, the following terms shall be defined as hereinafter provided :

Adult Bookstore/Adult Video Store: An establishment having as a substantial or significant portion of its stock-in trade any of the following: books, magazines, other periodicals, photographs, and video or audio, or other visual or audio representations and: (1) where such establishment excludes minors by reason of age; or (2) where such material. is characterized by an emphasis upon the depiction or description of sexual activities or sexual anatomical areas.

Adult Entertainment Cabaret/Theater: A public or private establishment that (1) presents or features live performances or topless dancers, strippers or exotic dancers; or (2) presents or feature films, motion pictures, video tapes in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of sexual activities or sexual anatomical areas; or (3) which establishment excludes minors by reason of age.

Massage Parlor: An establishment where, for any form of compensation, massage, alcohol rub, hot oil rub, fomentation, or similar treatment or manipulation of the human body is administered by someone other than a licensed massage therapist, medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional licensed by the State. This definition does not include, a hospital, nursing home, medical clinic, athletic Club, health club, school, spa, beauty salon or similar establishment where massage or similar therapies are offered as an incidental or accessory service and which do not receive their primary source of revenue through the administration of massages.

Sexually Oriented Business: Any use or establishment constituting an adult book store, adult video store, adult entertainment cabaret, adult theater, or massage parlor as those terms are defined herein.

SECTION 4. APPLICATION: This Local Law shall apply to all areas within the village of Ellicottville.

SECTION 5. MORATORIUM: For a period of six (6) months from the date of adoption of this Local Law, the Code Enforcement officer, Planning Board and Zoning Board of Appeals are prohibited from issuing zoning permits, building permits and conditional use approvals and from granting variances and all other approvals for the construction, renovation or occupation of any building or part thereof by any person or other entity which proposes or intends to use any part of such building for the conduct of a sexually oriented business as herein defined and all such

persons and other entities are prohibited from establishing, opening, operating or carrying on any sexually oriented business as so defined.

SECTION 6. CONFLICT WITH OTHER LAWS: This Local Law is enacted pursuant to the provisions of the Village Law and Sections 10 and 22 of the Municipal Home Rule Law of the State of New York and specifically supersedes any section of the Zoning Ordinance of the village of Ellicottville and of the Village Law or any other law which require that the Code Enforcement Officer, Planning Board or Zoning Board of Appeals act upon applications within limited time periods.

SECTION 7. EFFECTIVE DATE: This Local Law shall take effect immediately and shall remain in force and effect for a period of six (6) months from the date of its adoption by the Board of Trustees of the village of Ellicottville.

Village of.....Ellicottville.....

Local Law No.....3..... **of the year 1997**

A local law to Amend Section 1-10 of the Village of Ellicottville Zoning Local Law #1 of 1991

Be it enacted by theBoard of Trustees**of the**

Village of.....Ellicottville.....**as follows:**

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

SECTION 1. Purpose. The premises described in Section 2 were zoned for industrial use pursuant to an amendment to the Village Zoning Law enacted by the Board of Trustees in August, 1989. The Village of Ellicottville Zoning Local Law #1 of 1991 changed the zoning of said premises from Industrial Zone to Residential Medium Density District. The said premises are adjacent to premises in the Town of Ellicottville which are presently zoned for industrial use and the premises in both the said Town and Village are under common ownership. A manufacturing concern is presently located on the premises located in the Town and expansion of said manufacturing concern is planned which will require use of the said premises in the village of Ellicottville. In view of the prior zoning of the premises for industrial use, the adjacent Industrial Zone in the Town of Ellicottville, and the economic benefit to the village of Ellicottville arising from the planned expansion of the manufacturing concern, it is in the best interest of the Village to adopt the zoning change set forth in Section 2 hereof.

SECTION 2. Section 1-10 of the village of Ellicottville zoning Local Law #1 of 1991 is hereby amended to change the designation of the following described premises from Residential-Medium Density District to Industrial Zone:

ALL THAT TRACT OR PARCEL OF LAND situate in the village of Ellicottville, County of Cattaraugus and State of New York, being part of Lot 56, Township 4, Range 6 of the Holland Land Company's survey bounded and described as follows:

Commencing at an iron on the southeast bounds of Parkside Drive, said iron being 248.09 feet northwesterly of the intersection of the center of Main Street with the southeast bounds of Parkside Drive; thence northeasterly turning a counter-clockwise angle of 90 degrees a distance of 71.88 feet to an iron; thence northwesterly turning a clockwise angle of 90 degrees 10 minutes 00 seconds a distance of 25.0 feet to an iron; thence northeasterly turning a clockwise angle of 241 degrees 59 minutes 00 seconds a distance of 66.0 feet to an iron; thence northwesterly turning a clockwise angle of 118 degrees 01 minutes 00 seconds a distance of 66.0 feet to an iron, at the northwesterly corner of C.H. Matteson, said iron being the point of beginning; thence northeasterly turning a counter-clockwise angle of 117 degrees 35 minutes 10 seconds a distance of 118.98 feet to an iron in the east bounds of the village of Ellicottville; thence northerly turning a clockwise angle of 118 degrees 17 minutes 30 seconds along the east bounds of said Village a distance of 1,039.3 feet to a point in the south bounds of the Cattaraugus County Extension Service Association as recorded in Liber 585 of Deeds at Page 409; thence westerly turning a clockwise angle of 85 degrees 03 minutes 40 seconds along said south bounds of the Cattaraugus County Extension Service Association a distance of 88.64 feet to an iron; thence southerly turning a clockwise angle of 93 degrees 48 minutes

50 seconds a distance of 429 feet to an iron; thence continuing southerly a clockwise angle of 183 degrees 17 minutes 10 seconds a distance of 659.59 feet to an iron at the point of beginning containing 2.17 acres more or less.

SECTION 3. This local law shall take effect upon filing in the office of the Secretary of State.

Village of.....Ellicottville.....

Local Law No.....5.....**of the year 1997**

A local law extending the temporary moratorium on the granting of building permits and other approvals for sexually oriented businesses and on the establishment, opening, operating or carrying on of any such business.

Be it enacted by the Board of Trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

SECTION 1. Legislative Intent: The Board of Trustees enacted Local Law #1 for 1997 which imposed a six (6) month moratorium on the granting of building permits and other approvals for sexually oriented businesses and on the establishment, opening, operating or carrying on of any such business. The six (6) month moratorium was intended to allow for a study analyzing the impact of sexually oriented businesses on the residents of the Village. The study is being prepared by the Village Planner and is not yet complete. It is therefore necessary to extend the sexually oriented business moratorium for an additional three (3) months to allow for completion of the study and review by the Village Board of Trustees.

SECTION 2. Moratorium Extension: The provisions of the Local Law #1 for 1997 shall remain in full force and effect for an additional three (3) month period with said three (3) month extension to commence upon the expiration of the six (6) month moratorium originally created by said Local Law #1 for 1997.

SECTION 3. Effective Date: This Local Law shall take effect immediately.

Village of.....Ellicottville.....

Local Law No.....1..... of the year 1998

A local law amending Zoning Law #1 of the year 1991.

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

VILLAGE OF ELLICOTTVILLE

Local Law No. 1 of the year1998

A local law amending Zoning Law #1 of the year 1991.

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

SECTION 1. Legislative Intent. In April of 1997, the Village Board directed the Village Planner to conduct a study of the potential detrimental effects to the village if adult uses were to be established in close proximity to sensitive land uses. At the present time, there are no land uses in the village that could be classified as "adult uses". After careful review of the study prepared by the Planner, the Village Board does hereby find that adult uses could result in potential adverse effects on the village's residential areas as well as its schools, places of worship, parks and other designated open space areas, historic and scenic resources, and civic and cultural facilities.

SECTION 2. SEOR Determination.TheVillageBoard of Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on April 28, 1997.

SECTION 3. Application. This local law shall apply to all areas of the village of Ellicottville .

SECTION 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law even shall not affect the validity of any other part of this local law which can be given effect within such part or parts

SECTION 5. Amendments to the Zoning Law. The following changes to Local Law #1 of the year 1991 of the village of Ellicottville are hereby made:

A. That Section 2 of said Local Law entitled Definitions shall be amended by adding the following definitions: ADULT USES - Whenever used in this local law, the words "adult use" or "adult uses" apply to the following types of establishments:

- (a) Adult bookstore: An establishment which has as a substantial or significant portion of its stock in trade, books, pamphlets, magazines and other periodicals, sculptures,

photographs, pictures, slides, videotapes, films, or sound recordings and which establishment excludes any minor by reason of age.

(b) Adult entertainment cabaret. A public or private nightclub, bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.

(c) Adult video store. An establishment having as a substantial or significant portion of its stock in trade, videotapes or films for sale or viewing on premises by use of motion picture devices, video equipment or other coin operated means, and which establishment excludes any minor by reason of age.

(d) Peep show. A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

(e) Massage establishment. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

(f) Adult motel. A motel which excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age .

(g) Adult theater. A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.

(h) Body painting studio. An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.

(i) Adult model studio. Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established in the New

York State Education Law for the issuance of conferring of, and is in fact authorized to issue and confer a diploma.

SCHOOL - A facility, either public or private that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, and/or high schools.

HOUSE OF WORSHIP - An institution that people regularly attend or reside in to participate in or hold religious services, meetings, or other activities. A house of worship includes churches, synagogues, temples, monasteries, and convents.

PARK - Any public or private land available for recreational, educational, cultural, or aesthetic use.

CIVIC FACILITY - Buildings, structures, and uses owned and operated by the village of Ellicottville and regularly used for neighborhood meetings and other forms of public assembly.

HISTORIC RESOURCE - Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

SCENIC RESOURCE - Any road, highway, lane, district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law. Any area designated a Scenic Area of Statewide Significance pursuant to New York State's Coastal Management Program (19 NYCRR 602.5).

B. That Section 3 of Local Law #1 of 1991 Subdivision 7 entitled Industrial Zone (I) paragraphs A. Purpose and B. Uses shall be amended as follows:

(1) Paragraph A. Purpose shall have the following sentence added: "Adult uses shall be a conditional use in the Industrial Zone."

(2) Paragraph B Uses shall have its first

sentence amended to read: Respective uses within the zone are

manufacturing, fabrication, processing, storage warehousing,

wholesale distribution, and adult uses (adult uses is a conditional use).

c. That the following shall be added to Section 3 Subdivision 10 of the said Local Law #1 entitled Schedule of 10 # Requirements - Land Use Tables:

USE DESCRIPTION	C	VR	LD	VMD	HD	VC	I
ADULT USES	NP	NP	NP	NP	NP	NP	C

D. Section 11 of the said Local Law #1 of 1991 entitled Miscellaneous Requirements is hereby amended by adding

the following as Subsection 7:

7. Adult Uses

- A. Adult uses, due to their nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located, particularly when located in close proximity to residential areas and recreational commercial areas. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be inconsistent with the village as a primarily residential and family oriented community as well as a recreational destination. Such uses can contribute to the blighting or downgrading of areas in which they are located as a result of their related potential for an increase in crime and the undermining of the economic, moral and social welfare of the community. The special regulations deemed necessary to control the undesirable secondary effects arising from adult uses are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of the residential community. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to adult uses.
- B. No adult use shall be established except upon the receipt of a Conditional Use approval from the Planning Board in accordance with Section 6 of this local law and the provisions herein. All adult uses shall only be allowed in the district(s) as identified in the Land Use Tables of this local law. An adult use shall also conform to the following requirements:

- 1) An adult use shall not be located within a three hundred foot radius of any property currently in residential use.
- 2) No adult use shall be located within a five-hundred foot radius of another adult use.
- 3) No adult use shall be located within a five hundred foot radius of any house of worship, school, day care center, park or playground, civic facility, or historic resource.
- 4) No more than one adult use shall be located on any lot.

5) No adult use shall be located in any building that is used in whole or part for residential uses.

6) All building openings, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.

7) As a condition of approval of any adult use, there shall be a restriction that there shall be no outdoor, sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such sign shall be reviewed by the Planning Board in conjunction with the conditional Use application and shall conform to all signage requirements of said this local law as per Section 11-1 SIGNS.

8) No loudspeakers or sound equipment shall be used by adult uses that can be heard by the public from outside the establishment.

Section 6. Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.

Village of.....Ellicottville.....

Local Law No.3.....of the year 1998

A local law amending Zoning Law #1 of the year 1991

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

LOCAL LAW NO. 3 OF THE YEAR 1998

A local law amending Zoning Law # 1 of the year 1991.

SECTION 1. SEQR Determination. The Village Board of

Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on November 9, 1998.

SECTION 2. Application. This local law shall apply to all areas of the Village of Ellicottville.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect within such part or parte.

SECTION 4. Amendments to the Zoning Law. The following amendments to Local Law #1 of the year 1991 of the Village of Ellicottville are hereby enacted:

A. That the definitions of the words Fence and Structure as set forth in Section 2 of said Local Law entitled Definitions are amended to read as follows:

Fence: A structure constructed for reasons of privacy, security, aesthetics, or delineating property boundaries which is located in such a manner as to separate or divide areas. Includes, without limitation to the foregoing, hedges and masonry walls and may or may not be sight obscuring or light tight.

Structure: Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground and which imposes an impervious material on or above the ground. Definition includes "building". All structures, with the exception of fences, must maintain the minimum set-backs for the district in which they are located, both above and below the ground.

B. That Section 11 of Local Law #1 of 1991 Subdivision 4 entitled Landscaping Regulations Paragraph D. Fencing shall be amended by repealing paragraphs 1) and 2), renumbering paragraphs 3) and 4) to be 8) and 9) and adding the following paragraphs

1), 2), 3), 4), 5), 6) and 7) so that the amended Paragraph D. Fencing Shall read as follows:

D. Fencing

1) A11 fences proposed to be constructed within the required front yard, and all fences located along the edge of a public right-of way, shall require & zoning permit. The zoning permit application shall be accompanied by a sketch indicating the proposed location of the fence in relation to buildings, streets and property lines.

2) No fence or wall shall be placed upon the public right-of-way.

3) Fences that obstruction shall not result encroach in visual upon the an required front yard (front setback) or extend further than the front line of an existing house, whichever is closer to the RIGHT OF WAY.

4) No fence or wall in a residential district shall exceed six (6) feet in height, except where it abuts a non-residential use, in which event it shall not exceed eight (8) feet in height and except that a fence or wall not exceeding twelve (12) feet in height enclosing a tennis court shall be permitted.

5) For the purpose of screening, the Planning Board may require fences, vegetation or other appropriate material where non residential uses abut residential uses to ensure privacy for adjacent land uses with visual, noise and air quality factors considered. Fences or walls on non residential properties abutting the residential properties shall not exceed eight (8) feet in height.

6) The height of fences and walls shall be measured from average finished grade.

7) Vision. Clear vision shall be maintained on corner lots with triangle formed between points on the front side lot lines 35' from the intersection of the edges of pavement. Within that area no fence, hedge, wall, gate or other structure that obstructs visibility from motor vehicles shall be permitted higher than two (2) feet above average finished grade.

8) Any fence which is flammable or positioned in such a manner 80 as to be excessively disruptive to extinguishing a fire shall be prohibited.

9) All fences shall be maintained structurally and visually.

SECTION 5 Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.

Village of.....Ellicottville.....

Local Law No.....2.....of the year 2004

A local law to amend Section 1-10 of the Village of Ellicottville Zoning Local Law #1 of 1991

Be it enacted by theBoard of Trustees.....of the

Village of.....Ellicottville.....as follows:

LOCAL LAW NO. 2 OF THE YEAR 2004

Section 1. Purpose. 1378 Group LLC has submitted a petition for rezoning of the premises hereinafter described from Industrial Zone to Village Commercial in order to construct a hotel on the premises. The premises are being purchased by 1378 Group LLC from Fitzpatrick & Weller, Inc. contingent on the zoning change and Fitzpatrick & Weller, Inc. by its President, Gerard Fitzpatrick, has submitted a letter to the Village authorizing the petition for rezoning of the premises from Industrial Zone to Village Commercial Zone. The premises are now adjacent to the Village Commercial Zone on three sides and the Village Comprehensive P that the premises be rezoned from Industrial to Village Commercial. Besides being consistent with the Village Comprehensive Plan, construction of a commercial use on the premises such as a hotel as proposed by the applicant will be an economic benefit to the Village and it is in the best interest of the Village to adopt the proposed zoning change.

Section 2. SEQR Determination. The Village Board of Trustees determined as lead agency pursuant to the State Environmental Quality Review Act (SEQR) that passage of this Local Law will not have a significant effect on the environment and thereby issued a negative declaration on October 18 , 2004.

Section 3. Section 1-10 of the Village of Ellicottville Zoning Local Law #1 of 1991 is hereby amended to change the designation of the following described premises from Industrial Zone to Village Commercial Zone:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND situate in the Village of Ellicottville, County of Cattaraugus and State of New York, bounded and described as follows:

PARCEL 1 (NORTHERLY LOT)

Beginning at a point on the southwesterly bounds of Mill Street, said point being located S 47° 08' 51" E, a distance of 100.00 feet from the intersection of the southwesterly bounds of Mill Street with the southeasterly bounds of Washington Street;

Thence, along the southwesterly bounds of Mill Street, S 47° 08' 51" E a distance of 107.63 feet to a point on the northwesterly bounds of a public alley known as Maybee Alley;

Thence, along the northwesterly bounds of said alley, S 60° 22' 31" W a distance of 252.71 feet to a point;

Thence N 19° 25' 29" a distance of 122.13 feet to a point;

Thence, N 29° 37' 29" W a distance of 77.80 feet to a point on the southeasterly bounds of Washington Street;

Thence, along the southeasterly bounds of Washington Street, N 60° 22' 31" E a distance of 10.00 feet to a point;

Thence, perpendicular to Washington Street, S 29° 37' 29" E a distance of 90.17 feet to a point;

Thence, N 61° 57'03" E a distance of 188.75 feet to the point of beginning.

Containing 0.5693 acres (24798.5861 sq. ft.) of land more or less.

PARCEL 2 (PUBLIC ALLEY KNOWN AS MAYBEE ALLEY)

Beginning at a point on the southwesterly bounds of Mill Street, said point being located S 47° 08' 51" E a distance of 207.63 feet from the intersection of the southwesterly bounds of Mill Street with the southeasterly bounds of Washington Street, said point also being the northeasterly corner of a public alley known as Maybee Alley;

Thence, along the southwesterly bounds of Mill Street, S 47° 08' 51" E a distance of 17.30 feet to a point at the southeasterly corner of said alley;

Thence, along the southeasterly bounds of said alley, S 60° 22' 31" W a distance of 340.00 feet to a point;

Thence, N 13° 26'08" W a distance of 17.18 feet to a point on the northwesterly bounds of said alley;

Thence, along the northwesterly bounds of said alley, N 60° 22'31" E a distance of 330.00 feet to the point of beginning.

Containing 0.1269 acres (5527.5000 sq. ft.) of land more or less.

PARCEL 3 (SOUTHERLY LOT)

Beginning at a point on the southwesterly bounds of Mill Street, said point being located S 47° 08' 51" E a distance of 224.93 feet from the intersection of the southwesterly bounds of Mill Street with the southeasterly bounds of Washington Street, said point also being the southeasterly corner of a public alley known as Maybee Alley;

Thence, along the southwesterly bounds of Mill Street, S 47° 08' 51" E a distance of 126.69 feet to a point in the centerline of Great Valley Creek;

Thence, along the centerline of Great Valley Creek, in a downstream direction, the following four courses and distances;

- 1.) S 27° 49' 10" W a distance of 97.05 feet to a point;
- 2.) Thence, S 35° 01' 07" W a distance of 92.23 feet to a point;
- 3.) Thence, S 49° 21' 54" W a distance of 97.42 feet to a point;
- 4.) Thence, S 63° 48' 04" W a distance of 173.99 feet to a point;

Thence, N 77° 42' 08" W a distance of 34.03 feet to a point in the centerline of Elk Creek;

Thence, along the centerline of Elk Creek, in an upstream direction the following four courses and distances:

- 1.) N 31° 06' 25" W a distance of 27.86 feet to a point;
- 2.) Thence, N 08° 40' 55" W a distance of 51.52 feet to a point;
- 3.) Thence, N 04° 23' 47" W a distance of 80.68 feet to a point;
- 4.) Thence, N 06° 41' 42" W a distance of 53.26 feet to a point at the intersection of the centerline of Elk Creek with the southeasterly bounds of the aforementioned public alley;

Thence, along the southeasterly bounds of said alley, N 60° 22' 31" E a distance of 348.80 feet to the point of beginning.

Containing 1.9635 acres (85528.8519 sq. ft.) of land more or less.

PROVIDED, HOWEVER, that the Floodway and Floodway Fringe-Over District of Great Valley Creek and Elk Creek shall be maintained as currently zoned in regard to the foregoing three parcels.

Section 4. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not effect the validity of any other part of this Local Law which can be given effect within such part or parts.

Section 5. Repeal. All Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 6. Effective Date. This Local Law shall take effect immediately upon filing in the office of the New York Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Village of Ellicottville

Local Law No..... 1 **of the year 2005**

A local law amending the Zoning Local Law of 1991 to provide for a comprehensive Zoning SPlan of the village of Ellicottville ana "Adopting an Official Zoning Map for the Village of Ellicottville.

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

See attached Local Law

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LOCAL LAW NO. 2 OF 2005-SUBDIVISION REGULATIONS

**Subdivision Regulations
Procedures for Subdivision Review**

Local Law No. 1 of 2005

A LOCAL LAW AMENDING THE ZONING LOCAL LAW OF 1991 TO PROVIDE FOR A COMPREHENSIVE ZONING PLAN OF THE VILLAGE OF ELLICOTTVILLE AND ADOPTING AN OFFICIAL ZONING MAP FOR THE VILLAGE OF ELLICOTTVILLE, NY.

SECTION 1 - GENERAL PROVISIONS & PROCEDURES

1. Authority

Pursuant to the authority conferred by Article VI-A of the Village Law of 1901 of the State of New York, and by Article 7 of the Village Law of 1972 of the State of New York, and for each of the purposes specified therein, the Board of Trustees of the Village of Ellicottville, County of Cattaraugus, New York, pursuant to the authority conferred by Subdivision 2 of Section 10 of the Municipal Home Rule Law of the State of New York, 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 Ellicottville.

2. Short Title

This ordinance shall be known as the Village of Ellicottville Zoning Local Law, and is referred to herein as this Code or the Code.

Statement of Purpose

This Code is designed and enacted to implement the objectives of the Village of Ellicottville Comprehensive Plan and to promote the general health and welfare of the present and future inhabitants of the Village, and to protect property values of the Town and the neighborhoods within the Village and to create an atmosphere attractive to visitors and residents. It is the intention of the Village in adopting this Code to fully exercise all of the powers granted to the Village by the provisions of New York State law, and all other powers granted by statute or by common law for the regulation of land uses and improvements. The intention of the Village is to assure the proper and sensitive development of land within the Village of Ellicottville to protect and enhance the quality of life in general. The Code is intended to allow development in a manner that encourages the preservation of scenic values, historic structures, the unique urban scale of original Ellicottville, and provides for well planned commercial and residential centers, smooth traffic circulation, and efficient delivery of municipal services. The Code seeks to prevent development that adds to existing geologic hazards, erosion, flooding, or other conditions that create potential dangers to life and safety of the community or detract from the quality of life in the community.

HEA **Conflict**

The provisions of this Code are in addition to all other Village ordinances, the Laws of the State of New York, the Laws of the United States, and applicable common law. This Code shall not supersede any private land use regulation in deeds or covenants that are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

5. Effect of Previous Local Laws and Maps

The existing zoning ordinances of the Village of Ellicottville, including the official zoning maps adopted with those local laws, are hereby amended **in** their entirety to conform to the provisions of this Code, provided that this Code is a continuation of those existing local laws, and not a new enactment, in so far as the substance of the old and new provisions are the same. This Code shall not be construed as affecting the term of office of any board or commission member appointed under the prior enactment. Structures built to the adoption of this local law, or for which building permits were issued and on which work commences as required under the permit shall, to the extent they do not conform to this local law, be considered as non-conforming uses, and shall not be affected hereby. Uses which were non-conforming under the old enactments shall not be affected by this Code, unless the Code is changed in a manner that makes the use conforming to the zone.

6. Creation of Zoning Districts and Zoning Map

- A. In order to carry out the purposes of this Code, zoning districts have been established as set forth in Section 3 of this Code.
- B. The locations and boundaries of the aforesaid zoning districts are, hereby established on a scaled map, entitled "Village of Ellicottville Zoning Map," which is kept on file by the Village Clerk. This map is hereby made a part of this zoning law and shall have the same force and effect as if the zoning map together with all notations, references and other information shown thereon were fully set forth and described herein.

7. Interpretation of Zoning District Boundaries

- A. The zoning district boundary lines are intended to conform to existing property boundary lines, except when boundary lines follow a right-of-way line. However, when district boundary lines are located by specific dimensions, the dimensions shall control.
- B. Where the zoning district boundary lines approximately follow the lot lines as they exist at the date of adoption of the Code, the district lines shall conform to the lot lines.

- C. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines.

8. Lots Located in More Than One Zoning District

- A. If a lot is divided into more than one zoning district, the regulations for each zoning district shall govern each portion of the lot, provided, however, that each portion of the lot separately conforms to all regulations of the applicable zoning district. In the event that the lot cannot conform to all regulations for each zoning district, the regulations for the district in which the greater part of the lot lies shall govern.
- B. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.
- C. Notwithstanding the two previous provisions, if any portion of a lot is located in a Conservation District, the regulations of the Conservation District shall apply to the entire part of the lot which is included in that District.

9. More Than One Principal Use per Lot

- A. Other than a single family dwelling, more than one structure containing a principal permitted or special permitted use may be allowed on a single lot, provided that the yard and other requirements of this zoning ordinance shall be met for each structure, as if they were located on individual lots. Where otherwise allowed in this zoning ordinance, one principal building may contain more than one allowable use, such as offices and retail uses.

10. Zoning Map Adoption

The zoning map for the Village of Ellicottville as presented to the Village Board of Trustees and executed by the Mayor is the official map for Ellicottville. Upon amendment to the zoning map, the Mayor shall execute a new map, or re-execute the existing map with the amendments noted thereon.

11. State Environmental Quality Review

Prior to final action on any application that is required by this Code, the Village Board, Planning Board, Zoning Board of Appeals and any other authorized reviewing agency or board shall fully comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA).

12. County Referral

Pursuant to the provisions of Section 239m of NYS General Municipal Law, prior to final action on any application that is required by this Code, the Village Board, Planning Board, Zoning Board of Appeals and any other authorized reviewing agency or board shall refer all applicable pending applications to the Cattaraugus County Planning Board for its review and recommendation.

13. Permits

All departments, officials and public employees of the Village of Ellicottville who are vested with the duty or authority to issue permits shall conform to the provisions of this Code, and shall issue permits only in conformance with the provisions of this Code.

14. Variances

Any variances from this Code shall be granted by the Zoning Board of Appeals pursuant to the provisions of Section 7-712-b of NYS Village Law and Section 19 of this Code prior to issuance of any Special (Conditional) Use permit, site plan review, master plan development, or other approval by the Planning Board. All action on an application shall be stayed until the applicant shall have obtained the variance or the request for the variance has been denied by the Zoning Board of Appeals. Appeals from final decisions of the Board of Appeals shall be made only, consistent with NYS Village Law, to the Supreme Court for review by a proceeding under Article seventy-eight of the Civil Practice Law and Rules.

15. Appearances Before the Village Board, Planning Board and Zoning Board of Appeals

All persons appearing before any Village agency, department, commission or board of the Village Board shall on behalf of the owners or any project shall provide reasonable evidence of their agency relationship with the owner. Any Village agency, department, commission or board of the Village Board may request other persons appearing before that body to provide a statement signed by the owner indicating the nature of the relationship and the authority of the agent to represent the owner to make decisions or representations concerning the project.

16. Fees

A. A schedule of fees for all permits and applications required by this Code shall be established by the Village Board. The Village Board may change the fee schedule from time to time. An application shall not be considered complete for processing and action before any Village agency, department, commission or board of the Village Board until all applicable fees have been paid in full.

- B. **SEQRA fees.** Fees may be required by the Village pursuant to Section 617.13 of 6 NYCRR Part 617, the New York State Environmental Quality Review Act (SEQRA). The Village shall charge a fee to the applicant to cover the actual costs of preparing or reviewing a draft and/or final Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If the applicant prepares the EIS, the Village shall charge the applicant for the actual cost of the review. If the applicant does not prepare the EIS, the Village shall charge the applicant for the actual cost of preparing the EIS.

17. Court Review

Pursuant to the laws of the State of New York, any person or persons, jointly or severally aggrieved by any decision of the Village Board, Zoning Board of Appeals, the Planning Board or any officer, department, board or bureau of the Village, pursuant to this Code, may apply to the Supreme Court for review by a proceeding under Article seventy-eight of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the Village Clerk.

18. Separability

If any part or provision of this ordinance or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances and the Village Board hereby declares that it would have enacted this ordinance or the remainder thereof had the invalidity of such provision or application thereof been apparent.

19. Copy of Update to Date Book of Codes on File

A certified copy of the Code shall be on file in the office of the Village Clerk and the Code Enforcement Officer of the Village of Ellicottville for use and examination by the public. Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the Village of Ellicottville Zoning Ordinance or the Code, when enacted or adopted in such form as to indicate the intention of the Village Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, subsequent to the enactment of this local law, they shall thereafter be printed and inserted in the book containing said Code as amendments and supplements thereto. It shall be the duty of the Village Clerk to keep up-to-date the certified copy of the book containing the Code of the Village of Ellicottville required to be filed in the office of the Village Clerk for use by the public.

SECTION 2 - DEFINITIONS

1. Rules

The following rules shall apply to interpreting the text of this ordinance:

- A. Words used in the present tense shall include the future.
- B. Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- C. Words used in the masculine form shall include the feminine.
- D. The word "shall" is mandatory. The word "may" is permissive.
- E. The word "lot" shall include the words "plot," "piece," and "parcel."
- F. The word "person" shall include an individual, firm, trust, partnership, association or corporation.
- G. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- H. The phrases "to erect," "to construct," and "to build" a building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.

2. Def'nitions

The following words and terms, wherever they occur in this zoning ordinance, shall be interpreted as herein defined. Words used in this ordinance but not defined herein shall have the meaning as defined in any other local law, ordinance, or code adopted by the Village, laws and regulations of NYS and associated agencies, words or terms in common usage (as defined by the American Planning Association's most current edition of "A Planners Dictionary"), if they are not otherwise defined in Village law.

ACCESS: The provision of vehicular and/or pedestrian ingress and egress to structures or facilities.

ACCESSORY BUILDING: A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is (1) clearly incidental to, and customarily found in connection with such principal building, or use and (2) is operated and maintained for the benefit of convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.

ACCESSORY USE: A structure or use that (1) is subordinate in area, extent, and purpose to the principal use and clearly incidental to and customarily found in connection with the principal building; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot as the principal use or on a contiguous lot under the same ownership.

ADULT BOOKSTORE/ADULT VIDEO STORE: An establishment having as a substantial or significant portion of its stock-in-trade, books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, video tapes, films, or sound recordings and which establishment excludes any minor by reason of age.

ADULT ENTERTAINMENT CABARET/THEATER: A public or private nightclub, bar, restaurant, theater or similar establishment which presents topless or bottomless dancers, go-go dancers, strippers, male or female impersonators, exotic dancers, motion pictures, films, video tapes or slide shows, and which establishment excludes any minor by reason of age.

ADULT MODEL STUDIO: Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by any person other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established by the New York State Education Law for the issuance of diplomas and is in fact authorized to issue and confer diplomas.

ADULT MOTEL/HOTEL: A motel or hotel which excludes minors by reason of age, and/or which rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

ADULT PAINTING STUDIO: An establishment or business which provides the service of applying paint or other substance whether transparent or non-transparent to or on the human body and which excludes any minor by reason of age.

ADULT USE: Any use or establishment constituting an adult book store, adult video store, adult entertainment cabaret, adult theater, peep show, massage establishment, adult motel or hotel, body painting studio, or adult model studio as defined herein.

AGRICULTURE: The use of land for the growing of plants and crops in the open or in a greenhouse, including any necessary accessory structures, but not including the processing of the agricultural product. Types of agriculture include, but are not necessarily limited to, horticulture, floriculture, viticulture, production of maple syrup and maple sugar, tree fanns, and mushroom fanns. The sorting, cleaning, packing, and storing of crops grown on the site, preparatory to sale and/or shipment in their natural form, shall be considered to be an allowable accessory use to an agricultural use.

AGRICULTURAL PROCESSING: A building, facility, area, open or enclosed, or any location for the refinement, treatment, or conversion of agricultural products where physical, chemical or similar change of an agricultural product occurs. Examples of agricultural processing include, but are not limited to, fruit dehydrators, cold storage houses, hulling operations, and canning, and include all uses customarily incidental thereto. Agricultural processing shall not include manufacturing of secondary products using agricultural products,

such as commercial kitchens, bakeries, breweries, woodworking, sawmills and wood processing plants. "Agricultural processing" shall not include "commercial slaughterhouses."

AGRICULTURAL STORAGE STRUCTURES: A storage or maintenance building used in the operation of an agricultural industry or business.

AIRPORT, COMMERCIAL: Any area of land or water designed and set aside for the landing and take-off of commercial and/or private aircraft for hire. A commercial airport may include all necessary facilities for the housing, operation and maintenance of aircraft.

AIRPORT, PRIVATE: Any area of land or water designed and set aside for the landing and take-off of private aircraft, without compensation. A private airport may include all necessary facilities for the housing, operation and maintenance of aircraft.

ALLEY: A public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street.

ANIMAL HOSPITAL (Also see "VETERINARY CLINIC" definition):

ALTERATION: Other than incidental repairs, any change, addition, or modification to a building or structure, including, but not limited to, (1) rearrangement in the structural members, such as bearing walls, columns, beams, or girders (2) any change in size or number of windows and/or doors (3) stairways or exit facilities (4) electrical or plumbing systems (5) or an enlargement, whether by extending on a side or by increasing in height, (6) or the moving of the building or structure from one location or position to another.

APARTMENT: (See also "dwelling unit" definition) A room or suite in a two-family dwelling unit, duplex, multi-family dwelling, apartment house or complex, or commercial building, in which each suite is arranged, intended, and designed to be occupied as a residence of a single family or individual, and which has only one complete kitchen and at least one complete bathroom.

APARTMENT HOUSE / APARTMENT COMPLEX: (See also "dwelling, multi-family definition.) Any building or portion thereof containing three or more dwelling units.

APPEAL: An application to the zoning board of appeals to reverse, wholly or partly, an order, requirement, determination, or decision of the zoning official who is charged with the enforcement of this zoning ordinance.

AREA OF SPECIAL FLOOD HAZARD (Also see "SPECIAL FLOOD HAZARD AREA" definition): The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is also commonly referred to as the base floodplain or 100-year floodplain; and includes the Floodway District and Floodway Fringe Overlay District.

APPLICANT: The owner of land who applies for a zoning permit or any other approval required under this Code, or his/her authorized representative.

ARTERIAL: A road intended to move through traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators with the governmental unit; and/or as a route for traffic between communities or large areas.

ATTACHED BUILDING (See "Detached" definition): Units connected on one or more side to an adjacent unit or units by a common party wall with separate exterior entrance for all unit(s). This shall apply to commercial as well as residential units.

AUTOMOBILE BODY SHOP: A building used for the repairing or painting of the exterior and/or undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair.

AUTOMOBILE SALES ESTABLISHMENT: A lot on which occurs the sale and/or lease of four or more new or used automobiles, trucks, vans, trailers, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles, in any twelve month period. An automobile sales establishment may have, on-site, an inventory of the vehicles for sale or lease. An automobile sales establishment may provide, on-site, accessory facilities for the repair and service of the vehicles, parts storage areas, and offices.

AUTOMOBILE REPAIR SHOP: An establishment where inspection of, repairs to, and servicing, greasing, and adjusting of, automobiles, trucks, and other motor vehicles may be performed. The sale of motor vehicle fuels and lubricants may be conducted as an accessory use. Towing of disabled vehicles may also be conducted. All storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building or buildings.

AWNING: A roof-like mechanism, retractable in operation, which projects from the wall of a building.

BASEMENT (CELLAR): That portion of a building having its floor subgrade (below ground level) on all sides.

BALCONY: A platform that projects from the wall of a building and is surrounded by a railing or balustrade.

BED AND BREAKFAST INN: An owner-occupied single-family detached dwelling in which two to five rooms are available for overnight accommodations to guests for a fee, and where breakfast is provided to the guests only.

BOARDING HOUSE: A single-family detached dwelling or building occupied by a permanent household other than a hotel, cafe, or restaurant with two or more bedrooms, but not

to exceed nine persons, where for direct or indirect compensation lodging and kitchen facilities or meals are provided for boarders and/or roomers. (Also see "Rooming House" definition).

BUILDING: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING INSPECTOR: (See Code Enforcement Officer) The administrative officer charged with the administration and enforcement of the building codes, zoning local law and other such ordinances that may be assigned to his or her department.

BUILDING, ATTACHED: (See Attached Building.)

BUILDING, DETACHED: Any building or structure separated from another building or the same lot by at least six feet.

BUILDING FOOTPRINT: The area of a lot or site included within the surrounding exterior walls of a building or portion of a building at the ground level. In the absence of surrounding walls, the building footprint shall be the area under the horizontal projection of the roof.

BUILDING HEIGHT: (see "Height.")

BUILDING, PRINCIPAL: A building in which the primary use of the lot on which the building is located is conducted.

BUILDING, PUBLIC: Structures constructed by or intended for use by the general public such as libraries, museums, the municipal buildings, etc.

BUSINESS OFFICE: Any office for the purpose of conducting professional business services.

BULK FUEL STORAGE: The storage of petroleum products, natural gas, or propane in above ground or below ground storage containers designed for wholesale distribution. No refining or processing of bulk fuel products shall be permitted on-site.

CAMPGROUND: (1) An area of land or water, used for a range of overnight camping experiences, on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other temporary living accommodations, including accessory facilities which support the use, such as administration offices and laundry facilities, but not including the use of manufactured homes on a year round basis; or

(2) Any area that is occupied or intended or designed for occupancy by transients using recreational vehicles, motor homes or vacation trailers, for temporary, recreational overnight lodging; or

(3) Any land, including any building thereon, used for any assembly of persons for what are commonly known as "day camp" purposes, including recreation, arts and

crafts, sports, and incidental food service. Types of camps include YMCA campgrounds and summer camp programs.

CANOPY: A roof structure constructed of fabric or other material placed so as to extend outward from a building providing a protective shield for doors, windows, and other openings, supported by the building and supports extended to the ground directly under the canopy or cantilevered from the building.

CHILD NURSERY: An establishment intended for the care and/or instruction, whether for compensation or not, of three or more children other than members of the family residing on the premises, but not including a public or private school.

CIVIC FACILITY: Buildings, structures and uses owned and/or operated by a governmental agency, fire district, fire company, or public library.

CERTIFICATE OF OCCUPANCY: A permit issued by the Building Official upon completion of construction, alteration or change in occupancy or use of a building, which certifies that provisions specified in the building permit application and the New York State building code have been met, that a building or development has been inspected, and that it is eligible to be occupied.

CERTIFICATE OF ZONING COMPLIANCE: A certificate issued by the Zoning Official that certifies that conditions specified in this zoning ordinance have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said certificate shall acknowledge any adjustments to the requirements of this ordinance granted by the Zoning Board of Appeals or any approvals and conditions of approval granted by the Planning Board. Certificates of Zoning Compliance will be issued after all necessary construction has been completed and prior to occupancy of the structure.

CHURCH: See "House of Worship."

CLUSTER DEVELOPMENT: A form of planned residential development that concentrates buildings on a part of the site (the cluster area) to allow the remaining land (the open space) to be used for recreation, common open space, or preservation of environmentally sensitive areas. The open space may be owned by either a private or public entity.

CLUSTER SUBDIVISION: A wholly or principally residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and the remaining land area is used for common space.

CODE ENFORCEMENT OFFICER (CEO): (See "Building Inspector" definition)

CO-GENERATION: The conversion of one energy source such as casing head gas, solid waste, sawdust, or wood chips to create heat, steam or hot water for industrial or commercial

processing and/or heating purposes, with the residual energy being used to generate electricity for use on-site or for sale. Electric generation may be the primary or secondary purpose of the co-generation facility.

COLLECTOR ROADS: A road intended to move traffic from local roads to arterial. A collector road serves a neighborhood or large subdivision.

COLLEGE: A post-secondary institution authorized by the state to award associate, baccalaureate, master or doctoral degrees.

COMMON OPEN SPACE: Facilities and yard areas identified within projects for the use and enjoyment of the residents and maintained and operated by an organization of property holders.

COMPREHENSIVE PLAN (Also see "MASTER PLAN" definition): A comprehensive plan for development of the Village adopted by the Village Board of Trustees upon preparation and reconunendation of the Planning Board or other designated conunittee/commission, pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof

CONDITIONAL USE (See "SPECIAL USE" deffaition): Any use of land or buildings or both that require special approval from the Planning Board as described herein. See also Section 6 of this zoning ordinance. A "Conditional Use" may also be referred to as a " Special Use."

CONDOMINIUM: Any structure which has been submitted to condominium ownership under the provisions of the New York Condominium Ownership Act. This includes residential, non-residential, and any other space.

CONSTRUCTION, START OF: The initiation, excluding planning and design, of any phase of a project, including any physical alteration of the property and/or land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. "Start of Construction" also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. "Start of construction" also applies to "substantial improvement."

CONYALESCENT HOME: An institution other than a hospital wherein people may gradually recover from an illness.

COVERAGE: Lot area covered by a building.

CUL-DE-SAC: A local street with only one outlet and an appropriate terminal for the safe and convenient reversal of traffic movement.

DAY CARE CENTER, CHILD: An establishment where care is provided for one or more children on a regular basis, for periods of less than 24 hours per day in a place other than the

child's own dwelling unit. Programs could include those for children who are under the minimum age to attend public school and/or pre-school, after-school and school-vacation care for school-aged children.

DAY CARE CENTER, ADULT: A facility providing care for the elderly and/or functionally impaired adults in a protective setting for periods of less than 24 hours per day.

DEMOLITION: The act or process that destroys in part or in whole a building or structure. The razing or destruction, whether entirely or in significant part, of the exterior of a building, structure, or site. Demolitions includes the removal of a building or structure from a site or the removal, stripping, concealing, or destruction of the facade or any significant exterior architectural feature which are integral to the historic character of the resource, for whatever purpose, including new construction and reconstruction.

DETACHED: (See "Attached" definition) Not sharing any wall with another structure.

DETACHED DWELLING A dwelling that is not attached to any other dwelling.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DUMP: A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind. (Also see "Junk Yard".)

DUMPSTER: A container used for the temporary storage of rubbish or materials to be recycled pending collection, having a capacity of at least one cubic yard.

DUPLEX: A structure containing two dwelling units, each of which has direct access to the outside.

DWELLING UNIT: A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel, lodge, bed and breakfast or other such use of a transient nature.

DWELLING, MULTIPLE FAMILY A building that contains three or more separate dwelling units.

DWELLING, SINGLE FAMILY A building that contains one dwelling unit.

DWELLING, TWO FAMILY: A building that contains two dwelling units. (Also see "Duplex".)

EASEMENT: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

EQUIVALENT POPULATION: A population estimate based upon the year-round average occupancy of all permanent and transient units.

ESCROW: A deposit of cash with the Village or approved alternate in lieu of an amount required and still in force on a performance or maintenance guarantee. Such escrow funds shall be deposited in a separate account.

FAMILY: A household or domestic establishment constituting a single housekeeping unit occupied by one or more persons living together in a permanent living arrangement. This definition shall not include any society, club, fraternity, sorority, coterie, or like organization; any group of individuals whose association is temporary in nature.

FARM: An area which is used for growing the usual farm products such as vegetables, fruit trees and grain, and for the packing or storage of the products produced on the premises, as well as for the raising thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, subject to distance limitations from residential property and not including the commercial feeding of animals on open lots where no feed is raised on the premises, or the commercial feeding of poultry broilers, or laboratory animals such as mice, rats, rabbits, etc.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): The Federal Agency that administers the National Flood Insurance Program as well as other Federal emergency programs.

FENCE: A structure constructed for reasons of privacy, security, aesthetics or delineating property boundaries which is located in such a manner as to separate or divide areas. Includes hedges and masonry walls and may or may not be sight obscuring or light tight.

FLOOD PLAIN AREA: An area adjoining a 100-year storm, i.e. river, stream, or water course, or other body of standing water in which a potential flood hazard exists due to inundation or overflow of water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses. Any area designated as a flood plain by the Department of Housing and Urban Development of the United States Government.

FLOOD WAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOD FRINGE: Land that is subject to a one percent or greater chance of flooding in any given year that lies outside the bounds of the floodway all as defined in the Local Law for Flood Damage Prevention (Village of Ellicottville Local Law No. 1 - 1994.)

FLOOR AREA: The floor area is the area of a building that is enclosed by surrounding exterior walls, excluding vent shafts and courts. In portions of the building not within the exterior walls, such as covered balconies, the usable floor space under the horizontal projection of the roof of the structure or any floors above the open area shall be included within the calculation of floor area. For purposes of bulk calculation, spaces with a floor level at least eight feet below natural grade, measured at the center of each 50 foot interval of facade width, shall not be included in the floor area calculation. Covered porches that are open on two sides may increase the allowable floor area by 5% without inclusion in the floor area calculation. Floor area is computed as provided in the New York State Uniform Fire Prevention and Building Code, except as provided herein.

FOOTPRINT: (See "building footprint")

FRONTAGE: That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side or corner lot.

FRONTAGE, BLOCK: All property abutting one side of a street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line.

FRONTAGE STREET: Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

GARAGE, PRIVATE: A detached accessory building, or a portion of a main building, used for the storage of motor vehicles for the tenants or occupants of a specified building and not by the general public.

GARAGE, PUBLIC: A building or a portion thereof, other than a private garage, used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

GASOLINE SERVICE STATION: A retail establishment where motor vehicle fuels and lubricants are sold to individuals. A gasoline service station may have a retail convenience store as an accessory use.

GRADE: The slope of a road, street, or other public way, specified in percentage terms.

GRADE, NATURAL: Elevation of the existing surface of the land prior to commencement of construction of any improvements proposed or any previous site disturbance. Natural grade, when not readily established due to prior modifications in terrain, shall be fixed by reference elevations and slopes at points where the prior disturbance appears to meet the undisturbed portions of the subject property or the adjacent property's undisturbed grade. The estimated natural grade shall tie into the elevation and slopes of adjoining properties without creating a need for new retaining walls, or abrupt differences in the visual slope and elevation of the land; and not change the direction or flow of run-off water.

GUARANTEE: Any form of security including a letter of credit, escrow agreement, or instrument of credit in an amount and form satisfactory to the Village. All guarantees shall be approved by the Village Board of Trustees wherever required by these regulations.

GUEST HOUSE: An accessory building intended for the habitation by non-rent paying guest(s). Provides separate cooking and sleeping quarters and is maintained and owned by the primary residence.

HABITABLE SPACE (ROOM): Habitable space (room) is space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable.

HEIGHT: The vertical distance from natural undisturbed grade to the highest point of a flat roof or to the deck line of mansard roof or to a point midway between the lowest part of the eaves or cornice and ridge of a hip, gable or gambrel roof. In no case shall a mansard roof or the parapet wall of a flat roof extend more than 18" above the deck line or maximum zone height, whichever is lower. Roofs not fitting clearly any of the above three classifications shall be considered as flat or mansard depending on their configuration.

HIGHWAY, LIMITED ACCESS: A freeway or expressway, providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the New York State Department of Transportation, having jurisdiction over such traffic way.

HISTORIC RESOURCE: Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility, site or district, or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

HOME OCCUPATION An accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than a small name plate and in connection therewith there is not involved the keeping of stock or trade, provided that said use does not occupy more than one fourth of the floor area in said principal residential building or such equivalent in accessory building(s) and that not more than one paid assistant be therein employed. Mortuary establishments, stores, eating establishments, tourist homes and manufacturing establishments of any kind shall not be deemed to be home occupations.

HOME RETAIL AND SERVICE TRADE: An accessory use involving retail sales, or product servicing, conducted on the premises by the residents thereof, and not more than one

paid employee, which is clearly secondary to the use of the building for living purposes and does not change the character of the neighborhood. Full line grocery stores, whether local or chain are specifically excluded, but specialty grocery products, natural foods, farm products may be sold. The product or services may be conducted in a basement, on the first floor, attached garage not exceeding one-half the square footage of the residential ground floor, or a separate building whose square footage does not exceed three-fourths the square footage of the main residence ground floor. Sales and service of vehicles that require state registration and boats are specifically prohibited. Adult uses, including but not limited to, adult book stores, adult video stores, adult entertainment cabarets, adult theaters, peep shows, massage establishments, adult motels or hotels, body painting studios or adult model studios are specifically excluded from the definition of Home Retail and Service Trade.

HOTEL/MOTEL: A building containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels or hotel apartments. This does not include lock-outs or boarding houses.

HOTEL ROOM: A unit consisting of one room, without a kitchen, intended for temporary living and sleeping purposes and including a separate, exclusive bathroom.

HOTEL SUITE: Two interconnected rooms in a hotel with a single corridor or exterior access and without a kitchen, intended for the temporary occupancy of guests.

HOUSE OF WORSHIP: A structure owned or leased by a religious organization, which people regularly attend to participate in or hold religious services, meetings or other related religious activities. A house of worship includes churches, synagogues, temples, and mosques.

IMPACT ANALYSIS A determination of the potential effect of a proposed residential, commercial, or industrial development upon the community and services it must provide.

IMPROVEMENTS: See Lot Improvements or Public Improvements.

JOINT OWNERSHIP: Joint ownership among persons shall be construed as the same owner; "constructive ownership" for the purpose of imposing subdivision regulations.

JUNK YARD: Any lot, land or structure or part thereof used primarily for the collection, exchange, storage, packing, disassembly and/or sale of waste, scrap metal, paper, lumber, rags, rubber tires, bottles, or other discarded material; or for the collecting, dismantling, storage, salvaging, or sale of parts or machinery or vehicles not in running condition. Any lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. A "Junk Yard" is not a "Recycling Facility" nor does this definition apply to pawn shops and establishments for the sale, purchase, storage of used furniture, household equipment or clothing or items antique in nature. (Also see "Dump".)

KEEPING OF LIVESTOCK: The breeding, raising or grazing of livestock, including dairy farming or beef cattle, bison ranches, apiculture, and fish farming. Products derived from the livestock, such as milk or wool, may be stored on-site, but no commercial manufacturing or processing of the product may be allowed (i.e. no manufacture of ice cream or cheese). "Keeping of livestock" shall not include "commercial slaughterhouses". An agricultural slaughterhouse shall be an allowable accessory use. "Keeping of livestock" shall not include "feedlot". (Also see "Farm".)

KENNEL: An establishment where four or more dogs, cats or other household pets of any age are kept, boarded, bred, raised, groomed, and/or trained for compensation (Also see "Livestock" definition).

KITCHEN: A room or space within a room equipped with such electrical or gas hook-up which would enable the installation of a range, oven or like appliance using a 220/240 volts or natural gas (or similar fuels) for the preparation of foods.

LIBRARY: A public facility for the use, but not sale, of books, videos, CDs, and similar materials. A library may have computers and/or meeting rooms available for public use.

LICENSED PROFESSIONAL ENGINEER (Also see "Professional Engineer" definition): An engineer licensed to practice in the State of New York.

LICENSED LAND SURVEYOR (Also see "Professional Land Surveyor" definition): Land surveyor properly licensed and registered in the State of New York.

LIFTWAY: The necessary right-of-way, both surface and air space, for the operation of any tram covered by this ordinance.

LIFTWAY SETBACK: The minimum allowable distance between the side line of the liftway and any structure.

LIVESTOCK: Poultry, dairy and beef cattle, horses, sheep, goats, llamas, bison, or any similar outdoor farm animal, but not including cats, dogs, or other household pets.

LOCAL GOVERNMENT: The Village of Ellicottville, New York.

LOCAL ROAD: A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

LOCKOUT ROOM: An area of a dwelling not to exceed one room with separate exterior access and toilet facilities, but not kitchen. Such a room may be rented independently, of the main dwelling but shall not be sold independently. Only two lockout rooms are permitted for each dwelling. For density purposes, the lockout is counted as an additional bedroom of the dwelling it is a part of, and not counted as an independent unit. **Nightly rental** of lockout rooms is allowed by Special Use (conditional use) Permit review and approval by the Planning Board.

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
SECTION 2 - DEFINITIONS

LOT: A parcel of land described by metes and bounds or other legal plat definition and is occupied or intended for occupancy by one main use permitted in these Codes, including one principal building and its accessory buildings or as otherwise provided in this ordinance; is bounded by other lots and has its principal frontage upon a legal access to a public or private street or road or officially approved place; which is in identical ownership, title of which is or can be record in the Office of the Cattaraugus County Clerk.

LOT AREA: The net area contained within lot lines.

LOT, CORNER: A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135°.

LOT DEPTH: The minimum distance measured from the front property line to the rear of same property boundary.

LOT IMPROVEMENT: Any building structure, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly guaranteed as provided in these regulations.

LOT LINES: The property lines bounding a lot.

LOT LINE, FRONT: The property line dividing a lot from the right-of-way of the street. On a corner lot, upon review and approval of the Village Planning Board under the provisions of Site Plan Review of these Codes and review and approval of the Village Superintendent of Public Works, the owner may have the option of designating which line is the front of the lot.

LOT LINE, REAR: The property line opposite the front lot line.

LOT LINE, SIDE: Any lot line other than a front or rear lot line.

LOT OF RECORD: Any lot of which, individually or as part of a subdivision, the map or plat a description or deed of has been recorded or filed in the Office of the Cattaraugus County Clerk.

LOT, THROUGH: A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

LOT WIDTH: The minimum distance between the side property lines.

MANUFACTURED HOME: A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its

body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling. (Also see "Modular Home".)

MASSAGE ESTABLISHMENT: Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racket ball courts, or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

MASTER PLAN, (See Comprehensive Plan): A comprehensive plan for development of the Village adopted by the Village Board of Trustees upon preparation and recommendation of the Planning Board or other designated committee/commission, pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

MASTER PLANNED DEVELOPMENT: A development designed and reviewed under the Master Planned Development review processes described in Section 4 of this Code.

MIXED OCCUPANCY BUILDING: A single building containing more than one type of land use, such as, but not limited to, residential, commercial, public, entertainment, or office.

MOBILE HOME: A movable or portable unit designed and constructed to be towed on its own chassis comprised of frame and wheels. A structure transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and which is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. A "mobile home" is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 United States Code Sec. 5401) and is sometimes referred to as a "HUD Code home." The term "Mobile Home" does not include recreational vehicles, travel trailers or modular homes.

MOBILE HOME LOT: A site or plot of ground within a mobile home park or mobile home subdivision designed for the accommodation of one mobile home.

MOBILE HOME PARK: A plot or parcel of ground containing thereon two or more mobile homes.

MOBILE HOME, DEPENDENT: A mobile home which lacks a flush toilet and a bath or shower.

MOBILE HOME, TRAVEL TRAILER: A mobile home intended primarily for highway use and not to be located in any one place for long periods of time, must be moved by a power outside itself.

MODEL HOME: A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision. Such dwelling units may be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Planning Board, by permitting a portion of a major subdivision involving no more than two lots.

MODULAR HOME: A dwelling unit erected or installed on a site in accordance with state or municipal zoning and building codes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. (Also see "Manufactured Home".)

MUNICIPALITY: The Village of Ellicottville, New York.

NIGHTLY RENTAL: The rental of a room, apartment, or house or lockout room for a time period of less than 30 days.

NON-CONFORMING USE: The use of a building, structure, or land which does not conform to current use regulations for the district in which it is situated, but which was in conformity with prior regulations at the time of its establishment, or which was in existence prior to the establishment of use regulations for the district in which it is situated.

NONRESIDENTIAL SUBDIVISION: A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

NURSERY, CHILD: (See Child Nursery)

NURSERY, GREENHOUSE: A place where young plants are raised for experimental purposes, for transplanting, or for sale.

NURSERY, PLANT: Land used for the growing of sod, flowers, bushes, trees or other gardening, landscaping or orchard stock for wholesale or retail sale.

NURSING HOME: An institution described also as a "rest home", or "convalescent home", other than a hospital, in which persons are lodged and furnished with care rather than diagnosis or treatment.

OFFICE (BUSINESS & PROFESSIONAL): A building or space used by persons such as accountants, architects, artists, dentists, designers, engineers, lawyers, physicians, realtors, teachers, and others who by virtue of training and/or license, are qualified to perform services of

a professional nature, and/or where storage of goods and sale of merchandise is minimal and secondary to performance of the service.

OFF-SITE: Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

OFFICIAL MASTER PLAN: See Master Plan, Comprehensive Plan.

ONE BEDROOM APARTMENT: A dwelling consisting of a living room, a kitchen (which may be a part of the living room), a single room designed and intended as a bedroom, and a bathroom for the exclusive use of that unit, all having a combined floor area of not more than 1,000 square feet.

OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARK: Any public or private land use available for recreational, educational, cultural or aesthetic use.

PARKING, PUBLIC: A parking area or facility on private or public property to be used by the public. Fees for the use thereof may or may not be involved.

PARKING LOT: An area other than a street used for the parking of more than four automobiles.

PARKING LOT, COMMERCIAL: A lot used for the temporary parking of more than four automobiles for compensation.

PARKING SPACE: An area maintained for the parking or storage of an automobile or other vehicle, which is graded for proper drainage and is hard surfaced or porous paved.

PARKING STRUCTURE: A fully enclosed structure designed and intended for parking or storage of more than four vehicles.

PARKING, TANDEM: Parking designs which necessitate parking one vehicle behind another. Such parking may not include more than two cars in depth, and may not require occupants of separate dwellings to park behind one another. Tandem parking is only permitted for single family and duplex dwellings.

PASSENGER TRAMWAY: Shall mean a mechanical device for the primary purpose of transporting passengers by means of chairs or enclosed compartments which are suspended from cables or travel along cables on or above the ground, the devices described in Section 3 and also passenger carrying devices operating on rails.

PEEP SHOW: A theater which presents material in the form of live shows, films or video tapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

PERIMETER STREET: Any existing street to which the parcel of land to be subdivided abuts only on only one side.

PERMITTED USE: A use of land for which no Special Use (Conditional Use) permit is required.

PLANNING BOARD: Planning Board of the Village of Ellicottville, New York.

PROFESSIONAL ENGINEER (Also see " Licensed Professional Engineer" definition): An engineer licensed and registered to practice in the State of New York.

PROFESSIONAL LAND SURVEYOR: Land surveyor properly licensed and registered to practice in the State of New York.

PROPERTY LINE: A line indicating boundary of a piece of property shown on a recorded document.

PUBLIC USE: A use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playground, and other recreational facilities, administrative, service facilities, and public utilities.

QUASI-PUBLIC USE: A use operated by a private nonprofit educational, religious, recreational, charitable or philanthropic institution, such as having the purpose primarily of serving the general public, such as churches, private schools, and universities, or similar uses.

RECREATION, COMMERCIAL: Recreation facilities operated as business on private or public property and open to the public for a fee, such as a golf course, ski lift, tennis court, equestrian center, skating rink, etc., and support facilities customarily associated with the development.

RECREATION, PRIVATE: Recreation facilities operated on private property and not open to the public.

RECREATION, PUBLIC: Recreation facilities operated by a public agency and open to the public with or without a fee.

RECREATION VEHICLE (RV): A vehicle built on a single chassis and designed to be either self-propelled or towed by another vehicle. A recreation vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or

seasonal use. This definition includes vehicles such as trailers, campers, and travel trailers. A recreation vehicle is not a manufactured home or a mobile home.

RECYCLING FACILITY: A building and/or site in which source-separated recoverable materials, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled. A recycling facility shall not include manufacturing facilities. A recycling facility is not a junk yard.

RESTAURANT: A building in which food is prepared and served for consumption within the premises.

RESTAURANT, DRIVE-IN: A building in which food is prepared and served for consumption on the premises, and which includes a facility which allows food to be ordered and taken from the premises for consumption elsewhere, without leaving a vehicle.

RE-SUBDIVISION: The changing of an existing parcel created by a plat and recorded with the County Clerk. (Also see "LOT".)

RIDING ACADEMY: A commercial establishment in which horses are available for hire, and/or where people may bring their own horses to ride on the premises.

RIDING STABLES: A commercial establishment in which horses are boarded and cared for. Horses may also be available for hire. A riding stable may also provide lessons in riding and jumping, and/or the handling, training, and care of horses.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

ROADS, CLASSIFICATION: For the purpose of providing for the development of the streets, highways, roads, and right-of-way in and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road and right-of-way, and those located on approved and filed plats, have been designated on the Official Zoning Map of the Village and classified therein. The classification of each street, highway, road and right-of-way is based upon its location in the respective zoning districts of the Village and its present and estimated future traffic volume and its relative importance and function.

ROAD, DEAD END: A road or portion of a street with only one vehicular traffic outlet.

ROAD RIGHT-OF-WAY, WIDTH: Toe distance between property lines measured at right angles to the centerline of the street.

ROADSIDE STAND: A structure for the display and sale of farm produce.

ROOMING HOUSE: A residential building or building other than a hotel, cafe, or restaurant with two or more bedrooms, but not to exceed nine persons, where for direct or indirect compensation lodging is provided for boarders and/or roomers not related to the head of the household by marriage, adoption, or blood and wherein no dining facilities are maintained for the lodger, as distinguished from a boarding house (See "Boarding House" definition).

SALE OR LEASE: Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession or transfer of an interest in a subdivision or part thereof; whether by metes and bounds, deed, contact, plat, map, lease, devise, interstate succession, or other written instrument.

SAME OWNERSHIP: Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner, or associate or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

SCHOOL: A facility, either public or private, that provides a curriculum of elementary, secondary and/or post-secondary academic instruction, including pre-kindergartens, kindergartens, elementary schools, junior high schools, high schools and/or colleges, but not including the home-schooling of children in their own home by their parents and/or guardians.

SCREENING: Either (a) a strip at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four feet high at the time of planting, of a type that will provide for a year round dense screen at least six feet high; or (b) an opaque wall or barrier or uniformly painted fence at least six feet high. Either (a) or (b) shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof except the following: for each entrance, one directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

SCENIC RESOURCE: Any road, highway, lane, district, or corridor designated pursuant to Article 49 of the New York State Environmental Conservation law. Any area designated a Scenic Area of statewide Significance pursuant to New York State's Coastal Management Program (19 NYCRR 602.5). Ridgelines designated in the Town of Ellicottville Master Plan.

SEMI-DETACHED BUILDING: Units connected on one side by a common or party wall with separate exterior entrance for each unit. (Also see "Zero Lot Line".)

SERVICE, COMMERCIAL: A retail or wholesale business requiring office space, warehouse space, service and repair facilities, etc.

SETBACK: A line parallel to the street line at a distance from it, regulated by the front yard requirements set up in this ordinance.

SIGN: Any structure, display, device or representation which is designed or used to advertise or call attention to any thing, person, business, realty subdivision or development, activity or place and is visible from a highway, street or other public right-of-way. This definition is not to be restricted to traditional and familiar forms but will include any new and evolving technologies such as, but not limited to, laser lights. The flag or pennant of any nation or state shall not be construed to be a sign.

SIGN, ARCADE: A sign attached to, and hanging beneath an arcade.

SIGN, CHANGING: A sign, such as a time and temperature sign, message center or reader board, where different copy changes from time to time.

SIGN, FLASHING: An illuminated sign on which the artificial light is not maintained constant or stationary in intensity or color at all times when such sign is in use. Time-temperature signs are not considered to be flashing signs for the purpose of this local law.

SIGN, FREESTANDING: A sign erected on a free-standing frame or structure on one or more masts or poles, and not attached to any building. A self-supporting or ground sign.

SIGN, MOVABLE: Any sign not permanently attached to the ground or a building. A mobile sign.

SIGN, OFF PREMISES: A sign of any description that is displayed on any property other than the actual site of the thing, person, business, realty subdivision or development, activity or place advertised on the sign.

SIGN, ILLUMINATED: A sign lighted by or exposed to artificial lighting by lights on or in the sign or directed toward the sign.

SIGN, IDENTIFICATION: Any sign portraying information which promotes or directs attention to a person, place, business, product service, entertainment or other activity located on the same lot where the sign is located.

SIGN, OFF PREMISE: A sign of any description that is displayed on any property other than the actual site of the thing, person, business, realty subdivision or development, activity, or place advertised on the sign.

SIGN, PROJECTING: A sign, normally double faced, which is affixed to a wall of any structure or building, and any part of which projects by more than twelve (12) inches from such wall,

SIGN, ROOF: A sign erected on, against or above a roof and which extends above any point of a building with a flat roof, above the main ridge line of a building with a pitched roof or the deck line of a building with a mansard roof.

SIGN, SANDWICH BOARD: A movable sign, generally constructed in an "A" or tent-like shape, not secured or attached to the ground or surface upon which it is located, and designed to be readily movable.

SIGN, STRUCTURE: Any structure which supports, has supported or is intended to support or help maintain a sign that is in a stationary position, including any decorative covers or embellishments extending above such sign.

SIGN, WALL: A sign fastened to, or painted on, the wall of a building in such a manner that the wall becomes the supporting structure for, or forms that background surface of, the sign, and which does not project more than twelve (12) inches from such building.

SIGN, WINDOW: A sign, whether or not lighted, which is applied or attached to a window in such a manner that it can be seen from a public sidewalk, passageway, street or highway.

SITE PLAN: A scale drawing(s), including attachments, showing the relationship between the lot lines and building or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, and densities.

SITE PLAN REVIEW: The review of the site plan of any public or private project by the Planning Board. See also Section 6 of this ordinance.

SITE DEVELOPMENT STANDARDS: Established regulations concerning lot areas, yard setbacks, building height, lot coverage, open space, and any other special regulations deemed necessary to accomplish the goals and purposes of the underlying zoning district.

SLAUGHTERHOUSE: A building used for the slaughtering of animals that are either raised or transported to the building and the processing and storage of animal products and waste that results from the slaughtering process. A building used for seasonal deer processing, whether for profit or not for profit shall be considered a slaughterhouse.

SPECIAL USE (CONDITIONAL USE): Any use of land or buildings or both that require special approval from the Planning Board as described herein. See also Section 5 of this zoning ordinance. A Special Use may also be referred to as a "Conditional Use."

SPECIAL FLOOD HAZARD (Also see "AREA OF SPECIAL FLOOD HAZARD" definition): The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is also commonly referred to as the base floodplain or 100-year floodplain; and includes the Floodway District and Floodway Fringe Overlay District.

STORAGE FACILITY, SELF-SERVICE: A building or buildings used for the storage of household goods and materials, in which individuals rent self-contained storage units that are exclusively available to the individual renter.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

STREET: A public or private way which affords the principal means of access to abutting properties. Also see road definitions.

STREET, PUBLIC: A thoroughfare which has been dedicated and accepted by the Village, which the Village has acquired by prescriptive right or which the Village owns, or accepted for dedication on an approved final plat, or a thoroughfare which has been dedicated or made public by right of use and which affords access to abutting property, including highways, roads, lanes, avenues and boulevards.

STRUCTURE: Anything constructed, the use of which requires fixed location on or in the ground, or attached to something having a fixed location upon the ground, and which imposes an impervious material on or above the ground; "structure" includes "building". All structures, except driveways, sidewalks and fences, must maintain the minimum setbacks for the district in which they are located, both above and below the ground (see Section 3). Signs shall conform to the setbacks established in Section 12.

STRUCTURAL ALTERATIONS: Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure.

STUDIO APARTMENT: A dwelling unit consisting of a single room equipped for cooking, living and sleeping, and having a bathroom and kitchen area for the exclusive use of that apartment.

SUBDIVISION: Subdivision means the division of any parcel of land into a number of lots, blocks or sites as specified in a law, rule or regulation, with or without streets or highways, for the purpose of sale, transfer of ownership, or development. The term "subdivision" may include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the county clerk or register of the county in which such plat is located. Subdivisions may be defined and delineated by local regulation, as either "major" or "minor", with the review procedures and criteria for each set forth in such local regulations. (See Section 8.)

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure, where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Market value shall be determined by dividing the assessed value by the equalization rate)

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement (Market value shall be determined by dividing the assessed value by the equalization rate.) "Substantial improvement" includes structures which have incurred "substantial damage," regardless of the actual repair work performed. "Substantial Improvement" does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "historic resource" structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

SUPPORT COMMERCIAL FACILITIES: Those commercial uses which are located on the site of a master planned development, and oriented toward the internal circulation of the development, for the purpose of serving the needs of the residents or users of that development, and not the general public or persons drawn from off the site of the Master Planned Development. Examples of support commercial uses are barber shops, beauty salons, travel agencies, clothing stores, gift shops, convenience stores, art galleries, auto rentals, camera stores, liquor stores, pharmacies, sporting goods stores, day care nurseries, information centers, tennis or golf pro shops, or other hotel lobby type uses. No use occupying more than 2,000 gross square feet of floor area will be considered as support commercial.

TANDEM PARKING: Parking designs which necessitate parking one vehicle behind another. Such parking may not include more than two cars in depth, and may not require occupants of separate dwellings to park behind one another. Tandem parking is only permitted for single family and duplex dwellings.

TELECOMMUNICATIONS TOWER: A structure on which one or more antenna will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

TEMPORARY IMPROVEMENT: Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of the performance guarantee.

TEMPORARY USE: Use of a structure for a designated period of time, usually one year or less.

TIME SHARE CONVERSION: The conversion into a time share project of any real property and the existing structure(s) attached thereto, which were not subject to a time share instrument prior to the date of such conversion, including, without limitation, the conversion into a time share project of (a) any existing motel, hotel, or apartment building, (b) any existing unit or units within an existing condominium project or (c) any dwelling unit or units within an existing planned unit development.

TIME SHARE ESTATE: An ownership or leasehold estate in property devoted to a time share fee (including without limitation, tenants in common, time span ownership, interval ownership, and cooperative time share ownership) created by a time share instrument and the documents by which it is granted.

TIME SHARE INSTRUMENT: Any instrument whereby the use, occupancy or possession of real property has been made subject to either a time share estate or time share use, and whereby such use, occupancy or possession circulate among (a) nine or more purchasers of the time share intervals, according to a fixed or floating time schedule on a periodic basis occurring annually over a period of time in excess of three years in duration.

TIME SHARE INTERVAL: A time share estate or a time share use.

TIME SHARE OFF-SITE SALES OFFICE: A location within the Village, but outside of a time share project, wherein time share sales presentations are made and other marketing related activities are conducted in an effort to generate time share interval sales or resales.

TIME SHARE PROJECT: Any real property that is subject to a time share instrument, including a time share conversion.

TIME SHARE UNIT: That unit of real property and time where possession and use are allowed under a contract from seller to purchaser.

TIME SHARE USE: Any contractual right of exclusive occupancy created by a time share instrument which does not fall within the definition of a "time share estate" (including without limitation, a vacation license, club membership, general partnership interest, limited partnership interest, vacation bond or beneficial interest in a trust) and the documents by which it is transferred.

TOWN: Town of Ellicottville, New York.

TRIPLEX: A structure containing three dwelling units, each with direct access to the outside. A triplex is a multiple family dwelling as defined by these Codes.

USABLE OPEN SPACE: Landscaped area, including required yards, that is free of buildings, structures, and other substantial improvements, and includes without limitation (a) outdoor swimming pools, swimming pool areas, hard surface recreational areas, and other recreational areas that are unenclosed, and fences, canopies, bath houses, and accessory structures for recreation use, whether enclosed or unenclosed; (b) driveways that cross the required yard at approximately right angles and serve less than three parking spaces; (c) the ground surface above the underground facilities, provided it otherwise qualifies as usable open space under the provisions of this section; and (d) pedestrian ways to plazas within a building that are directly oriented to the major pedestrian entrance to the building and are open to view and use by the public; and (e) decks, porches, patios, terraces, and steps under thirty (30) inches high.

Usable open space excludes without limitation (a) public or private rights-of-way for streets or highways; (b) roofs; (c) open parking areas; (d) parking garages or structures.

In all zones no more than 50% of the usable open space can be in excess of 25% in slope.

USE: The purpose for which land or a structure thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

USE, INTENSITY: the maximum number of residential units, or commercial, or industrial space within a specified land area designated for that purpose.

VARIANCE, AREA: The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VETERINARY CLINIC (Also see "ANIMAL HOSPITAL" definition): Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal (Also see "Livestock" definition).

VILLAGE ATTORNEY: The attorney admitted to practice in the State of New York and designated by the Village Board of Trustees to furnish legal assistance for the administration of these regulations.

VILLAGE BOARD OF TRUSTEES (ALSO KNOWN AS "VILLAGE BOARD"): The Village Board of Trustees of the Village of Ellicottville, County of Cattaraugus, State of New York.

VILLAGE CLERK: The Village Clerk of Ellicottville, New York.

VILLAGE ENGINEER: The licensed professional engineer designated by the Village Board to furnish engineering assistance for the administration of these regulations.

YARD: A required space on a lot other than a court, unoccupied and unobstructed by buildings from the ground upward, except as otherwise provided herein. Yard areas for below grade structures must be provided unless a variance is obtained.

YARD, FRONT: A required space between the front line of the main building and the front lot line or closer right-of-way line of an abutting street or right-of-way and extending across the full width of a lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the closest main building.

YARD, REAR: A required space between the rear line of the building and the rear lot line, or closer public street and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the main building.

YARD, SIDE: A required space between the side line of the building and the side lot *line* and extending from the front yard to the rear yard. The "width" of the side yard shall be the minimum distance between the side lot line and the side line of the building.

ZERO LOT LINE: A common lot line on which a wall of a structure may be constructed. (Also see "Semi-Detached Building".)

ZERO LOT LINE DEVELOPMENT: Single-family dwellings arranged on individual lots as either detached structures with one or more side walls on a side property line.

ZONING BOARD OF APPEALS: The Zoning Board of Appeals of the Village of Ellicottville, New York.

ZONING MAP: The map or maps incorporated in the current Zoning Ordinance of the Village of Ellicottville, which designates the various Zoning Districts.

ZONING OFFICIAL: The official, appointed by the Village Board, who is responsible for the administration and enforcement of this zoning ordinance. This official may also be known as the Code Enforcement Officer (Also see Building Inspector).

ZONING PERMIT: A permit issued by the Zoning Official, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning ordinance.

ZONING DISTRICTS: The Districts as designated in the current Zoning Ordinance of the Village of Ellicottville and referenced herein.

SECTION 3A - DISTRICTS AND REGULATIONS**1. Conservation District (C)****A. Purpose**

The purpose of the Conservation District is to establish and preserve important view corridors, wetlands, floodways, flood plains. These areas are to remain essentially free of development and continue to be open space.

B. Uses

Uses shall be limited to those uses shown on the land use table as either permitted or conditional in the zone.

C. Density Allocation

Uses allowed in this zone shall be one dwelling unit per 5 acres.

D. Lot and Site Regulations

All buildings or other structures shall be at least 100 feet from the front, rear and side yard property lines. The minimum lot width shall be 300 feet.

E. Building Height

No building shall be erected to a height of more than 30 feet measured from the natural grade to the point as defined in Section 10, Subsection 9, under Height. Agricultural storage structures shall be exempt from this height requirement.

F. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board in accordance with the provisions of Section 10 of these Codes.

G. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

H. Re-subdivision of Lots

Re-subdivision of lots in this zoning district may be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE

SECTION 3 A - DISTRICTS AND REGULATIONS

2. Village Residential District (VR)

A. Purpose

The purpose of the Village Residential District (VR) is to allow for the preservation of the present land uses and the present character of the residential areas of the Village of Ellicottville and to encourage the presentation of historic structure and the construction of new structures that preserve and contribute to the character of the District, and to encourage densities of development that will preserve the desirable residential environment.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Lot and Site Regulations

- 1) Lot Size: Lots areas and sizes shall be as presently platted in this zone.
- 2) Side Yard: The minimum side yard for any structure shall be 10 foot with a 30 foot total side yard. On corner lots, the side yard which faces on a street for both main and accessory buildings shall not be less than 25 feet.
- 3) Rear Yard: The minimum depth of the rear yard for all main buildings shall be 35 feet and for accessory buildings shall be one foot from the rear property line. On corner lots which rear upon the side yard of an adjacent lot, accessory buildings shall be located no closer than 5 feet to the rear property line.
- 4) Front Yard: The minimum depth of the front yard for all main buildings and accessory, including garages, shall be 25 feet.
- 5) Minimum Building Size: Minimum building size or footprint of a structure shall be 1,000 square feet.

D. Height Regulations

No buildings shall be erected to a height greater than 35 feet, or 2.5 stories measured from natural grade at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).

E. Re-subdivision of Lots

No re-subdivision of any lot shall be allowed in this District.

F. Multi-Dwelling Uses

As specified by the Land Use Tables, no duplex or greater use multi-dwelling structures shall be allowed in this District.

G. Apartments/Lockout Rooms

One apartment/lockout unit is allowed in residences in this District. A maximum of one apartment is permitted in any accessory building(s) on any property in this District by review and approval of a Special (Conditional) Use permit by the Planning Board. In the Village Residential District, one apartment/lockout unit will be permitted on any property in the District in addition to the principal residential dwelling; therefore, a maximum total of two (2) dwelling units (a principal dwelling plus one apartment/lockout unit) shall be allowed on any single property in the Village Residential District. (See Land Use Tables: multi-dwelling structures, apartments, rental of dwellings and lockout units).

H. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board as accordance with the provision of Section 10 of these Codes.

I. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

J. Special Requirements for Special (Conditional) Uses

The following impacts shall be considered in reviewing Special (Conditional) Uses in this District.

- 1) The scale of the building in relation to historic structures in the District.
- 2) The need for increased yard areas and the resulting impact on the established setbacks in the block.
- 3) The impact of any noise on nearby residents.

- 4) The impact of traffic and on-street parking in the block.
- 5) Home occupations and other cottage type enterprises may be allowed in this District as a Special (Conditional) Use as permitted by the Land Use Tables.

K. Special Parking Regulations

- 1) Open parking spaces may not be permitted in the front yard area. "Open parking spaces" does not include carports or other similar structure.
- 2) To encourage the location of parking in the rear on a property, common driveways may be permitted along shared side yard lines where those drives provide access to parking in the rear of the main building. Restrictions on the deeds to both properties must provide for the preservation of such shared drive.
- 3) Common parking facilities may be permitted, upon approval of the Planning Board, where such a grouping may facilitate the development of individual building that more closely conform to the scale of historic structures in the District.



Residential Development District- Low Density (LD)

A. Purpose

To allow residential uses in areas of developable land within the Village of Ellicottville that will be compatible with the Village's development objectives and growth capabilities; and to allow recreational activities that are in harmony with residential the neighborhoods. Where possible, the clustering of residential units will be encouraged in order to preserve natural open space, and minimize the cost of municipal services.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Lot and Site Regulations

1) Lot Size: Lots in approved standard subdivisions shall have one acre average per single-family dwelling and one and one half acres for a duplex (lots below the average must be specifically approved by the Planning Board) and one acre per dwelling unit for each two-unit dwelling structure. No lot shall be less than 150 feet wide at the front yard setback line.

GDÁ Side Yards: Side yards of 25 feet will be provided for all structures, but side yards between connected structures may be waived by the construction of two semi-detached units with a party wall on the lot line. On corner lots, the side yard which faces on a street for both main and accessory buildings shall not be less than 35 feet.

3) Front Yard: The minimum depth of the front yard for all buildings shall be 50 feet.

4) Rear Yard: There shall be a 35 foot rear yard for main buildings and ten foot rear yard for accessory buildings provided.

DDÁ Minimum Building Size: Minimum building size or footprint of a structure shall be 1,000 square feet, while a duplex shall be a minimum of 800 square feet each side.

6) Open Space: At least sixty (60) percent of the total site shall be devoted to useable open space.

D. Height Regulations

No buildings shall be erected to a height greater than 28 feet, measured from natural grade or proposed finish grade, whichever is more restrictive, at the building site. On lots specifically designated by the Planning Board and recorded on the subdivision plat, no building shall be erected to a height greater than 12 feet above natural grade for uphill lots within the area between the ten-foot setback allowed for garages and the 50-foot setback. On lots with a downhill orientation, no building shall be erected to a height greater than 12 feet above grade measured to the top back of curb within the area between the ten-foot setback allowed under special consideration and the regular 50-foot setback. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).

E. Apartments/Lockout Units

One apartment/lockout unit is allowed in residences in this District. A maximum of one apartment is permitted in any accessory building(s) on any property in this District by review and approval of a Special (Conditional) Use permit by the Planning Board. See Land Use Tables: multi-dwelling structures, apartments, rental of dwellings and lockout units).

F. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board in accordance with the provision of Section 10 of these Codes.

G. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

H. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

4. Residential Development District - Medium Density (MD)**A. Purpose**

To allow continuation of medium density residential housing in the residential areas of the Village of Ellicottville, and to allow recreational activities that are in harmony with residential neighborhoods compatible with the Village's development objectives and growth capabilities. Where possible, allow for the clustering of residential units that will encourage the preservation of natural open space, and minimize the cost of municipal services.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Lot and Site Regulations**1) Lot Size:**

- a) Minimum lot size for single-family dwellings is 12,500 square feet. Minimum lot width at the front setback line shall be 80 feet.

2) Minimum Building Size: Minimum building size or footprint shall be 1,000 square feet for a single-family dwelling.**3) Side Yard:**

- a) The minimum side yard for any dwelling or other building shall be fifteen (15) feet and thirty (30) feet total, except that a side yard between connected structures shall not be required where structures are designed with a common wall on a lot line. The longest dimension of a building joined at the property line shall not exceed 100 feet.
- b) On corner lots, the side yard which faces on a street for both main and accessory buildings shall not be less than 35 feet.

4) Front Yard: The minimum depth of the front yard for all main buildings and accessory buildings shall be 35 feet. At least twenty (20) feet shall remain open space.**5) Rear Yard: The minimum depth of the rear yard for all main buildings shall be 25 feet, and for the accessory buildings ten (10) feet except on corner lots which rear upon the side yard of another lot, in which case the setback shall be ten (10) feet.**

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- 6) Open Space: At least sixty (60) percent of the total site area shall be devoted to usable open space.

D. Building Height

Buildings shall be erected to a height no greater than 28 feet, measured from natural grade or proposed finished grade, whichever is more restrictive, at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).

E. Apartments/Lockout Units

One apartment/lockout unit is allowed in residences in this District. A maximum of one apartment are permitted in any accessory building(s) on any property in this District by review and approval of a Special (Conditional) Use permit by the Planning Board. (See Land Use Tables: multi-dwelling structures, apartments, rental of dwellings and lockout units).

F. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board in accordance with the provision of Section 10 of these Codes.

G. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

H. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

5. Residential - Mobile Home District (RMHD)

A. Purpose

It is the purpose of this chapter to promote the health, safety, and general welfare of the inhabitants of the Village of Ellicottville by the more efficient regulation of mobile homes and mobile home parks. In addition, the purpose in creating the Residential-Mobile Home District is to provide diversity in housing choice as well as greater opportunities for obtaining moderate-cost housing to meet the needs of a variety of household types and to enact proper controls and development regulations to ensure that mobile homes home parks provide an attractive and functional residential environment. The District will allow for the continuation of medium density residential housing in a residential area of the Village of Ellicottville that is in harmony with nearby residential neighborhoods, compatible with the Village's development objectives and growth capabilities and which will minimize the cost of municipal services.

B. Mobile Homes

Except as may be specified otherwise by these Codes, no mobile home shall be parked or be permitted to park or otherwise located on any property in the Village of Ellicottville other than in a duly approved mobile home park. Mobile homes shall be permitted in the designated Residential-Mobile Home District on individual lots established in the mobile home park, under the following conditions defined in the Section of the Zoning Codes.

C. Mobile Home Park

As defined by these Zoning Codes, a mobile home park, to include mobile homes, is an allowed use by Special (Conditional) Use Permit within the established Residential-Mobile Home District of the Village of Ellicottville. No person or persons being the owner or operator of a mobile home park on any land or premises within the Village of Ellicottville shall use or permit the use of said land or premises as a mobile home park without obtaining a permit therefore as hereinafter provided. Permits shall be issued by the Building Inspector/C.E.O. subject to review and approval by the Village Planning Board under the provisions for Special (Conditional) Use permit processing as defined by these Codes.

D. Permitted Uses

Permitted principal use shall be limited to single-family mobile homes. Permitted accessory uses shall be as follows:

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- 1) Private garages and carports.
- 2) Customary residential storage structures.
- 3) Off-street parking and signs in accordance with this section and Section 12 and Section 13 of these Codes.
- 4) Community facility buildings and uses serving the residents of the mobile home park, subject to review and approval of the Village Planning Board under the provisions of Site Plan Review.
- 5) Office for resale and park operations.
- 6) Home occupations. Any occupation conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof; subject to review and approval by the Village Planning Board under the provisions for Special (Conditional) Use permit processing as defined by these Codes.

Uses shall further be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("JP").

- 1) Individual Mobile Home Owners: No permits shall be required of the owner or occupant of a mobile home when such structure is parked or otherwise located in a duly approved mobile home park.
- 2) Individual Lot Mobile Homes: Single lot residential mobile homes shall not be allowed within the Village of Ellicottville except under extraordinary temporary conditions, e.g., emergency shelters, etc. Such temporary use shall require a temporary special use permit by the Village City Planning Board.
- 3) Storage of Individual Recreational Vehicles: Storage of individual recreational vehicles, recreation or vacation trailers and camper type vehicles owned by residents of the Village are not intended to be regulated by the specific requirements of this section of the Village of Ellicottville Zoning Codes however a permit shall be required for storage of such vehicles on Village properties. Upon application to and review by the Village Planning Board, a permit shall be issued by the Building Inspector/Code Enforcement Officer for individual recreational vehicles, recreation or vacation trailers and camper type vehicles stored on the property of a Village property owner for an unlimited period provided that no residence is taken therein nor business conducted therewith.

E. Special Design Requirements

No permit for a mobile home park shall be issued until site plans for the park have been reviewed and approved by the Village Planning Board. No site preparation or construction shall commence until final site plan has been granted and permits have been issued by all governmental agencies involved. This provision shall apply to the expansion or alteration of existing mobile home parks as well as to proposals for any new parks. In the review of proposed site plans, the Planning Board's review of the plans shall confirm that plans comply with the following standards and development regulations:

1) Density and Setback Requirements

- a) Each mobile home lot within the park shall comply with the applicable lot size, building size and setback requirements set forth in the schedule herein.
- b) Not more than one mobile home shall be located on any one mobile lot. Every mobile home within a mobile home park shall be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- c) No mobile home or other structure in a mobile home park shall be located within 60 feet of any public street right-of-way line or within 40 feet to any property line.
- d) Each mobile home lot shall front on an interior park roadway. An iron stake shall be located and maintained by the park owner at the corner of each mobile home lot.
- e) No addition to any mobile home park and no new mobile home park shall be constructed within 250 feet of the line of any residential district, of which area a fifty-foot strip of land immediately adjoining said residential district shall be maintained as a landscaped buffer area.

2) Circulation

All mobile homes shall abut upon a driveway of not less than 20 feet in width which shall have unobstructed access to a public street or roadway.

Every roadway within a mobile home park shall have a minimum street/pavement width of 22 feet and a minimum right-of-way width of 50 feet. Internal streets shall conform to the following standards:

- a) Cul-de-sacs shall be provided in lieu of closed-end streets and shall have a minimum diameter of 70 feet.

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- b) All streets shall be constructed of blacktop or equivalent of same and shall be designed, graded and leveled as to permit the safe passage of emergency and service vehicles.
- c) Each street shall be named, and each mobile home lot thereon shall be given a permanent number which shall be affixed to the mobile home and shall be visible from the street.
- d) All internal streets shall be illuminated from dusk to dawn with adequate lighting.
- e) Every roadway within a mobile home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of such maintenance and all necessary snow removal. The provisions of this subsection shall apply to existing mobile home parks and mobile home parks hereafter established.
- f) Pedestrian walkways shall be provided along at least one side street and such walkway shall have a width of not less than four feet.

3) Off-Street Parking

- a) Each mobile home lot must have two off-street parking spaces. Alternative parking facilities may be provided so that each mobile home lot will have one off-street parking area with a common parking area utilized for second vehicle parking, guest parking and for delivery and service vehicles.
- b) No on-street parking shall be permitted.
- c) No boats, camp haulers, trailers or motor vehicles not designated for passengers shall be parked or stored at any place within the mobile home park except designated special off-street parking areas.
- d) No unlicensed motor vehicles or trailers or parts thereof or junks of any nature or description shall be parked or stored within the mobile home park.

4) Services

- a) Every mobile home park shall have a fire protection plan approved by the Village of Ellicottville Fire Department. The plan for the park shall provide a system of fire protection, including a fire alarm system and a water reservoir, if necessary, deemed satisfactory by the Village Fire Department.

- b) An adequate and tested supply of pure water for drinking and domestic purposes shall be provided to all mobile homes spaces, service buildings and, if necessary, other accessory buildings within the park. Where public water is available, connection thereto shall be used exclusively. If a public water supply is not available, the development of a private water supply system shall be approved by the Cattaraugus County Department of Health.
- c) An adequate and approved system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Such system must be designed, constructed and maintained in accordance with the New York State Public Health Law and Department of Health standards and regulations. Such system shall be continually maintained to State and County Health Department standards and regulations and shall be subject to periodic inspection and review by the Cattaraugus County Department of Health is required by the established standards and regulations before, or to maintain, a permit too operate the mobile home park.
- d) Proper drainage shall be provided and maintained to provide a well drained site. An adequate storm drainage system shall be installed and maintained.
- e) All public utility, electric, gas, cable, television and telephone lines shall be installed underground.
- f) The park owner shall provide for the regular collection and disposal of garbage, trash and rubbish and provide adequate garbage disposal facilities as approved by the Cattaraugus County Department of Health.
- g) All fuel tanks within a mobile home park, including all fuel tanks used for heating within mobile homes, shall be installed underground in accordance with National Fire Protection Association (NFPA) standards.
- h) No mobile home shall be located on a mobile home lot until the roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with the approved site development plan for the mobile home park.
- i) At least one service building shall be constructed in each mobile home park which shall be adequate to provide for storage of all

equipment, tools and materials necessary for the maintenance of the park. All such equipment, tools and materials shall be stored within said building when they are not in use.

5) Other Requirements

- a) Mobile home park owners shall obtain a permit from the Village Building Inspector/C.E.O. approving the location of a site for the installation of individual mobile home units prior to such units being moved onto the site.
- b) Every mobile home park operator/owner shall keep a complete register of occupants homes of park spaces which shall be available for inspection at all times by enforcement, emergency and health officials.
- c) A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- d) Only one detached accessory building not exceeding 100 square feet building area may be constructed on each mobile home lot. Buildings attached to a mobile home may be constructed, provided that the total building area thereof does not exceed 100% of the building area of the mobile home. These provisions shall not apply to carports. A building permit must be obtained from the Building Inspector prior to construction of any such accessory structure, enclosure or addition, and the application therefore must show a detailed plan of the proposed construction showing compliance with the terms herein. Such structure must be completed or entirely removed from the mobile home park within two months of the date of issuance of such permit. The minimum side yard for an accessory structure shall be 10 feet.
- e) Each mobile home shall be enclosed between the space from the mobile home and the ground with skirting or solid type material screening enclosure within 30 days after arrival in the park.
- f) On-site commercial sales of mobile homes may be permitted until such time as the park reaches 100% occupancy of all approved mobile home lots in the park. Such commercial activity shall be removed within seven days of reaching 100% occupancy. The resale of existing mobile homes within a park may be permitted at any time.

- g) Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home. Such stand shall have a dimension approximating the width and length of the home and any additions or expansions, thereto. Well-anchored tie-downs shall be provided on at least each corner of the stand. The type and form of the stand or support system shall be designed by a licensed professional engineer or architect and constructed accordingly, or supports shall be placed in accordance with the requirements set forth by the Building Inspector, and in accordance with the New York State Uniform Fire Prevention and Building Code.
- h) A mobile home placed on a permanent foundation shall be affixed with sill plates and bolts into the trailer frame according to the standards for affixing a dwelling unit to a foundation specified in the New York State Uniform Fire Prevention and Building Code. If a mobile home is to be placed on a concrete slab or pier, the mobile home must be secured by means of cables run over the frame and attached on both sides to steel cable hooks buried in the concrete slab.
- i) Mobile homes shall have been constructed in accordance with regulations set forth in the Code of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter XX, Office of Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, *Manufactured MobileHome Construction and Safety Standards*.

F. Lot and Site Regulations

- 1) Lot Size: Minimum lot size for single-family dwellings is 5,000 square feet. Each space shall have a minimum width at the front of the space of 30 feet and clearly defined.
- 2) Front Yard: The minimum depth of the front yard for all principal dwellings and accessory structures shall be 15 feet.
- 3) Side Yard: There shall be at least 20 foot clearance between individual mobile home housed and between mobile homes and any permanent structure on or adjacent to the park. The minimum side yard for an accessory structure shall be 10 feet.
- 4) Rear Yard: The minimum depth of the rear yard for all principal dwellings and accessory structures shall be 15 feet.
- 5) Building Height: The maximum structure height of the principal structure or accessory structure shall be fifteen feet (15').

G. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

H. Revocation of Operating Permit

If upon inspection by the Village of Ellicottville Building Inspector/C.E.O., Superintendent of Public Works, Chief of the Village of Ellicottville Fire Department, officials of the Cattaraugus County Department of Health, and/or any other local, County, State or Federal agency having jurisdiction of the operations of mobile home parks in accordance with established standards and regulations, finds that such mobile home park not being maintained in a clean and sanitary condition or that such mobile home park is not being conducted in accordance with the regulations applicable to such park and the provisions of this chapter, the holder of the permit to operate the mobile home park shall be issued an order in writing by the Building Inspector/C.E.O. directing that the conditions therein specified be remedied within five (5) days after the service of such order. If, after the expiration of such period, such conditions remain unchanged or are not corrected in accordance with said order, the Village officer shall serve a notice in writing upon such mobile home park owner/operator requiring that person or persons to appear before the Village of Ellicottville Board of Trustees at a time to be specified in such notice and show cause why such permit to operate the mobile home park should not be revoked. The Village Board of Trustees may, after a hearing at which the testimony and witnesses of the Building Inspector/C.E.O. and/or representatives of any other involved agency and the permit holder shall be heard, revoke the permit if the conditions described in the original order have not been corrected in accordance with the terms of such order or if the holder of such permit has violated the regulations applicable to such mobile home park or has violated any of the provisions of this chapter, or for other sufficient cause. Upon the revocation of such permit, the premises shall forthwith cease to be used for the purpose of a mobile home park and all house trailers shall be removed therefrom.

6. Recreation Commercial District- (HD)**A. Purpose**

To allow for the development of high density residential, hotel, and convention accommodations in close proximity to the major recreation facilities and commercial district. This district allows a relatively high density of transient housing with appropriate supporting commercial and service activities.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Lot and Site Requirements

- 1) Side Yard: A 15 foot side yard shall be provided for all uses.
- 2) Front Yard: All uses shall provide a 35 foot front yard for main and accessory buildings. At least fifteen (15) feet shall remain open space, no parking.
- 3) Rear Yard: A twenty-five (25) foot rear yard shall be provided for all uses.
- 4) Open Space: On any lot at least sixty (60) percent of the lot shall be devoted to usable open space.
- 5) The minimum lot or site area shall be 15,000 square feet and each site shall have a minimum width of 80 feet.

D. Building Height

Buildings shall be erected to a height no greater than 28 feet, measured from natural grade or proposed finished grade, whichever is more restrictive, at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).

E. Apartments/Lockout Rooms

Apartments/lockout rooms available for nightly, weekly and/or longer period rental are permitted in this zone through Special (Conditional) Use permit review and approval by the Village Planning Board (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units).

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F. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board in accordance with the provision of Section 10 of these Codes.

G. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to site plan review as specified by Section 6 of these Codes.

H. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

7. Village Commercial District - One (YC-1)**A. Purpose**

To allow the use of land for retail service, commercial, recreational, industrial and institutional purposes with customary accessory uses to enhance and foster the continuation of the visual character, scale, and vitality of the Village central business district, to provide for those trades and service uses that may be compatible in scale or use with Village infrastructure and municipal services, and to encourage the preservation of historic structures within the District.

The Village Commercial District - One (VC-1) is distinguished from the Village Commercial District -Two (VC-2) in that the focus of this district is on the immediate area of the Village central business district and the provisions of these Codes are to encourage and support current and future retail, commercial, recreation and support services. Development which solely is to establish residential facilities shall be discouraged in this Village District. Master Plan Development proposals which provide a mix use of residential with retail/commercial and other services shall be considered through the Special Use Permitting and Site Plan Review provisions of these Codes.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Prohibited Uses

Any use not specifically designated on the Land Use Tables as Permitted or a Special (Conditional) Use is a prohibited use.

D. Lot and Site Regulations

Subject to the New York State Building Code and the following:

- 1) Front Yard Setback: No setback is required on Washington Street from Jefferson to Mill Streets. No setback is required on Monroe Street. On all other streets in the District, a ten foot (10') setback is required.
- 2) Side Yard: No side yard setback is required in this zone. There shall be a twenty-five foot (25') setback from all residential zones with the exception of all existing structures. For all new structures on corner lots, the side yard which faces a street shall not be less than 20 feet.

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- 3) Rear Yard: A five foot (5') rear yard setback is required in the zone. As with side yard setback above, a twenty-five foot (25') setback shall be required when adjacent to residential zones with the exception of all existing structures.
- 4) Building Height: Buildings shall be erected to a height no greater than forty feet (40''), measured from natural grade or proposed finish grade, whichever is more restrictive, at the building site. No volume or area above this forty feet for facade variation shall be allowed. Buildings shall not exceed four (4) stories. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).
- 5) Minimum Lot Width: No lot may be built on with a width of less than twenty feet (20'').
- 6) Open Space: At least 20 % of the total site area shall be devoted to usable open space.

E. Storage Within Enclosed Building(s)

All storage shall be within a completely enclosed building.

F. Loading Areas

Each new structure shall include an off-street loading and trash storage area.

G. Main Street Access

Vehicular access across Washington Street sidewalks is prohibited in this zone.

H. Uses to be Within Enclosed Building

All uses except outdoor dining shall be conducted wholly within a completely enclosed building except that the Planning Board may permit outdoor uses which it determines are in the best interest of the this Village Commercial District

I. Off-Street Parking

Each new structure shall provide off-street parking spaces, as provided in Section 13, with these exceptions:

- 1) Structures designated as historic buildings by the Village Board and renovations of those structures are exempt from off-street parking requirements.
- 2) The Planning Board may recommend to the Village Board that new additions to historic structures be exempt from a portion of all parking requirements where the preservation of the historic structure has been guaranteed through covenant or easement donation to a responsible public or private non-profit agency engaged in promoting historic preservation.
- 3) Fully enclosed parking spaces and associated maneuvering space required to satisfy local law requirements for the structure in which the spaces are located shall not count as floor area in this zone.

J. Apartments/Lockout Rooms

Apartments/lockout rooms available for nightly, weekly and/or longer period rental are permitted in this zone through Special (Conditional) Use permit review and approval by the Village Planning Board (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units).

K. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board as accordance with the provision of Section 10 of these Codes.

L. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes.

M. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

8. Village Commercial District - Two (VC-2)

A. Purpose

To allow the use of land for retail service, commercial, recreational, industrial and institutional purposes with customary accessory uses to enhance and foster the continuation of the visual character, scale, and vitality of the Village central business district, to provide for those trades and service uses that may be compatible in scale or use with Village infrastructure and municipal services, and to encourage the preservation of historic structures within the District.

This Village Commercial District (VC-2) is distinguished from the Village Commercial District - One (VC-1) in that the focus of this district is not on the immediate area of the Village central business district but a fringe area that transitions towards the residential districts of the Village. Development which solely is to establish residential facilities shall be permitted in this Village District. Provisions of these Codes will continue to encourage and support any current and future retail, commercial, recreation and support services. Master Plan Development proposals which provide a mix use of residential with retail/commercial and other services shall be considered through the Special Use Permitting and Site Plan Review provisions of these Codes.

B. Permitted Uses

Uses shall be limited to only those uses shown on the Land Use Tables included in these Codes as either Permitted ("P") or Special (Conditional) ("S") Uses in this district zone. All other uses are Not Permitted ("NP").

C. Prohibited Uses

Any use not specifically designated on the Land Use Tables as Permitted or a Special (Conditional) Use is a prohibited use.

D. Lot and Site Regulations

Subject to the New York State Building Code and the following:

- 1) Front Yard Setback: On all streets in the District, a twenty-five foot (25') setback is required for main and accessory buildings.
- 2) Side Yard:
 - a) The minimum side yard for any building shall be fifteen (15) feet and thirty (30) feet total, except that a side yard between connected

structures shall not be required where structures are designed with a common wall on a lot line. There shall be a minimum twenty-five foot (25') setback from all residential zones with the exception of all existing structures. The longest dimension of a building joined at the property line shall not exceed 100 feet.

- b) On corner lots, the side yard which faces on a street for both main and accessory buildings shall not be less than twenty-five feet (25').
- 3) Rear Yard: A fifteen foot (15') rear yard setback is required in this zone. As with the side yard setback above, a twenty five foot (25 ') setback shall be required when adjacent to residential zones with the exception of all existing structures.
- 4) Building Height: Buildings shall be erected to a height no greater than thirty-five feet (35') measured from natural grade or proposed finish grade, whichever is more restrictive, at the building site. No volume or area above this thirty-five foot height may be used for facade variation shall be allowed. Buildings shall not exceed three (3) stories. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section 10, Subsection 9 (Variations in Height Requirements).
- 5) Minimum Lot Width: No lot may be built on with a width of less than twenty feet (20").
- 6) Lot Size: The minimum lot or site area shall be 15,000 square feet and each site shall have a minimum width of 80 feet.
- 7) Open Space: At least 20 % of the total site area shall be devoted to usable open space.

E. Storage Within Enclosed Building(s)

All storage shall be within a completely enclosed building.

F. Loading Areas

Each new structure shall include an off street loading and trash storage area. Vehicular access across sidewalks is prohibited in this zone.

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G. Uses to be Within Enclosed Building

All uses except outdoor dining shall be conducted wholly within a completely enclosed building except that the Planning Board may permit outdoor uses which it determines are in the best interest of this Village Commercial District.

H. Off-Street Parking

Each new structure shall provide off-street parking spaces, as provided in Section 13, with these exceptions:

- 1) Structures designated as historic buildings by the Village Board and renovations of those structures are exempt from off-street parking requirements.
- 2) The Planning Board may recommend to the Village Board that new additions to historic structures be exempt from a portion of all parking requirements where the preservation of the historic structure has been guaranteed through covenant or easement donation to a responsible public or private non-profit agency engaged in promoting historic preservation.
- 3) Fully enclosed parking spaces and associated maneuvering space required to satisfy local law requirements for the structure in which the spaces are located shall not count as floor area in this zone.

I. Apartments/Lockout Rooms

Apartments/lockout rooms available for nightly, weekly and/or longer period rental are permitted in this zone through Special (Conditional) Use permit review and approval by the Village Planning Board (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units).

J. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board as accordance with the provision of Section 10 of these Codes.

K. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes.

L. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

9. Industrial Zone (I):

A. Purpose

The Industrial Zone (I) is established to provide areas in the Village where manufacturing firms can engage in processing, assembling, manufacturing, warehousing and storage; and for incidental service facilities and public facilities to serve the manufacturing area. This zone is characterized by flat, open land suited for industrial uses because of the proximity to the areas major transportation routes and the availability of utilities necessary for successful manufacturing or processing. Adult uses are permitted uses in the District and shall be a Special (Conditional) Use in this Industrial Zone. The zone is intended to encourage sound development, by providing and protecting an environment for such development, subject to regulations necessary to assure the orderly growth of the Village of Ellicottville and the protection of residential and commercial land uses from noise and other disturbances.

Consistent with the character of the Village, this district shall provide for suitable areas within the Village for light manufacturing and production activities, research and development activities, and related offices and accessory uses on sufficient land area to permit efficient development. The District is intended to promote the development of a balanced employment mix and diversified tax base within the Village. The District is located so that light industrial and service commercial uses will neither encroach upon or otherwise damage surrounding uses nor will surrounding uses interfere with the efficient development and operation of said uses.

Existing industrial uses occur in various locations in the Village, primarily to the outside of the Village commercial and residential districts. There is no specific area set-aside for industrial uses in the Comprehensive Plan Map. Due to increasing demand for residential uses, the value of these existing industrial lands could increase to the point that it may become financial infeasible to develop new large-scale industrial developments within the Village. If the economy of the region results in the loss of present manufacturing facilities, provisions should be made to facilitate the transition of these lands to other uses.

B. Uses

Representative uses within the zone are manufacturing, fabrication, processing, storage warehousing, and wholesale distribution and adult uses (adult uses is a Special (Conditional) Use in the Industrial Zone. Uses which generate excessive noise, vibration, smoke, odor, dust, fumes or danger of explosion shall be excluded from this zone.

C. Lot and Site Requirements

- 1) Loading and Unloading: The loading and unloading of goods shall take place entirely upon the site. Loading areas shall be screened from general public view.
- 2) Open Space: At least 30% of the total site area shall be devoted to usable open space.
- 3) Lot Size: The minimum lot or site area shall be 15,000 square feet and each site shall have a minimum width of 80 feet.
- 4) Side Yards: There shall be a minimum 20-foot side yard.
- 5) Front Yard: The minimum front yard shall be 35 feet.
- 6) Rear Yard: There shall be a 20-foot rear yard.

D. Building Height

Buildings shall be erected to a height no greater than 28 feet, measured from natural grade at the building site. The Planning Board may allow a 25% increase in the height of a structure after overall site planning review. Criteria for height increase review shall be as outlined in Section JO, Subsection 9 (Variations in Height Requirements).

- E. No industrial structure shall be closer than 140 feet to an existing residential building.
- F. Where an Industrial Zone abuts a residential zone, a buffer yard of not less than 100 feet, meeting the requirements of useable open space, shall be required.

G. Special (Conditional) Uses

- 1) The principal uses for the Industrial (I) District includes all uses for the Industrial Districts which are presented below and in the Land Use Tables.
- 2) Any use of a light manufacturing or light industrial nature is permitted by Special (Conditional) Use Permit review and approval, provided that such use is:
 - a) Located within an Industrial (I) District.

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- b) Located and conducted entirely within buildings. Open air operations are prohibited.
 - c) Limited to the manufacture, compounding and/or assembly of products from previously prepared materials.
 - d) Conducted in such a manner that all necessary safeguards are employed to prevent hazard or annoyance to the community, and is in compliance with the performance standards and requirements of this ordinance.
- 3) For purposes of this ordinance, the terms "service commercial uses" and "light industrial uses" shall include but not be limited to the following.
- a) Scientific or research laboratories devoted to research, design and/or experimentation and processing and production operations incidental to research and development practice and techniques.
 - b) Pharmaceutical, cosmetic products, and toiletries.
 - c) The manufacture and/or assembly of mechanical and electronic devices, electrical appliances, the machining and assembling of parts made of metal, electrical and electromechanical devices and components.
 - d) The manufacture and/or assembly of precision tools and equipment, including tool, die and pattern making and machine shops.
 - e) The manufacture and/or assembly of machines and machine parts such as automobile parts, sewing machines, typewriters, calculators and office machines.
 - f) Fabrication of metal products such as panels, sheets, tubes and rods, bicycles, metal foil, tin, aluminum, gold, metal furniture, musical instruments, and sheet metal products.
 - g) The manufacture and/or assembly of household and office items and furnishings; musical, scientific, medical, dental and photographic equipment and supplies; recreation equipment, amusement devices, novelties and toys of any type, including custom shops and arts and crafts.
 - h) Fabrication of wood products such as boats, boxes, cabinets, woodworking, furniture, and storage, drying, machining and manufacturing of secondary wood products.

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- i) Fabrication of paper products such as bags, book bindings; boxes and packing materials, and office supplies.
- j) Fabrication of clothing and other textile products.
- k) food and associated industries such as bakeries, bottling of beverages, food processing, frozen foods, food sundry manufacturing, ice cream manufacturing and other food products.
- l) Printing, publishing and engraving enterprises.
- m) Trade and industrial schools.
- n) Building supplies, lumber and construction supplies.
- o) Home, garden and farm supplies, truck garden nurseries and green houses including the sale of plants, shrubs, trees and farm produce sales.
- p) The warehousing, wholesale distribution and storage of goods and products such as building materials, farm and garden supplies and the like which may be sold from the premises to the general public.

H. Community Requirements

Applicants in this District shall provide evidence of compliance with the following:

- 1) Consideration for each industrial use will be based on the criteria that it will not create glare, heat, odor, dust, smoke, noise, or physical vibrations perceptible outside the building walls except as may be normal for a residential or commercial use.
- 2) Any Open yards used for storage or parking shall be screened effectively by a landscaped berm or structural means as determined by the Planning Board.
- 3) The Planning Board shall review the buffer between a structure housing an industrial use and the zone line of a residential district to determine the most effective way to screen the industrial use.
- 4) Utilities shall be placed underground.

I. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board as accordance with the provision of Section IO of these Codes.

J. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (sec Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes.

K. Re-subdivision of Lots

Re-subdivision of lots in this zoning district shall be allowed upon application, review and approval pursuant to the adopted Subdivision Regulations and Official Policy Procedures for Subdivision Review incorporated in Section 8 of this Zoning Local Law.

L. Prohibited Industrial Uses

In any district where manufacturing or light industry is permitted, no manufacturing use, nor any trade, industry use or purpose that is noxious or offensive by reason of the emission of odor, dust, vibration, or excessive light, or any combination of the above, which is dangerous and prejudicial to the public health, safety and general welfare, shall be permitted. This includes more specifically, but is not limited to, the following such uses:

- The bulk storage of fuel or petroleum products, nuclear or radioactive products, and toxic waste chemicals is specifically excluded from the intent of this District.
- Acetylene gas manufacture for commercial purposes.
- Ammonia, chlorine or bleaching powder manufacture.
- Arsenal.
- Asphalt manufacture or refining.
- Blast furnaces, not including cupola or converter furnaces used in foundries and in which no wood is used as fuel.
- Boiler shops, structural steel fabricating shops, metal working shops, which operate reciprocating hammers or chisels or other noise producing electric or pneumatic tools within 100 feet of any boundary line of the premises and outside of any masonry buildings.
- Brewing or distilling of liquors.
- Bronze and aluminum powder manufacture.
- Carbon, lampblack, shoe blacking, graphite, or stove polish manufacture.
- Celluloid and other cellulose products manufacture.
- Cement manufacture.
- Coal tar products manufacture.
- Creosote treatment or manufacture.
- Distillation of coal, wood or bones.
- Dump, unless leased, owned or operated by the Village of Ellicottville or operated pursuant to license or other agreement with the Village of Ellicottville.
- Excelsior and fiber manufacture.
- Explosives, fireworks or match manufacture, assembling and storage in bulk of safety matches in book form.
- Fat rendering.
- Fertilizer manufacture or potash refining.
- Fish smoking or curing.
- Glue, size or gelatin manufacture or processing involving recovery from fish or animal offal.
- Incinerator, unless operated by the Village of Ellicottville.
- Junk yard, except pursuant to local law.

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- Lime, gypsum, cement, plaster, or plaster of Paris manufacture, except the mixing of plaster.
- Linoleum or oil cloth manufacture.
- Ore reduction or the smelting of iron, copper, tin, zinc, or lead.
- Paint, oil, varnish, turpentine, shellac, or enamel manufacture, except the mixing of wet paints.
- Perfume and extract manufacture.
- Petroleum refining.
- Poisons manufacture: fumigants, carbon disulphide, hydrocyanic acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellebore and paris green, insecticides, defoliants and herbicides, lime, sulphur, nicotine, kerosene emulsions.
- Printing ink manufacture.
- Radium extraction, or extraction or refining of any substance which emits ionizing radiation.
- Rubber, caoutchouc, or gutta percha manufacture from crude or scrap material, except in connection with a rubber products manufacture plant.
- Salt works.
- Sand paper and emery cloth manufacture.
- Slaughtering of animals, except for immediate consumption on premises or immediate retail sale.
- Soap, soda ash, or washing compound manufacture, except products not containing caustic soda.
- Starch, glucose, or dextrin manufacture.
- Stock yards.
- Storage, coloring, curing, dressing, or tanning of raw or green salted hides or skins.
- Sulphurous, sulphuric, nitric, picric, or hydrochloric acid or other corrosive or offensive acid manufacture, or their use or storage, except on a limited scale as accessory to a permitted industry.
- Tallow, grease, lard or mass candle manufacture or refining.
- Tar distillation or the manufacture of aniline dyes.
- Tar roofing or waterproofing manufacture.
- Tobacco processing.
- Vinegar, pickle or sauerkraut manufacture in bulk.
- Yeast manufacture.

10. Historic District Overlay Zone (HOO)**A. Policy and Purpose**

As a community partially dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for the residents and property owners of the Village of Ellicottville. It is in the best interests of the general welfare of the community to protect the aesthetics values of the community through the elimination of architectural styles, and those building, materials which, by their nature, are foreign to this area, and this climate, and therefore tend to detract from the appearance of the community. The Village's older neighborhoods are the Historic District, which is a point of considerable importance to the tourism industry. New development, while distinct from the Historic District Overlay Zone, should not detract from it. The effects of one development are felt on the community as a whole. It is the policy of the Village to foster good design within the constraints imposed by climate, land ownership patterns, and a unified architectural theme.

B. Historic District Overlay Zone

A geographically definable area within the Village of Ellicottville defined through National Register Criteria for Evaluation and placed on the National Register of Historic Places in 1991 and so designated pursuant to this Code. The Historic District Overlay Zone is illustrated on the Zoning Map adopted as an element of these Codes.

C. Historic District Location and Boundaries

The Ellicottville Historic District is located at the core of the incorporated Village of Ellicottville. The Historic District contains the portion of the Village street plan that retains physical integrity from its historical period (c1817-1935). The district boundary encompasses all the Plan's two axial thoroughfares: Washington and Jefferson Streets, including the public square at the intersection, as well as portions of secondary streets immediately adjacent, specifically Adams, Madison, Monroe, Elizabeth and Elk streets; surviving alleys, which were also components of the street plan, are included where intact historic buildings survive. Functionally, this includes a commercial zone on Washington and Monroe Streets east of Jefferson; a civic zone on Jefferson that extends onto Elizabeth, which contains three churches and a school in addition to governmental offices; and a residential zone on Washington, west of Jefferson (differential from the commercial section on West Washington). The boundary excludes portions of the historic street plan that were developed less cohesively and/or which have been substantially altered either in design or plan during recent, non-historic periods. In all, the district contains 63 contributing and 3 non-contributing properties.

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The Historic District in Ellicottville was identified following an extensive cultural resource survey of the Village completed in 1990. The methodology for defining the District boundaries and evaluating resources within the district was based on the National Register Criteria for Evaluation and involved an analysis of significance and integrity. The District boundaries were drawn to include the extent of the various, substantially intact building types associated with the civic, commercial, religious, educational and residential life of Ellicottville between 1817 and 1935. Buildings that do not relate to the established architectural and historic contexts, that were extensively altered or are outside the period of significance are excluded from the district. One building in the District, the Ellicottville Town Hall, has already been listed on the National Register (1972). See Map 1 and the official Zoning Map of these adopted Codes for the specific location and boundaries of the Historic District Overlay Zone.

D. Uses Subject to Design Review

All uses within the Historic District Overlay Zone, Permitted and Special (Conditional), are subject to design review by the Historic District Commission (HDC) or, in the absence of, the Village Planning Board for compliance with the Historic Preservation standards (Section 11) adopted by the Village of Ellicottville as an element of this Code. Those guidelines are incorporated into this Code by reference, but may be revised and amended from time to time by resolution of the Village Board of Trustees. Review by the Historic District Commission (Planning Board), in addition to matters of design compliance, may include functional review of uses within the Historic District subject to the provisions of Site Plan Review, Permitted or Special Use (Conditional Use) Permit Review or other provisions of this Code.

E. Special Use (Conditional Use) Review

Special Uses (Conditional Uses) within the Historic District Overlay Zone are subject to review by the Historic District Commission (Planning Board), with the right of appeal to the Zoning Board of Appeals (ZBA). The standards for review are set forth in this Code (Section 11) but additional review standards may be adopted by resolution of the Village Board of Trustees, provided that resolution is consistent with the provisions of this Code.

F. Permitted Use Review

Permitted uses in all zones within the Historic District Overlay Zone are subject to review by the Historic District Commission (Planning Board). The standards of review are set forth in this Code (Section 11) but additional review standards may be adopted by resolution of the Village Board of Trustees, provided that resolution is consistent with the provisions of this Code.

G. Other Review

Design or other use proposals within a subdivision may be subject to extensive design regulation covenants within the subdivision covenants, conditions and restrictions. The Village does not attempt to enforce those private covenants, but strongly advises property owners to investigate those covenants prior to incurring the expense of designing a structure.

H. Architectural Design Review

All new structures and exterior remodeling and modifications of existing structures shall be subject to architectural control and review by the Village of Ellicottville Planning Board as accordance with the provision of Section 10 of these Codes.

I. Site Plan Review

All new structures proposed for construction in this District and all structures proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes.

J. State Environmental Quality Review Act (SEQRA)

Must be complied with when a state or local agency has discretionary authority over an action, such as the issuance of a certificate of appropriateness (certificate of approval). When historic resources could be affected by an action governed by SEQRA, the thresholds for classification and examining the action may be stricter: An "unlisted action" which occurs within or substantially contiguous to a registered property or a property which has been nominated for the National Register or State List, will be considered a "Type I" action under SEQRA. Type I actions are more likely to require the preparation of an environmental impact statement (EIS), as well as undergo coordinated review. For example, a local government that has site plan review authority over a property that is listed or "substantially contiguous" to a property listed on the State or National Register of Historic Places may also consider the environmental impact upon the listed property.



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11. Special Flood Hazard Areas

A. Purpose

The purpose of the Special Flood Hazard Areas is, in compliance with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and other statutes amendatory thereof and supplementary thereof, some or all of the permanent provisions of which constitutes the National Flood Insurance Program (42 U.S.C. 4001-4128) and Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations promulgated thereunder, to delineate the area in which zoning regulations to protect the future health, safety and welfare of inhabitants of the Village from hazards due to periodic or intermittent flooding are to be enforced. These zoning regulations shall include those for the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside the Special Flood Hazard Area or uses within the Special Flood Hazard Area will be free from flooding or flood damage. The Special Flood Hazard Area consists of:

- 1) The Floodway District (FW), being the floodways established by the Federal Insurance Administrator on the Flood Boundary and Floodway Map for the Village of Ellicottville; is a separate zoning district.
- 2) The Floodway Fringe Over-District (FF), being those portions of the other zoning districts adjoining the Floodway District located within the Special Flood Hazard Area established by the Federal Insurance Administrator on the Flood Boundary and floodway map for the Village; and the zoning regulations applicable at any point thereof are those of the underlying zoning district. Applicants for projects must have agency or an engineer's approval to develop in the Floodway Fringe Areas.

B. Flood Damage Prevention

Local Law No. 1 of 1994 enacted the Flood Damage Prevention law for the Village of Ellicottville. The purpose of enacting that law was to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas of the Village. The law specified certain provisions and procedures for obtaining the objectives of flood damage prevention. This Local Law has been included in its entirety in Section 17 of these Codes.

C. Map of Special Flood Hazard Area

Due to the scale and detail of the official Zoning Map of these Codes, the Special Flood Hazard Area has not been included on that map. Specific delineation of the Special Flood Hazard Areas and the Floodway and Floodway Fringe Over-District

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can be found on the Federal Emergency Management Agency (FEMA) National Flood Insurance Program Map for the Village of Ellicottville (dated May 2, 1994) and the companion Flood Insurance Study for the Village of Ellicottville (revised May 2, 1994). The Map and Study are available through the Village of Ellicottville Building Inspector/ C.E.O.

SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES:

To facilitate public understanding of this ordinance and for better administration and convenience of use thereof, the following schedule of "permitted uses" and Special (Conditional) Uses for the various zoning districts is hereby adopted and declared to be a part of this ordinance, and may be amended in the same manner as any other part of this ordinance.

Uses: In each zoning district any use category not expressly permitted shall be deemed excluded. If a question arises as to whether a specific use does or does not come within the following expressed use categories, any person may apply to the Planning Board for a determination as to whether a specific use is expressly permitted. In using the following tables, the letter "P" indicates a Permitted Use, the letter "S" indicates that a Special (Conditional) Use permit is required, and "NP" indicates a use that is Not Permitted in the zone.

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SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES

LAND USE TABLES

USE - DESCRIPTION	C	VR	LO	MD	HD	VC-1	VC-2	I	RMHD
Single family detached dwelling	p	p	p	p	p	NP	NP	NP	NP
Two dwelling structure/duplex	NP	NP	S	S	S	NP	NP	NP	NP
Three dwelling structure/triplex	NP	NP	NP	NP	S	NP	NP	NP	NP
Multi-dwelling structure, with four or more dwelling units	NP	KP	NP	NP	S	NP	NP	NP	NP
Apartment	NP	S	S	S	S	S	S	NP	NP
Rightly Rental - Rental of dwellings for periods less than 30 days	NP	NP	NP	NP	S	NP	NP	NP	NP
Accessory building and uses	p	p	p	p	p	S	S	p	S
Accessory Use or building not on the same lot as the principal use.	S	S	S	S	S	S	S	S	S
Guest house	S	S	S	S	S	NP	NP	NP	NP
Lock-out rooms	S	S	S	S	S	NP	NP	NP	NP
Home occupations	S	S	S	S	S	S	S	NP	S
Public and quasi-public uses, such as churches, schools, private schools with curriculum similar to public schools	S	S	S	S	S	S	S	S	NP
Group care facilities, including halfway houses, rehabilitation centers, group foster care, senior citizen group homes, day care centers, and child nurseries	S	S	S	S	S	S	S	S	NP

VILLAGE OF ELUCOTTVILLE ZONING ORDINANCE
SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES

USE - DESCRIPTION	C	YR	LD	MD	HD	VC-1	VC-2	I	PROG
Activities for conservation of soil, water and wildlife	p	S	S	S	S	S	S	S	S
Agriculture, crop production, orchards, flower production, forest land, but not keeping of livestock, and not retail sales	p	S	S	S	S	S	S	S	NP
Agricultural Processing	NP	NP	NP	NP	NP	NP	NP	S	NP
Roadside Stand	NP	KP	NP	NP	NP	S	S	S	NP
Keeping of livestock (Raising and grazing of livestock, horses, cattle and/or poultry)	S	NP	NP	NP	NP	NP	NP	NP	NP
Commercial stables, riding academy	S	NP	NP	NP	NP	NP	NP	NP	NP
Cemetery	S	NP	S	NP	NP	NP	NP	NP	NP
Essential municipal and public utility uses, facilities, services and buildings (provides! business offices, repair storage, production facilities not included)	S	S	S	S	S	S	S	S	S
Professional offices, medical and dental clinics, business office	NP	NP	NP	NP	NP	S	S	S	NP
Home Retail & Service Trade	S	S	S	S	S	p	p	NP	S
Temporary building for construction project management and temporary sales, in conjunction with active building permit for development project	NP	NP	NP	NP	S	S	S	S	S

VILLAGE OF ELLICOITVILLE ZONING ORDINANCE
SECTION 3B - SCHEDULE OF REQUIREMENTS- LAND USE TABLES

USE - DESCRIPTION	C	YR	LD	MD	HD	VC-1	VC-2	I	RMHD
Temporary building or trailer for living purposes during the period that construction work on a residence under a valid building permit is in progress, for a period not to exceed that of the validity of the building permit	NP	NP	"p	NP	NP	NP	NP	NP	S
Passenger tramway stations and base facilities	S	S	S	S	S	S	S	S	S
Liftway, no loading or unloading	S	S	S	S	S	S	S	S	S
Retail commercial establishments limited to the following and similar uses: antique store, art gallery, art supply store, bakery, book store, camera store, clothing store, candy store, tobacco and cigarette store, florist, food store, gift shop, liquor store, office supply store, pharmacy, sporting goods store, and variety	NP	NP	NP	NP	S	S	S	S	NP
Retail commercial establishments limited to the following and similar uses: automobile sales, plant nursery stock production and sales; and service commercial establishments limited to the following and similar uses: auto rental customer outlet, business office, financial institutions, handicraft production, personal services, including barber & beauty shops, dry cleaning pick-up station, laundromat, studio for instruction in the arts, travel agency, job printing shop, department store	NP	NP	NP	NP	S	S	S	S	NP

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
SECTION 3B - SCHEDULE OF REQUIREMENTS-LAND USE TABLES

USE - DESCRIPTION	C	YR	LD	MD	HD	VC-1	VC-2	I	RMHD
Service commercial establishments limited to the following and similar uses: catering service, mortuary, animal hospital, tailoring and shoe repair, radio or television broadcast facility	NP	NP	NP	NP	S	S	S	S	NP
Service commercial establishments limited to the following & similar uses: automobile repairing and washing, bulk dry cleaning and laundry, transportation services, trucking services, printing shops, product assembly, auto rental, or storage lot, wholesale business	NP	NP	NP	NP	NP	S	S	S	NP
Gasoline service station	NP	NP	NP	NP	NP	S	S	S	NP
Restaurant	NP	NP	NP	NP	S	S	S	S	NP
Restaurant, outdoor dining	NP	NP	NP	NP	S	S	S	S	NP
Restaurant, drive in, or drive up window	NP	NP	NP	NP	S	S	S	S	NP
Bar, tavern, liquor store, fraternal organization	NP	NP	NP	NP	S	S	S	S	NP
Hospital, emergency medical care facility	NP	NP	NP	NP	S	S	S	S	NP
Indoor entertainment such as bowling alleys, skating rinks, movie theatre, Performing arts center	NP	NP	NP	NP	S	S	S	S	NP
Golf courses, outdoor entertainment and recreation facilities	S	NP	S	S	S	S	S	S	NP
Time share projects	AC*Á	NP	NP	NP	S	NP	NP	NP	NP
Time share conversions	AC*Á	NP	NP	NP	S	NP	NP	NP	NP

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
SECTION 38 - SCHEDULE OF REQUIREMENTS-LAND USE TABLES

ÜÜÓÆÉÓUOËØŞÜØŠŚÁ	OÁ	ÜPÁ	LO	MD	ÒĈÁ	ÜÖĈFÁ	ÜÖĈGÁ	I	ËRÒĈÁ
Time share sales office, off-site within an enclosed building	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	SŞÁ	SŞÁ	SŞÁ	SŞÁ
Recreation facilities owned by a private home owner	S	S	S	S	S	S	S	S	S
Recreation facilities owned by property owners association for private use by members, including tennis court and swimming pool	S	S	S	S	S	S	S	S	S
Commercial recreation facility, racquet club, athletic club, or gymnasium, not including stables	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	S	S	S	SŞÁ
Sawmills	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	SŞÁ
Lumber milling and storage	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	SŞÁ
Manufacturing of finished goods from raw materials	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	SŞÁ
Hotel, motel, inn, with }6 or more rooms available for rent	SŞÁ	SŞÁ	SŞÁ	SŞÁ	S	S	S	S	SŞÁ
Hotel, motel, inn, with fewer than 16 rooms available for rent	SŞÁ	SŞÁ	NP	NP	S	S	S	S	NP
Boarding house with two or more bedrooms available for rent, but not to exceed nine persons	S	S	S	S	S	S	S	SŞÁ	SŞÁ
Bed & Breakfast Inns and boarding house with fewer than 6 rooms available for rent, but not to exceed nine persons	SŞÁ	S	S	S	S	S	S	SŞÁ	SŞÁ

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES

USE DESCRIPTION	C	VR	LD	MD	OE	VC-1	VC-2	I	RMHD
Master planned development with full commercial uses, heavy retail, and services designed for general public use rather than support services	NP	NP	NP	NP	NP	S	NP	S	NP
Master planned development with residential uses and limited commercial retail and support services	NP	NP	NP	NP	NP	S	S	S	NP
Master planned development with residential uses only	NP	NP	NP	S	S	NP	S	NP	NP
Mobile homes	NP	NP	NP	NP	NP	NP	NP	NP	p
Mobile home parks	NP	NP	NP	NP	NP	NP	NP	NP	p
Campgrounds	NP	NP	NP	NP	NP	NP	NP	NP	
Parking facility - Commonly owned garage for four or more cars, above grade or below, and not connected to dwellings or commercial structures	NP	NP	NP	NP	NP	NP	NP	NP	
Parking facility - Commercial parking lot or garage	NP	NP	NP	NP	NP	S	S	S	

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
 SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES

USE - DESCRIPTION	C	VR	LD	MD	HD	VC-1	VC-2	I
Adult Uses - including the following and similar uses: Adult Book Store, Adult Video Store, Adult Entertainment Cabaret, Adult Theater, Peep Show, Massage Establishment, Adult Motels or Hotels, Body Painting Studio, or Adult Model Studio	NP	NP	NP	NP	NP	NP	NP	S
Commercial and Private Airport and/or aviation facility including helicopter landing and servicing facility	NP	NP	NP	NP	NP	NP	NP	NP
Bulk fuel storage (not including gasoline station fuel storage)	NP	NP	NP	NP	NP	NP	NP	NP
Mining, sand & gravel extraction	NP	NP	NP	NP	NP	NP	NP	NP
Junk Yard	NP	NP	NP	NP	NP	NP	NP	NP
Recycling Facility	NP	NP	NP	NP	NP	NP	NP	S
Telecommunications Towers	NP	NP	NP	NP	NP	NP	NP	S

SECTION 4 - PERMITTED USES

1. Permitted Use Review Process

On any proposal to construct a building or other improvement to property which is defined by this Code as a permitted use in the zone in which the building is proposed, the building Inspector/Code Enforcement Officer (C.E.O.) shall review the submission to determine whether the proposal: a) is a permitted use within the zone for which it is proposed; b) complies with the requirements of that zone for building height, setback, side and rear yards, and lot coverage; and c) that the applicable parking requirements have been satisfied. Upon finding that the proposal complies with the applicable zoning requirements and can be adequately serviced by existing utility systems or lines, the plans shall be reviewed for Building Code compliance and permit issuance by the Building Inspector. If the submission does not comply with the requirements of the zone, the Building Inspector/Code Enforcement Officer shall so notify the owner of the project or his agent, if any, stating specifically what requirements of the zone have not been satisfied, and also stating whether the project could be reviewed as submitted as a conditional use for that zone.

2. Application For Permitted Uses

- A. The application for a building permit for a permitted use shall contain the following information, in addition to information required by the New York State Uniform Fire Prevention and Building Code:
- B. Complete construction drawings for the structure.
- C. A site plan showing the lot and the location of the proposed structure on the lot. The site plan must be drawn to scale. A certified survey done by a land surveyor licensed by the State of New York may be required on projects with structures on or near the lot lines or when the lot lines are difficult to determine from existing plats and monuments. Topographic data may be required when the site is sloping or when the building height cannot be readily determined from the elevations without topographic data.
- D. A statement of the name, address, and telephone number of the owner or responsible agent.
- E. The location of the proposed structure by street address or by reference to existing structures so that the location can be identified and assigned a street address.
- F. Approval of permitted uses shall be noted by the issuance of a building permit in compliance with the provisions of the New York State Uniform Fire Prevention and Building Code.
- G. The location and size of adjacent utility lines.
- H. A letter indicating availability of sewerage facilities shall be obtained prior to issuance of Building Permit.

SECTION 5 - SPECIAL USE PERMITS

(Defined in Village of Ellicottville Zoning Local Law of 1991 as Conditional Use Permits)

1. Purpose

As used in this section, the term "Special Use Permit" shall mean an authorization of a particular land use which is permitted in this zoning local law, subject to requirements imposed by this local law to assure that a proposed use is in harmony with this local law and will not adversely affect the neighborhood if such requirements are met.

The purpose and intent of Special Use Permit approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, special uses require careful consideration so that they may be properly located and conditioned in order to minimize their effect on nearby properties and to meet the objectives of this zoning ordinance.

The special use permit procedure is intended to provide greater flexibility in land uses while at the same time preserving neighborhood characteristics and assuring compatibility between the special permitted uses and uses on adjoining properties and the Village as a whole.

2. Authorization to Grant Special Use Permits

A. The Planning Board shall hear and determine all applications for Special Use Permits for uses that are so listed in Section 3 and elsewhere in this ordinance. After evaluating the application using the standards established in Section 6.6 and considering the intent and purpose of this Code, the Planning Board may approve or deny the application for Special Use Permit.

B. In the review and approval of a Special Use Permit application, the Planning Board may impose any reasonable conditions and restrictions that are directly related to and incidental to the proposed Special Use permit that the Planning Board feels are necessary to preserve the character of the neighborhood and/or to mitigate potential impacts to the neighborhood, to the Village as a whole, or to the environment. These conditions may include, but are not limited to, the following:

- 1) Limiting the hours of operation
- 2) Requiring fencing, screening, and landscaping to protect adjacent or nearby property
- 3) Limiting the number, size and location of signs
- 4) Controlling the number and location of driveway entrances
- 5) Location and supply of parking

- C. The Planning Board may issue a temporary Special Use permit subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by the Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the Special Use permit involved.
- D. If conditions are imposed by the Planning Board as part of the approval of the permit, those conditions shall be satisfied before the Zoning Official (Building Inspector/Code Enforcement Officer (C.E.O)) can issue a Zoning Permit and/or a Certificate of Zoning Compliance. The Planning Board shall determine when the condition must be met.
- E. Notwithstanding any provision of law to the contrary, where a proposed Special Use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of such determination by the Zoning Official. The Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for the Special Use permit.

3. Pre-Application Conference

A pre-application conference may be held with Village staff prior to the preparation and submission of a formal application for a Special Use permit. This pre-application conference will be held initially between the Building Inspector/C.E.O and the applicant to review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the Special Use permit application. If appropriate, a pre-application presentation may be made to the Planning Board to discuss the nature of the proposal and identify the general nature of any conditions that may be imposed.

4. The Application

- A. An applicant for a Special Use Permit shall submit a completed application, on a form provided by the Village, to the Building Inspector/C.E.O., who shall forward it to the Planning Board. Eight (8) copies of all required materials shall be submitted.
- B. The application shall contain the following information and materials:
 - 1) An application for a Zoning Permit.
 - 2) An application for Site Plan Review, with all required application materials.

- 3) Stormwater Management Plan
- 4) If the proposed project is in or near a floodplain, the applicant shall submit an application in accordance with Local Law 1-1994 (Flood Damage Prevention).
- 5) A written statement, which shall contain the following information:
 - If appropriate, a map of the site showing the existing conditions, site boundaries, proposed project/site changes, orientation to adjoining public streets and the neighborhood including north arrow and scale.
 - The tax map number of the parcel or parcels on which the project will occur, and the name of the owner of record for those parcels.
 - A general description of the project, including the nature of the use and anticipated hours of operation.
 - If a multi-family dwelling is proposed, a description of the proposed ownership: condominium, rental, time-share ownership, etc., and a description of the proposed property management structure.
 - A list of any encumbrances, covenants or easements on the property.
 - A development schedule indicating phased development, if any, and the estimated completion date for the project.
- 6) If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
- 7) Environmental Assessment Form, with Part I completed and signed by the applicant.
- 8) All required fees.
- 9) Any other information that the Planning Board determines is necessary for meaningful review of the application, based on the nature of the project or the site.

The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project.

5. The Application Review Process

A. Public Hearing

- 1) The Planning Board shall hold a public hearing on the application for a Special Use permit within sixty-two (62) days from the date the complete

application is received. The Planning Board shall determine when the application is complete.

- 2) Notice of the public hearing shall be published in the following ways:
 - a) By publication in a newspaper of general circulation in the Village at least five days prior to the date of the public hearing.
 - b) By mailing a notice of the hearing to the owners of every parcel that is within Two hundred (200) feet of the perimeter of the site that is the subject of the application. However, if a condominium project is one of the properties within the 200 foot radius from the applicant's property or if a Homeowners Association owns one of the properties within said 200 foot radius, notice shall be given to the Management Committee, Board of Directors, the condominium owner's association, or the Homeowners Association rather than to each individual unit owner. Notice may also be mailed to such other persons as the chairperson of the Planning Board may direct. Such notices shall be mailed to the address shown on the current assessment roll, at least ten (10) days prior to the public hearing.
 - c) By mailing a notice to the applicant at least ten (10) days prior to the hearing.
 - d) Posting on the official bulletin board in the Town/Village Hall at least ten (10) days prior to the public hearing.
 - e) For all applications that meet the requirements contained in Section 239m of NYS General Municipal law, the Planning Board shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.
- 3) The posted, mailed, and published notice shall advise the public and other involved interests that a Special Use permit application has been filed on a site, and shall state that interested persons may review the application at the Village Clerk's Office during normal business hours. Interested persons may file written comments for the record prior to action by the Planning Board on the application and/or may enter comments into the record at the public hearing.

B. Decision

- 1) The Planning Board shall decide on the application within sixty-two (62) days after the date of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- 2) The concurring vote of a majority of all members of the Planning Board shall be necessary to grant a special use permit.
- 3) The Planning Board may approve, approve with conditions or deny the application for a Special Use Permit. If the Planning Board approves the application for the Special Use permit, building permits and other required permits may be issued as provided in the NYS Uniform Fire Prevention and Building Codes and other applicable law and regulations.

C. Filing of Decision

The Planning Board shall file a copy of its decision on the application with the Village Clerk within five (5) business days of the date of the decision. A copy of the decision shall be mailed to the applicant at the same time.

6. Standards for Review of Special Use Permit Applications

When making a decision to approve, approve with conditions, or disapprove a Special Use Permit, the Planning Board shall consider the following criteria. In approving a Special Use Permit, the Planning Board shall find that the project meets these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, conditions of approval or modifications to the proposal shall be part of the approved Special Use Permit.

- A. The proposed project is consistent with the Village of Ellicottville's Comprehensive Plan and any amendments thereto.
- B. The proposed project is in harmony with the general purposes and intent of this zoning ordinance and complies with all applicable requirements of this Code.
- C. The proposed project is compatible with the surrounding neighborhood in terms of use and scale, physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing and does not adversely affect the character of the surrounding neighborhood.
- D. The proposed use is of such character, size, bulk, orientation (on site and on adjacent lots/sites) and location that in general it will be in harmony with the

orderly development of the neighborhood in which the property is situated, and will not be detrimental to the orderly development of adjacent areas.

- E. The proposed use will not alter the essential character of the neighborhood nor be detrimental to the residents thereof. A permit for a Special Use in a residential area shall only be granted when it is clearly obvious that the special use will not unreasonably impair the use, enjoyment and value of adjacent residential properties, and that any vehicular traffic generated will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.
- F. A Special Use permit for a use in a commercial or industrial district shall only be granted when it is clearly obvious that such use will be harmonious with the area in which its location is sought and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes, smoke, dust or lights that will hinder the normal development of the area or impair the use, enjoyment and value of adjacent land and buildings.
- G. The proposed project will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Village.
- H. The size and location of the site are adequate for the use proposed.
- I. Essential infrastructure and community services, such as streets, police and fire protection, emergency vehicle access, water supply and sewerage disposal systems, exist to adequately serve the proposed project or will be provided on-site by the applicant. All on-site water supply and sewerage disposal systems shall be approved, in writing, by the appropriate authority.
- J. The proposed project will not unduly increase traffic volumes or unduly affect traffic flow or safety in the vicinity of the site. The capacity of the existing street system is adequate to handle the anticipated traffic from the proposed project. Location and supply of off-street parking is adequate.
- K. The proposed project will not generate excessive noise, odor, dust, smoke or vibrations.
- L. Control of delivery and service vehicles, loading and unloading zones, and facilities, location and screening of trash pick-up areas.
- M. The Stormwater Management Plan, when required by the Planning Board, is in conformance with state standards.

- N. The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of major significance.
- O. Any proposed open space is usable for the purpose for which it is proposed. Adequate legal provision has been made such that these areas will remain as permanent open space. Adequate provisions have been made for the maintenance of the open space areas.

7. Home Occupations

Home occupations present a rather unique and sensitivity situation when being reviewed and identifying conditions which allow for granting approval for such activities in what may be otherwise residential neighborhoods. A home occupation is any occupation or activity conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. In the review of applications for Special Use (Conditional Use) permits for establishment of home occupation activities, the Village Planning Board shall additionally consider the following restrictions and conditions.

Restrictions/Conditions:

- A. Not more than one (1) person, other than a member of the immediate family occupying such dwelling, shall be employed as part of the home occupation or profession. Additional persons may be employed off-site provided that such employment does not require visitation to the home occupation for business.
- B. A home occupation must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in an accessory building which is normally associated with a residential use.
- C. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs or the emission of sounds, noises or vibrations. Any new construction undertaken to accommodate the home occupation activity shall also be wholly consistent with the character of a residential premises.
- D. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- E. Limited signage shall be permitted upon review and approval of a Sign Permit by the Village Planning Board.
- F. Sufficient off-street parking shall be available and provided as required in the operation of the home occupation however parking and other on-site activities shall be

compatible with the general character of the neighborhood. A parking plan shall be reviewed and approved by the Planning Board prior to granting a Special Use Permit for a home occupation.

- G. No commercial vehicles with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds shall be used in connection with the home occupation or parked on the property.
- H. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- I. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of their profession, trade, service or business.
- J. The home occupation activity or activities, whether located in the dwelling or in an accessory structure, shall, in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, occupy a maximum of five hundred (500) square feet. (An application for a variance from the maximum permitted square feet for a home occupation may be made to: Board of Review, State of New York Department of State, Codes Division, 162 Albany Avenue, Albany, NY 12231.). A maximum of 30% of the floor area of the principal residence and/or 40% of the floor area of accessory structures may be used to conduct a home occupation.

8. Abandoned Application

An application will be deemed abandoned and terminated and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Village with information necessary to proceed with review of the application, including materials and/or information that are required by this Code or by the requirements of the State Environmental Quality Review Act.

9. Expiration of Special Use Permit

A Special Use Permit shall expire one (1) year from the date of approval if a building permit has not been issued or if use of the property in accordance with the grant of Special Use Permit has not commenced, in cases where a building permit is not needed. The Planning Board may grant an extension of the Special Use Permit for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the

start of construction or operation, such as inclement weather, delays in financing, or similar factors.

A Special Use Permit shall expire if the use of the property in accordance with the grant of a Special Use Permit shall cease continuously for one(!) year.

Nothing in this section shall be construed to prohibit the Planning Board from requiring, as a condition of approval, that a grant of Special Use Permit be renewed periodically.

10. Revocation of Approval of Special Use Permit

The Planning Board shall have the authority to revoke the grant of a Special Use Permit, after a public hearing, if the owner/applicant fails to comply with any condition(s) of approval of the application. Prior to a public hearing on this issue, the Zoning Official (Building Inspector/C.E.O.) may pursue abatement of the failure to comply as a violation in accordance with Section 20 of this Code.

11. Transferability

Under certain circumstances, a Special Use (Conditional Use) Permit will be permitted to be transferable with the title to the underlying property to a new owner so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The Planning Board shall review the activity associated with any Special Use Permit that will be part of a property transfer. The permit cannot be transferred off the site on which the approval was granted. The review of the Special Use Permit involving a similar activity may not require a full Special Use application or public hearing. At the option of the Planning Board, a public hearing may be held on the transfer of a Special Use Permit to a new owner. Home occupations and rental of property for periods less than thirty (30) days shall not be transferred to one owner to another.

SECTION 6 - SITE PLAN REVIEW

1. Purpose

An individual site plan is required for all permitted and special permitted uses in the Village of Ellicottville as per Sections 4 and 5 of this local law. The procedures in this local law specifically addresses the development of individual residential lots either as part of a larger subdivision or through in-fill development. The intent is to require Site Plan review for all new structures proposed for construction in the Village and all structures proposed for substantial improvement (see Definitions). Such proposals shall be subject to site plan review as specified by this section of these Codes.

Historically, the Village has developed along the creeks and major roadways within the valley floor. However, as a result of demands for second home sites, development on hill sides has become more attractive. Along with hillside development comes special concerns regarding soil erosion, stormwater runoff, vegetative clearing and scenic views. The purpose of site plan review is to identify potential problems that may result from a building plan and to correct them before construction begins. In addition, Site Plan shall determine if a plan is compatible in scale or use with Village infrastructure and municipal services, and to encourage the preservation of historic structures within the District. Further, the purpose of this section is to ensure that any new development, substantial redevelopment or improvement, special permitted use or change in use in the Village of Ellicottville is in harmony with the character of the village. Another purpose is to minimize conflicts between future development and neighboring existing uses and natural features of the site; this will minimize any potential adverse effects to the health, safety, and general welfare of the residents of the Village of Ellicottville.

2. Authorization to Review Site Plans

- A. The power to approve, approve with conditions, or disapprove site plans is hereby vested in the Planning Board of the Village of Ellicottville. When considering a site plan application, the Planning Board shall consider the plan elements contained in Subsection 7: Criteria for Approving Site Plans.
- B. When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan. Such conditions may include, but are not limited to, limiting the hours of operation; controlling the number and location of driveways; requiring fencing, screening, and/or landscaping to protect adjacent properties and to enhance the visual character of the development; requiring landscaping on site; limiting the number, size, and location of signs; and conditions affecting any of the other plan elements listed in Subsection 7: Criteria for Approving Site Plans.

- C. No Certificate of Zoning Compliance shall be issued until all aspects of the approved site plan have been completed, including any modifications to the site plan and any conditions of approval. However, the Planning Board may authorize the issuance of a Certificate of Zoning Compliance if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. This may be necessary, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases, a performance bond is needed to ensure that the proposed development will be built in compliance with the approved site plan. The amount of such performance bond shall be determined by the Village Board upon recommendation of the Planning Board and consultation, Village Engineer, the Village Attorney, Zoning Official/Code Enforcement Officer, and/or other parties as appropriate.

- D. Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of such determination by the Zoning Official/ Code Enforcement Officer. The Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for Site Plan review.

3. Applicability and Exceptions

All new development, redevelopment, and land use activities, any change in use, construction of new single-family or two-family dwellings, substantial improvement and any special use permit application shall require site plan review and approval from the Village of Ellicottville Planning Board prior to the issuance of a building permit and zoning permit, except the following:

- A. Ordinary accessory structures and related land use activities. Additions, to existing one-family and two-family dwellings are exempt from site plan review.

- B. Signs, except for signs that are included in projects that would otherwise require site plan review.

- C. Ordinary repair or maintenance to existing structures or uses.

- D. Interior structural alterations within any existing building.

- E. Exterior alterations or additions to existing structures that would not increase the square footage of the existing structure by more than twenty-five (25) percent or additions of less than 5,000 square feet, whichever is the lesser.

- F. Landscaping or grading, unless the landscaping and/or grading is part of a development or building project that is subject to site plan review.
- G. Home Occupations and Home Retail and Service Trade
- H. Accessory structures, including fences, unless the fence or other accessory structure is part of a project that is subject to site plan review.

4. Pre-application Conference

A pre-application conference may be held with Village staff prior to the preparation and submission of a formal site plan. At this time staff and the applicant shall review the application form, the materials and information needed to complete the form, and the procedures used in reviewing the application for site plan review. If appropriate, a pre-application presentation may be made to the Planning Board.

5. The Application

- A. Individual site plans, containing required information as detailed below, shall be submitted as prepared by an engineer licensed in New York State. A plan (s) for each building lot must be submitted to the Village at the time of application for zoning and building permits. All site plans must be approved by the Village Planning Board, and if so determined, by the Village Engineer prior to issuance of a zoning and building permit. Application (s) will be made on the prescribed form and must be accompanied by a review fee as determined by the latest fee schedule adopted by the Village of Ellicottville Board of Trustees.
- B. An applicant for Site Plan Review shall submit a completed application, on a form provided by the Village, to the Zoning Official/Code Enforcement Officer, who shall forward it to the Planning Board. Eight (8) copies of all required materials shall be submitted.
- C. The application shall contain the following information and materials:
 - 1) An application for a Zoning Permit
 - 2) A map, with north arrow and scale, identifying the subject site in relation to adjoining public streets and the neighborhood in which it is located.
 - 3) A scaled map (or maps) of the site, with a north arrow. The map(s) shall be at a scale approved by the Zoning Official/Code Enforcement Officer and shall be adequate to show required site features and proposed structures. The map(s) shall show existing site conditions, prior to demolition of any existing structures and any grading. The map(s) shall show:

- The boundaries of the site
 - Any easements of record or known prescriptive easements
 - Topography with contours shown at intervals of not more than five feet
 - Vegetation type and location
 - Soil type and properties
 - One hundred year floodplain, high groundwater areas, known springs and seep areas, ponds, wetlands, and streams.
 - All existing roads, fences, and drainage facilities
 - Location of public utility facilities and easements
- 4) Proposed Site Plan, on one or more scaled maps, with a north arrow. The map(s) shall be at a scale approved by the Zoning Official/Code Enforcement Officer and shall be adequate to show required site features and proposed structures. The site plan shall show:
- Location of all proposed buildings and structures
 - Location of all proposed site improvements, such as plazas, tennis courts, pools, and similar facilities
 - Driveways, parking areas, new and existing roads and any other circulation features, including access to existing public streets
 - Proposed location of new (or existing) utility services or relocated utility services, including easements, if necessary
 - Proposed drainage facilities
 - Location of sewage disposal and water supply systems. A description and explanation of the systems should be included, if necessary.
- 5) Landscaping Plan and planting schedule
- 6) Floor plans and elevations of proposed buildings and structures, showing all architectural features, including colors and materials.
- 7) Lighting Plan, including the location and design of outdoor lighting
- 8) Signage Plan, including the location, design, color, materials and size of all signs
- 9) Stormwater Management Plan
- 10) Grading plan showing existing and finished contours and grades, the location of any slopes of five (5) percent or greater, and proposed erosion control measures.
- 11) If the proposed project is in or near a floodplain, the applicant shall submit an application in accordance with Local Law 1-1994 (Flood Damage Prevention).

- 12) Details of temporary and permanent erosion control measures.
- 13) If necessary, designations of proposed ownership of areas shown on the site plan as being part of a condominium unit, common area or dedicated open space.
- 14) A written statement, which shall contain the following information:
 - The tax map number of the parcel or parcels on which the project will occur, and the name of the owner of record for those parcels.
 - A general description of the project, including the nature of the use and anticipated hours of operation.
 - If a multi-family dwelling is proposed, a description of the proposed ownership: condominium, rental, time-share ownership, etc., and a description of the proposed property management structure.
 - A list of any encumbrances, covenants, easements on the property. These should also be shown on the site plan.
 - A development schedule indicating phased development, if any, and the estimated completion date for the project.
- 15) If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
- 16) Environmental Assessment Form, with Part I completed and signed by the applicant.
- 17) All required fees
- 18) Any other information that the Planning Board determines is necessary for meaningful review of the application, based on the nature of the project or the site.

The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project.

6. Action on the Site Plan

A. Public Hearing

- 1) The Planning Board shall hold a public hearing on the application within sixty-two (62) days from the date that the complete application is received. The Planning Board shall determine completeness of the application.
- 2) Notice of the public hearing shall be published in the following ways:

- a) By publication in a newspaper of general circulation in the Village at least five days prior to the date of the public hearing.
- b) By mailing a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of the perimeter of the site that is the subject of the application. However, if a condominium project is one of the properties within the 100 foot radius from the applicant's property or if a Homeowners Association owns one of the properties within said 100 foot radius, notice shall be given to the Management Committee, Board of Directors, the condominium owner's association, or the Homeowners Association rather than to each individual unit owner. Notice may also be mailed to such other persons as the chairperson of the Planning Board may direct. Such notices shall be mailed to the address shown on the current assessment roll, at least ten (10) days prior to the public hearing.
- c) By mailing a notice to the applicant at least ten (10) days prior to the hearing.
- d) For all applications that meet the requirements contained in Section 239m of NYS General Municipal law, the Planning Board shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.

B. Decision

- 1) The Planning Board shall decide on the application within sixty-two (62) days after the date of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- 2) The concurring vote of a majority of all members of the Planning Board shall be necessary to grant site plan approval.

C. Filing of Decision

The decision of the Planning Board shall be filed in the office of the Village Clerk within five business days after such decision, and a copy thereof mailed to the applicant.

7. **Criteria for Approving Site Plans**

When making a decision to approve, approve with conditions, or disapprove a Site Plan, the Planning Board shall consider the following criteria. In approving a Site Plan, the Planning Board shall find that the project meets these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, conditions of approval or modifications to the proposal shall be part of the approved Site Plan.

- A. The proposed project is consistent with the Village's Comprehensive Plan, and any amendments thereto.
- B. The proposed project is consistent with the general purposes and intent of this code, and complies with all applicable regulations of this code.
- C. The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of major significance.
- D. The proposed project is compatible with the natural features of the site.
- E. The character and design of the proposed site plan presents a coherent, unified and consistent appearance, and adequately provides for the following features:
 - There is adequate on-site parking provided, both in terms of number of spaces and their arrangement on the lot.
 - The internal circulation system is adequate for the activities and uses proposed.
 - Adequacy of the means of access and egress to and from the site, for both pedestrians and vehicles.
 - Loading and unloading zones are adequate for the anticipated delivery and service vehicles, and their location does not affect other vehicular or pedestrian traffic.
 - Loading zones, trash receptacles and mechanical equipment areas are adequately screened from adjacent properties and from within the site.
 - Size, design, number, placement and arrangement of signs.
 - Adequacy, location and design of lighting.
- F. Buildings and structures within the proposed project are compatible with one another in design, mass, scale, style, materials, colors and architectural detailing, and provide a sense of cohesion.
- G. The proposed project is compatible in design, mass, scale, style, materials, colors and architectural detailing with the prevailing architectural standards in the general neighborhood. The orientation of the proposed buildings is compatible with the orientation of buildings on adjacent lots.

- H. The landscaping proposed for the site, including the type and arrangement of trees, shrubs, other plant material, ground covering material, walls and fences, pavement and any other landscaping features, is cohesive in nature and is adequate and appropriate to the site.
- I. If required, any buffering between the project site and adjacent properties is attractive and adequate. Buffering may be achieved by landscaping, fencing, berms, and/or other means acceptable to the Planning Board.
- J. The proposed water supply and sanitary waste disposal systems meet the standards of the Village and the Cattaraugus County Health Department.
- K. The grading plan, if any, shall be approved by the Village Engineer.
- L. The Stormwater Management Plan, when required by the Planning Board and/or the Village Engineer, is in conformance with state standards.
- M. If adjacent or neighboring properties contain existing solar facilities, the proposed project will not adversely affect the solar access of those facilities.
- N. Any proposed open space is usable for the purpose for which it is proposed. Adequate legal provision has been made such that these areas will remain as permanent open space. Adequate provisions have been made for the maintenance of the open space areas.

8. Certificate of Occupancy

Implementation of the approved plans incorporating all conditions specified by the conditions of the site plan review shall be completed as required prior to final inspection by the Building Inspector/Code Enforcement Officer and issuance of a Certificate of Occupancy.

9. Abandoned Application

An application will be deemed abandoned and terminated and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional information is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Village with information necessary to proceed with review of the application, including materials and/or information that are required by this Code or by the requirements of the State Environmental Quality Review Act.

10. Expiration of Site Plan Approval

Approval of the site plan shall expire one (1) year from the date of approval if a building permit has not been issued or if use of the property in accordance with the Site Plan approval has not commenced, in cases where a building permit is not needed. The Planning Board may grant an extension of the site plan approval for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the start of construction or operation, such as inclement weather, delays in financing, or similar factors.

Approval of the site plan shall expire if the use of the property in accordance with the site plan approval shall cease continuously for one (1) year.

11. Revocation of Site Plan Approval

The Planning Board shall have the authority to revoke the site plan approval, after a public hearing, if the owner/applicant fails to comply with any condition(s) of approval of the application. Prior to a public hearing on this issue, the Zoning Official/Code Enforcement Officer may pursue abatement of the failure to comply as a violation in accordance with Section 20 of this Code.

12. State Environmental Quality Review Act (SEQR) Fees

SEQR fees may be required by the Village. Pursuant to Section 617.17 of Part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8-0109.7 of the New York State Environmental Conservation Law (ECL), the Planning Board, acting as lead agency, shall charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If applicant prepares the EIS, the Planning Board shall charge applicant for the actual cost of the review. If applicant does not choose to prepare EIS, Planning Board shall charge applicant for the actual cost of preparing EIS.

SECTION 7 - NON-CONFORMING BUILDINGS, STRUCTURES AND USES

1. Purpose

This section describes the status of the uses of land or structures which were lawful before these regulations were passed or amended, but which are now or became prohibited, restricted or substandard. While permitting non-conforming uses, structures and improvements thereto to continue, this section is intended to limit enlargement, alteration, restoration or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by the Code.

2. Continuation of Use

Except as otherwise provided herein, any lawfully established use of a building, structure or land existing at the time of the enactment of this local zoning ordinance or amendments thereto may be continued, even though such use does not conform with the provisions of this Code.

3. Discontinuance of Use

- A. Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this Code, such premises shall not thereafter be used or occupied by a non-conforming use.
- B. Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of twelve consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a non-conforming use, such use shall not after being discontinued or abandoned be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district in which it is located. It shall be the obligation of the owner of such as use to provide evidence that the right to maintain the non-conforming use was so exercised by providing affidavits or other evidence of the exercise of the use upon request of the Village.
- C. Where no enclosed building is involved, voluntary discontinuance of a non-conforming use for a period of twelve months shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

60" Change of Use

Pursuant to the procedures provided in Section 19 of these Codes, the non-conforming use of any building or structure upon a lot or portion thereof may be enlarged, modified, or changed, with the approval of the Zoning Board of Appeals, to a use of a more restricted classification, and when so changed shall not thereafter be changed to a less restricted classification.

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE

SECTION 7 - NON-CONFORMING BUILDINGS, STRUCTURES AND USES

5. Repairs and Alterations

Normal maintenance of a non-conforming building or structure is permitted. However, unless changed to a conforming use, such building or structure may not be reconstructed or substantially improved to an extent exceeding in aggregate cost fifty (50) percent of the market value of the building or structure. (Market value shall be determined by dividing the assessed value by the equalization rate.)

6. Restoration, Reconstruction, and/or Rehabilitation

No building or structure damaged by fire, flood or other causes to the extent of more than fifty (50) percent of its market value shall be repaired, rebuilt, restored, reconstructed or rehabilitated except in conformity with the regulations of this zoning ordinance. (Market value shall be determined by dividing the assessed value by the equalization rate.) All damaged buildings or structures must be repaired or razed within a period of twelve months from the date the damage occurred.

7. Extension

A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building designed or manifestly arranged for such use, which existed prior to the enactment of this zoning ordinance, shall not be deemed the extension of such non-conforming use.

8. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

9. Processing

The Zoning Board of Appeals shall have the power to rule on all requests for changes in the character of any non-conforming use and have hearings to determine whether the use in question is in fact a non-conforming use, as opposed to a violation of the Codes established by this Local Law or an allowable use within the zone.

- A. An application for approval of changes to non-conforming uses may be filed by a person having an interest in the property for which the non-conforming use is requested and shall be made on a form provided by the Village.
- B. Consistent with NYS Village Law (Section 7-712-a and 7-712-b) and the procedures established by Section 19 (Zoning Board of Appeals) of these Codes, processing of application for a change to a non-conforming use shall follow the

procedures established for review of actions normally authorized to the Zoning Board of Appeals.

- C. As provided by these Codes, upon filing of an application for a change of a non-conforming use, abutting and nearby property owners shall be notified by mail as required.
- D. Consistent with NYS Village Law (Section 7-712-a and 7-712-b) and the procedures established by Section 19 of these Codes, the Zoning Board of Appeals shall hold a public hearing on the non-conforming use. As provided by these Codes, public notice shall be given of the public hearing before the Zoning Board of Appeals.
- E. The Zoning Board of Appeals shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application.

10. Criteria for Review

In addition to the aforementioned, approval of a request for changes to non-conforming uses under the Section shall be granted only when it can be shown that the following criteria, insofar as applicable, are met.

- A. All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood; i.e., objectionable conditions, visual or noise pollution, vehicular traffic, and/or on-street parking impacts.
- B. All changes of non-conforming uses shall comply with all current development requirements and conditions of this Section and other applicable Village Codes, except for the use change being requested.
- C. Upon review of an application for a change of an existing non-conforming use, the Zoning Board of Appeals shall consider and apply reasonable conditions to bring the subject up to other provisions and standards of the Codes to include parking, landscaping and architectural design features.

SECTION 8 - SUBDIVISION OF LANDS

1. Purpose

Local governments are authorized by NYS Law to adopt regulations governing the subdivision of parcels of land for development, known as subdivision regulations, and the development of individual parcels of land, known as site plan regulations (See Section 6). Subdivision and site plan regulations supplement the prescriptions of the zoning law by allowing administrative agencies to review and approve specific site design and features for their impact on the neighborhood and community. In accordance with Section 7-728 of NYS Village Law, the authority to adopt subdivision regulations serves the purpose of providing for the future growth and development of a village and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population. The general purposes of adopting standards and procedures for subdivision and site plan review and approval are to assure that the development of subdivisions and sites do not negatively affect surrounding properties and the community develops in an orderly and cost-effective fashion. As provided by Section 7-728 of NYS Village Law, a village board of trustees, may by resolution, authorize and empower the planning board to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets and highways.

2. Statement of Intent

- A. The intent of including this section within the Zoning Local Law of the Village of Ellicottville is to provide a summary of the subdivision regulations and the policies that govern their administration. The subdivision regulations are adopted by the Village by a separate local law (Local Law No. 2 of 2005 - Subdivision Regulations) and included in a separate section within the covers of this document.
- B. The intent of the Subdivision Regulations is to serve as a guide for, and a control over, the development of property within the Village of Ellicottville. They are to assure proper design and construction of facilities which will be turned over to the village for perpetual maintenance. Further, it is to assure proper design and construction of facilities which will affect the health and general welfare of the community, and to prevent depreciation of property values. They are to assure that development is compatible with the long-range Comprehensive Plan of the Village of Ellicottville.
- C. The Subdivision Regulations are not intended to control building design or construction. These matters are covered elsewhere in these Zoning Codes.

3. **Adoption of Provisions; Title**

In order that land subdivisions may be made in accordance with the purpose, policies and provisions of NYS Law, subdivision regulations were adopted in 1993 by the Village of Ellicottville. Those regulations were known as and have been cited as the "Village of Ellicottville Subdivision Regulations," as adopted. In 1996, the Village of Ellicottville established an Official Policy of Procedure for Subdivision Review. The Subdivision Regulations and Official Procedure for Subdivision Review have been re-affirmed and endorsed by the Village of Ellicottville Board of Trustees with adoption of Local Law No. 2 of 2005. The Subdivision Regulations and Official Policy of Procedure have been included in a separate section within the covers of this document to recognize the interrelation between the adopted zoning regulations and the adopted subdivision regulations. It must be emphasized that the zoning regulations and the subdivision regulations are separate and distinct regulations, each adopted by separate Village Local Laws.

60" **Authority Granted to Planning Board**

By authority of resolution of the Village Board of Trustees of the Village of Ellicottville, pursuant to the provisions of § 7-728 of the Village Law of the State of New York, and re-affirmed with adoption of this Zoning Local Law Amendment, the Planning Board of the Village of Ellicottville continues to be authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways; to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of Cattaraugus County; and to conditionally approve preliminary plats.

5. **Declaration of Policy**

It is declared to be the policy of the Village Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the village. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water, sewerage and other needed improvements; that proper provision be made for protecting the environment, the watershed, scenic views and natural resources of the village in order to further the health, safety and welfare of its inhabitants; that streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire and police protection and shall compose a convenient system conforming to the Official Map and shall be properly related to the proposals shown on such portions of the Village's Comprehensive Plan, as may be in existence at any time, and shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air, to

facilitate fire protection and to provide access to fire-fighting equipment to buildings; and that open spaces for parks and recreational use shall be reserved or dedicated for public use.

It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Village. This plan shall be interpreted to include the following objectives which shall guide the Planning Board's decisions:

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health; or peril from fire, flood or other menace.
- B. Improvements. Proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
- C. Natural resources. The natural terrain, vegetation, and soil shall be conserved wherever possible.
- D. Design compatibility. All proposed lots shall be so laid out, and of such size, as to be in harmony with the development pattern of the neighboring properties.
- E. Street layout. The proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Village Development Plan, if such exists.
- F. Street design. Streets shall be of such width, grade and location as to accommodate prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings.
- G. Recreation. Proper provision shall be made for open space for parks and playgrounds.

6. Jurisdiction

Land within the Village of Ellicottville may be subdivided into lots, blocks or sites, with or without streets or highways, only if approved by the Planning Board in accordance with the procedures and requirements as set forth in the separately adopted Subdivision Regulations of the Village and only if the approved subdivision plat is duly filed in the office of the County Clerk of Cattaraugus County, New York. Construction, excavation, filling, re-grading, clearing of vegetation or other similar activities related to a proposed subdivision shall not begin within any area proposed or intended for subdivision until said subdivision shall have been approved by the Planning Board.

7. **Re-subdivision**

A re-subdivision, as defined in Section 2, is subject to the same procedure, rules and regulations applicable to a subdivision as specified by the Official Policy of Procedure for Subdivision Review included at the end of this section.

8. **Building Permits**

No permit shall be issued for the erection of any building within a proposed subdivision until said subdivision has been duly approved by the Planning Board and filed in the office of the County Clerk.

9. **Modification of Regulations**

Where the Planning Board finds that extraordinary hardship may result from strict compliance with the subdivision regulations, it may recommend to the Village Board modifications to the regulations so that substantial justice may be done and the public interest secured; provided, however, that any such recommended modification will be consistent with the spirit and intent of the zoning regulations, all village laws, the Village Comprehensive Plan and the Official Map.

10. **Amendments**

This Section, or the separately adopted Subdivision Regulations, or any portion thereof may be amended, supplemented or repealed at any time by the Village Board, on its own motion, or by petition, or by recommendation of the Planning Board subject to the approval of the Village Board of Trustees. All proposed amendments shall be referred to the Planning Board for study and recommendation, and the Planning Board, prior to taking action on any proposed amendment, may hold a public hearing thereon.

11. **State Environmental Quality Review Act (SEQR)**

SEQR fees may be required by the Village. Pursuant to Section 617.17 of Part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8-0109.7 of the New York State Environmental Conservation Law (ECL), the Planning Board, acting as lead agency, shall charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If applicant prepares the EIS, the Planning Board shall charge applicant for the actual cost of the review. If applicant does not choose to prepare EIS, Planning Board shall charge applicant for the actual cost of preparing EIS.

Cluster Development

1. Purpose

A "cluster development" shall mean a subdivision plat or plats, approved pursuant to the Subdivision Regulations, in which the applicable zoning district land use requirements are modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of the lands. Cluster development is a technique that allows flexibility in the design and subdivision of land. It may provide for greater open space and recreational opportunities, and can result in reduced development expenses relating to roadways, sewer lines, and other infrastructure, as well as lower costs to maintain of such infrastructure. Cluster development concentrates the overall maximum density allowed on property onto the most appropriate portion of the property. By clustering a new subdivision, certain community planning objectives can be achieved. For example, natural features of significance, scenic views, agricultural lands, woodlands can be preserved, steep slope areas avoided, encroachment of development in and adjacent to environmentally sensitive areas can be limited, and open space can be left in large sections.

The Planning Board may consider and approve cluster developments in any Village District where residential land uses are permitted and the procedures and requirements specified for those districts and the Subdivision Regulations. The purpose of cluster development regulations is to provide flexibility in design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic qualities of open space and to provide incentives for clustering by allowing such development at a density greater than that otherwise permitted in the same district. Cluster developments may include single-family homes or multifamily dwellings as allowed in zoning districts as specified by the Land Use tables (Table 3B).

Land shall not be considered part of the total gross area if it is located within the floodway, as delineated on the Flood Boundary - Floodway Map referred to in Section 11 of these Zoning Codes or if it is occupied by a public utility easement which prevents its use.

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Authorization

The Village Board of Trustees, by adoption of this Zoning Local Law, authorizes the Planning Board to consider and approve a cluster development simultaneously with the approval of a plat or plats pursuant to the provisions of this Section. Approval of cluster development shall be subject to conditions stated in the following subsection of this Section.

3. Conditions

- A. This procedure may be followed at the discretion of the Planning Board; in said Board's judgment, its application would benefit the Village.
- B. A cluster development shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Local Law applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.
- C. The Planning Board as a condition of plat approval may establish such conditions on the ownership, use, maintenance of such open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands.
- D. The plat showing such cluster development may include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, streets, driveways and any other features required by the Planning Board. In the case of a residential plat or plats, the dwelling units permitted may be, at the discretion of the Planning Board, in detached, semi-detached, attached, or multi-story structures.

4. Organization of Homeowners Association Required

In order to assure proper maintenance of open space and common lands created as part of a subdivision or cluster development and not dedicated fee simple to the Village of Ellicottville for recreational purposes shall be organized in one of the following forms of ownership: a homeowners association, cooperative or condominium approved by the Federal Housing Administration for mortgage insurance as a planned unit development (FUD) and the Village Board; or a homeowners association, cooperative or condominium approved by the Village Attorney and the Village Board; or any other arrangement approved by the Village Attorney and Village Board as satisfying the intent of this Section. Whenever a homeowners association, cooperative or condominium is proposed, the Village Board shall retain the right to review and approve the articles of incorporation and charter of said homeowners association, cooperative or condominium and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this Section are carried out.

Planned Unit Developments (PUDs)

Planned unit developments, or PUDs as they are commonly called, describe a zoning technique allowing development of a tract of land (usually a large tract of land, but not always) in a comprehensive, unified manner and in which the development is planned to be built as a "unit." As a mapping designation, they are also known as planned development districts (PDD), and are often a form of floating zone in that they are not made a part of the zoning map until a PUD project is approved. PUDs that are shown on a zoning map may require approval by special use permit. The PUD concept allows a combination of land uses, such as single and multiple residential, industrial, and commercial, on a single parcel of land. It also may allow a planned mix of building types and densities. For example, a single project might contain dwellings of several types, shopping facilities, office space, open areas, and recreation areas.

NYS Village Law was amended in 2003 (Effective 7/1/2004) to provide specific enabling legislation in New York State for creating PUD districts. The enabling legislation provides for the Village Board to enact, as part of its Zoning Local Law, procedures and requirements for the establishment and mapping of Planned Unit Development zoning districts. PUD district regulations are intended to provide for residential, commercial, industrial or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in the furtherance of the Village Comprehensive Plan and Zoning Local Law. In creating a PUD, a municipal legislative body would need to follow the procedure for amending zoning to create a new zoning district or to establish special use permit provisions.

The Planned Unit Development concept are adopted as part of this Zoning Local Law by the requirements, standards and process specified in Section 9 - Master Planned Developments of these Zoning Ordinances.

SECTION 9 - MASTER PLANNED DEVELOPMENTS

1. Purpose

The Master Planned Development (MPD) concept of development is allowed in the Village of Ellicottville in order to encourage the establishment of common open space, achieve economy in the provision and maintenance of public facilities, allow design flexibility in development, and to preserve the natural and scenic features of open areas. To this end, the clustering of structures (whether single or multiple) may be undertaken; structures may be joined by party walls or be separated by minimal but adequate side yards, and conditional uses may be integrated into the development. Densities within clusters may exceed those allowed for standard housing development when appropriate open space and buffer areas are provided elsewhere on the site.

2. Scope

Application for Master Planned Development may be made for land located in the following zoning districts as specified by the requirements of the Land Use Tables (Section 3):

- Residential Development District - Medium Density (MD)
- Recreation Commercial District - High Density (HD)
- Village Commercial District - One (VC-1)
- Village Commercial District - Two (VC-2)

Unless expressly provided in this Section, there shall be no density increase or height increase in the number of dwelling units which can be constructed under the applicable basic zone regulations; however, there may be density transfer between zoning districts provided the proposed Master Planned Development cluster is found to be compatible in terms of building types and character with the surrounding area and would not alter the essential character of the district.

3. Land Use Intensity Allowance

The density and type of development permitted on a given site will be determined as a result of impact and site plan analysis.

HEA Processing

An application for approval of a Master Planned Development may be filed by the owners of the property for which the approval is requested and shall be made on a form provided by the Village and must include written consent by the owners of all property to be included in the Master Planned Development. The review procedure is described in this section.

5. Pre-Application Conference

A pre-application conference may be held with the Village in order for the applicant: 1) to become acquainted with the Master Planned Development procedures and related Village requirements; 2) to obtain from the department a written list of what the formal application should include; and 3) to obtain from the department copies of guidelines to the interpretation of provisions of this section.

6. The Application

The Master Planned Development application must be submitted to the Planning Board with a completed application form on a form supplied by the Village. The application shall be supported by the following (three sets required):

A. Map of Existing Site

A map of the existing site shall show the following information for the site:

- Vicinity map (not less than 1" = 100');
- Scale and north arrow;
- Site boundaries and dimensions;
- Topography with contours at no greater than two foot intervals, less on flatter sites, if required by Village Engineer;
- Vegetation, location, and type;
- Soil type and engineering properties;
- 100 year flood plain and high water areas;
- Existing structures and their current uses;
- Existing roads and other improvements;
- Location of public utilities and utility easement;
- Other data as may be required by the Village Engineer.

B. The Site Plan

The site plan portion of the application shall consist of a plan showing the major details of the proposed Master Planned Development prepared at a scale of not less than 1" = 100' (or 1" = 50' for sites of less than five acres). The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the Master Planned Development proposed. The site plan shall contain, insofar as applicable, the following minimum information:

- Scale and north arrow;
- Proposed name of the development;
- Identity of a subdivision Master Development Plan of which the site may be a part;
- Topography with existing and proposed contours at no greater than five foot intervals, less on flatter sites; if required by Village Engineer.

- The location and size of all existing and proposed buildings, structures, and improvements;
- Natural and proposed vegetation and landscaping, streets, walkways, and easements to be reserved for public use;
- Location and general dimension of all proposed impervious paved areas such as streets, walks, parking lots, tennis courts, plaza, etc.;
- Proposed open spaces with an indication as to use and ultimate ownership, if applicable;
- Proposed drainage systems and runoff control shall be controlled by New York State DEC regulations.
- Proposed utility distribution;
- Proposed traffic circulation with anticipated average daily traffic volumes, and access to the existing street system;
- Perspective sketches showing general architectural concepts of all new or remodeled buildings;
- Maximum height of all buildings, dimensions, and square footage of all lots or parcels proposed with project;
- A general landscape plan at time of initial submission to be followed by a detailed landscaping plan, once the site plan has been approved, showing the spacing, sizes and specific types of landscaping material;
- Lighting plan.

C. Written Statement

The written statement to be submitted with the Master Planned Development application and must contain the following information (three sets required):

- A statement of the present and future ownership and tenancy and a legal description of the land included in the Master Planned Development application, including identification of all mortgages easements covenants or restrictions on land use, liens, and judgments which may affect the site;
- A development schedule indicating the approximate date when construction of the Master Planned Development, or stages of the development, can be expected to begin and be completed;
- Copies of any special agreements, conveyances, restrictions, or covenants, which will govern the use, maintenance, and continued protection of the Master Planned Development and any of its common areas;
- A mailing list of the owners of abutting properties and properties located within 200 feet of the property lines of the land included in the Master Planned Development as required by Section 1 of this Code;
- An explanation of the objectives to be achieved by the Master Planned Development, including building descriptions, variations in building setbacks, parking, height or other requirements that are being sought; sketches of elevations, or other information as may be required to described objectives.

7. **Property Posted, Notice Mailed**

Upon receipt of a fully completed application form and the submission of the accompanying information, and upon the payment of the fee for review as prescribed by ordinance, the Village shall cause notice to be given as described in Section 1.

8. **Final Plan Requirements**

The final plan shall be presented on permanent Mylar final sheets; all drawings showing proposed site development shall have a scale of no less than 1" = 100' (1" = 50' for sites less than five acres), with one sheet showing the entire project, its vicinity within the Village, and a key to the detailed drawings. The final plan shall include all information required by the Master Planned Development application, plus the following:

- A. Accurate dimensions for all lines, angles, and curves used to describe streets and other public right-of-ways sufficient to satisfy final plat requirements.
- B. Detailed sizes and dimensions for the utility and drainage systems with specific locations of all infrastructure.
- C. Architectural drawings of proposed new or remodeled structures with floor plans and elevations at a scale no less than one-eighth inch to a foot. Drawings shall indicate all exterior materials.

9. **General Criteria for Review**

A Master Planned Development shall implement the purposes of this ordinance and of this section, and in addition, shall meet the following standards and requirements.

A. **Uses Permitted**

The uses in a Master Planned Development must be uses that are shown on the land use table in Section 3 as permitted or special (conditional) uses in the zoning district in which the Master Planned Development is located. In addition, the approving agency may permit limited commercial uses (as shown on the Land Use Table) not generally associated with the residential zone if, in the opinion of the approving agency, such uses are primarily for the service and convenience of the residents of the development and the immediate neighborhood. Such uses, if any, shall not change or destroy the predominantly residential character of the Master Planned Development. The amount of area and type of such uses, if any, to be allowed in a residential Master Planned Development shall be established by the approving agency on the basis of these criteria:

- I) Relationship to the Purpose and Policies of the Comprehensive Plan: The Master Planned Development must be consistent with the purposes and policies of the Comprehensive Plan as set forth therein.

- 2) Relationship to Surroundings: The Master Planned Development's relationship to its surroundings shall be considered in order to avoid adverse impacts caused by traffic circulation, building height or bulk, lack of screening, or intrusions on privacy.

B. Maximum Density Requirements

The requirements of Section 3B (Use Tables) regarding maximum densities shall apply to all Master Planned Development except that the approving agency may increase the number of permitted units to the maximum levels if it finds that the site plan contains areas allocated for useable space in a common park area as authorized in this section, or that an increase in density is warranted by the design and amenities incorporated in the Master Planned Development site plan, and the needs of the residents for usable open space can be met.

C. Off-Street Parking

The number of off-street parking spaces in each Master Planned Development may not be less than the requirements stated in Section 13 (Off-Street Parking) except that the reviewing agency may increase or decrease the required number of off-street parking spaces in consideration of the following factors:

- 1) Probable number of cars owned or required by occupants of dwellings in the Master Planned Development;
- 2) Parking needs of any non-dwelling uses, including the traffic attracted to commercial uses from off-site;
- 3) Varying time period of use, whenever joint use of common parking areas is proposed;
- 4) Whenever the number of off-street parking spaces is reduced because of the nature of the occupancy, the approving agency shall obtain assurance that the nature of the occupancy will not change. No parking reductions shall be granted for developments requiring eight or fewer parking spaces. Parking requirements are stated in Section 13.

D. Variations in Setbacks

The setback requirements of Section 3 shall apply to Master Planned Developments except that the reviewing agency may reduce setbacks in consideration of site planning issues addressed in this Section. Variations in setback, if requested, shall be addressed in the written statement and shall be specifically called out on the Master Planned Development site plan, or shall be handled through a Master

Planned Development control document to be submitted as part of the written statement. Minimum setbacks along the boundaries of the site must be observed.

E. Variations in Height Requirements

The height requirements of Section 3 shall apply to Master Planned Developments, except that after review by the Planning Board, the Commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all of the buildings in the development by up to 25% of the maximum building height established for that zone in Section 3 of this Code after due consideration of the following site specific review standards, in addition to the other standards established for Master Planned Developments by this Section.

- 1) The geographical position of the building and possible visual effects on existing structures on or off-site;
- 2) Potential problems on neighboring sites caused by shadow, loss of solar access, loss of air circulation, closing of views, or ridge line intrusion;
- 3) The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;
- 4) Appropriateness of the uses within the building in the neighborhood;
- 5) Landscaping and buffered areas of other physical separations that may be proposed to buffer the site from adjacent uses;
- 6) The size of the side yard areas between buildings and adjacent streets and alleys and their relationship to pedestrian traffic and open space;
- 7) The provision of more than the required useable open space within the project;
- 8) Reduction of the height of other buildings or portions of a building to a point that is lower than the underlying zone maximum;
- 9) In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage or building volume (above grade) over that which is, or would be, possible under normal zone standards for the zone in which the site is located.
- 10) The amount of any increased height is specified for each zone district as the maximum allowable height that is compatible with good planning practices. Good design is a site specific review item. The burden of establishing the needs and benefits of a height increase is on the developer, and in the

absence of a satisfactory showing that the additional height will result in a superior plan and project, the zone height shall be applied.

F. Site Planning

The Planning Board must be satisfied that the site plan for the Master Planned Development has met each of the following criteria or can demonstrate that one or more of them are not applicable, and that a practical solution consistent with the public interest has been achieved for each of these elements.

- 1) The relationship of these areas to other areas, structures, and uses within the Master Planned Development.
- 2) The degree to which these areas contribute to the quality, livability, and aesthetics of the Master Planned Development.
- 3) Common park areas are encouraged and may be counted as part of the required open space within a Master Planned Development provided they are to be used and are suitable for scenic, landscaping, or recreational purposes and they are on land which is accessible and available to persons for whose use the common park area is intended, and ownership is vested in a way that preserves the open space.
- 4) Common open spaces in a Master Planned Development site shall be preserved and maintained as provided for in an irrevocable dedication declaration, or restrictive covenants approved by the reviewing agency and filed and recorded in the office of the County Recorder, or other mechanisms acceptable to the approving agency. The irrevocable dedication, covenant, and declaration shall take place as mutually agreed upon by the approving agency and the applicant, provided, however, no building permit shall be issued for the Master Planned Development until the dedications, covenants, and declarations have been filed and recorded. The areas designated in the covenants as common open space shall be maintained, repaired, preserved, and retained as open spaces by the owners in common of the property and/or the developer.
- 5) Circulation in terms of an internal street circulation system designed for the type of traffic generated, safety, and separation from living areas, convenience, access, noise, and exhaust control. Private internal streets may be permitted if they can be used by police and fire department vehicles for emergency purposes. Width and cul-de-sac design must accommodate fire fighting apparatus. All streets and roadways within private developments shall be constructed to Village Standard Regulations for Dedicated Roads. Bicycle traffic shall be considered and provided for and, where appropriate, connection of the bike and pedestrian system to other Village systems shall

be addressed. Proper circulation in parking areas in terms of safety, convenience, separation, and screening shall also be considered.

- 6) Utilities shall be addressed in terms of adequacy, availability, and locations of services.
- 7) Variety shall be addressed in terms of housing type, densities, facilities, and open space.
- 8) Privacy shall be addressed in terms of the needs of individuals, families and neighbors, and adjoining landowners.
- 9) Pedestrian circulation shall be addressed in terms of safety, separation, convenience, access to points of destination, and attractiveness in MD, HD & GC zones.
- 10) Building type shall be addressed in terms of appropriateness to density, site relationship, and bulk.
- 11) Building design shall be addressed in terms of orientation, spacing, materials, color and texture, storage, signs and lighting, and compliance with the architectural criteria contained in this ordinance.
- 12) Landscaping of the total site shall be addressed in terms of purpose of planting such as screening or ornamentation; hard surface materials used, if any; maintenance, water needs, suitability, and effect on the neighborhood.

G. Building and Lot Requirements

Buildings may be attached, semi-detached, or individual units. The uses within buildings may be mixed. The separation between detached buildings shall be a minimum of twenty (20) feet.

- 1) Structures greater than 60 feet but less than 120 feet in length should exhibit a prominent shift in the facade of the structure so that no greater than 75% of the length of the building facade appears unbroken. Each shift shall be in the form of either a ten foot change in building facade alignment or a ten foot change in roof line height, or a combined change in facade and roof line totaling ten feet. This requirement shall not apply to single family or two family dwellings.
- 2) Structure shall not exceed 120 feet in length without complying with the following guidelines:
 - a) A prominent shift in the mass of the structure shall occur at each 120 foot interval (or less) reflecting a change in function or scale. The

shift shall be in the form of either a 15 foot change in building facade alignment or a 15 foot change in foot line.

- b) A combination of both a roof line and a facade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered as compliance with this section.

H. Support Commercial Facilities

Within any Master Planned Development in those zones which permit mixed uses within Master Planned Developments, no more than 10% of the total gross floor area may be devoted to support commercial facilities as defined by this Code. All support commercial facilities shall be oriented to the internal pedestrian circulation system of the Master Planned Development. Signage on support commercial facilities must be visible only from within the development, and shall not orient to the adjacent public streets or off-site circulation areas.

10. Approvals

Approvals of Master Planned Developments shall be granted in the following manner:

A. Master Plan Approval

The approval for a Master Planned Development shall be given in a form that states the density allocated to the property as a number of units. The configuration and mix of the units can be adjusted by the developer according to the table provided herein.

B. Project Site Plan

Approval of the site plan for the project or development shall be granted by the Planning Board for all development within Master Planned Developments. Commission action will still be required for final plat approval, subdivision approval, and any other approvals or reviews.

C. Form of Approval

Once a density range and preliminary plan have been approved by the Planning Board, a master plan shall be signed by the Planning Board and the developer. In the case of a large scale Master Planned Development, in which density transfers from one portion of the site to another may have occurred, the approval shall take the form of a recordable instrument which states the legal description of the land affected by the approval, and is sufficient to put subsequent purchasers of all or

parts of the tract on notice that the density allowed on that property may be different from what basic zoning would suggest as a result of the Master Plan Approval.

D. Construction

Commencement of construction within two years is required to preserve a large scale Master Plan Approval. Construction on a small scale Master Planned Development must commence within one year, or the approval will expire as defined in Section 1-19E.

E. Transferability

Approved Master Plans are transferable with the title to the property to which the approval pertains, but no portion of the density allocation within any approval may be transferred off-site.

11. Parking

Parking within a Master Planned Development shall be required as provided in Section 5, unless the Planning Board finds that a reduction in parking is justified as provided by this ordinance. Parking is based on the unit configuration as set forth in Section 5, and not on the basis of unit equivalents.

12. Master Planned Developments In All Zones

See Section 3 for density and development requirements in each zone.

13. Master Planned Development Review Process

Applications for developments to be built according to a master plan which provides for mixed uses, and/or density transfers and concentrations within the site, commonly referred to as planned unit development (without regard to the manner in which title to the project will be held) are divided into two review processes depending on the size and nature of the project. These review processes are described as follows:

A. Small Scale Master Planned Development Review

Those projects having 25 or fewer unit equivalents, and/or less than 15% of the total project floor area (exclusive of parking) devoted to non-residential uses, are reviewed as Small Scale Master Planned Developments. The review process is identical to the conditional use process.

Also reviewed as Small Scale Master Planned Developments are individual building projects within a previously approved Large Scale Master Planned Development,

regardless of the number of unit equivalents or the residential/commercial mix in the development proposal.

B. Large Scale Master Planned Development Review

Those projects having more than 25 unit equivalents, and/or 15% or more of the total project floor area (exclusive of parking) devoted to non-residential uses shall be reviewed as Large Scale Master Planned Developments according to the procedure described in Section 4 of this Code. The nature of the density transfers and zoning concessions within the project are set forth in Section 4. The substantive requirements for master planned developments are described in Section 4 of this Code.

14. Review By Planning Board

A. Application And Criteria For Review

All proposals for Large Scale Master Plan Development approval shall be reviewed by the Planning Board. An application must be filed with the Village on a form as described in Subsection 4 and 6 of this section. Large Scale Master Planned Development shall include those projects which propose more than 25 Unit Equivalents and/or 15% or more of the floor area (exclusive of parking) for non-residential use. In reviewing requests for Large Scale Master Planned Development approval, the Board shall consider the overall planning for proposed projects, including:

- 1) Site planning for the project;
- 2) Traffic circulation within the project and on the adjoining streets, both existing and proposed;
- 3) Land uses within the proposed project area including the mixture of commercial and residential;
- 4) Density of development;
- 5) Identification of development parcels within the larger tract, and the order in which development is proposed or should be permitted to allow for the orderly and economic expansion of Village services;
- 6) Compatibility with surrounding land uses;
- 7) Other pertinent planning and land use issues that are affected by the project, such as the effects on schools, fire protection, water and utility services,

- drainage, wetland and flood plain locations, and similar on and off site issues;
- 8) Geologic hazards;
 - 9) Compatibility with comprehensive plans adopted by the Village;
 - 10) Utility capacity;
 - 11) Emergency vehicle access;
 - 12) Internal circulation system;
 - 13) Fencing, screening, and landscaping to separate the use from adjoining uses;
 - 14) Building mass, bulk, and orientation, and the location of buildings on the site;
 - 15) Usable open space;
 - 16) Signage and lighting;
 - 17) Physical design and compatibility with surrounding structures in mass, scale, style, design, and architectural detailing, and general architectural theme;
 - 18) Noise, vibration, odors, steam, smoke, or other mechanical factors that affect people and property off-site;
 - 19) Control of delivery and service vehicles, loading and unloading zones, and screening of trash pick-up area;
 - 20) Expected ownership and management of the project as primary residences, condominiums, time interval ownership, **nightly rental**, or commercial tenancies;

B. Nature of Approval

Upon review and consideration of the proposal, the Planning Board may approve, disapprove, or modify and approve the request for development. The approval process shall establish the following items:

- 1) Designation of land uses within the project area.

- 2) Designation of identifiable development parcels within the total project area. These development parcels are not required to be divided or platted as subdivision lots, but may be designated on maps as a part of the approval with a final legal description of the parcels to be required at the time each is developed or sold, leased, or otherwise transferred or separated from the whole tract.
- 3) Designation of land use or mixture of uses for each development parcel.
- 4) Designation of density ranges in Unit Equivalents for each development parcel identified.
- 5) Designation of the order of development to ensure economical expansion of Village services.
- 6) Designation of specific conditions to the development of any parcels which are by their nature more subject to development constraints than the typical parcel in the proposed development.
- 7) Designation of density transfers from one parcel to another, if any.
- 8) Whether or not there will be commercial uses on all or some of the development parcels identified, and if so, the specific parcels that will include commercial uses.
- 9) The general architectural theme and character of the overall development.

C. Length of Approval

The Large Scale Master Planned Development approval granted by the Planning Board shall be effective so long as construction is proceeding in accordance with the approved phasing plan. Approval will lapse after two years of inaction, unless extended for up to two years by the Planning Board. Zone changes occurring while the approval is in effect shall not affect the approval. Modifications to the proposal shall be brought before the Planning Board for consideration and shall be incorporated into the master plan when the modification is granted. Modification shall act as an extension of the approval.

D. Record of Approval

When Large Scale Master Development approval is granted, the approval shall be noted in a recordable document, furnished by the Village Engineer, stating the legal description of the property involved, and at least the general nature of the approval. The notice shall direct interested persons to the Planning Board to review the actual master plan. The purpose of the recording is to put prospective purchasers on notice that the land has been included within a master plan that has established density

ranges and land uses that might be more or less restrictive as to individual parcels than the underlying zoning regulation might imply.

E. Development on Planned Parcels

Development proposals for each development parcel within the Large Scale Development Master Plan approval are reviewed by the Planning Board as Small Scale Master Planned Developments under the conditional use process, regardless of the size or nature of the development.

F. Abandoned Application

An application will be deemed abandoned and terminated and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional information is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Village with information necessary to proceed with review of the application, including materials and/or information that are required by this Code or by the requirements of the State Environmental Quality Review Act.

G. Review of Passenger Tramway Proposals

The Planning Board shall hold hearings and perform the review of proposals for passenger tramways and liftways located in zones where they are conditional uses. Although these uses are conditional uses in these zones, the neighborhood impacts are such that specific review by the Planning Board is required. Conditional use permits for passenger tramways and liftways shall be voted on by the Planning Board, and shall not be ratified on the consent agenda. In the zones where passenger tramways or liftways are permitted uses, no Planning Board action is required.

15. Application Fees

The Village may require an application fee for projects reviewed under the Village's Master Plan Development procedures that do not require plat approvals. An application fee, currently established in the amount of \$50.00 shall be paid at the time of submission of a Master Plan Development application to the Building Inspector/C.E.O. The amount of the fee may be amended from time to time by adoption of a fee schedule by the Village Board. Fees are to cover filing, public hearing, administrative, review, and overhead costs; as well as costs of reviewing and preparing Environmental Assessment Forms and related State Environmental Quality Review notices and determinations.

16. State Environmental Quality Review Act (SEQR) Fees

SEQR fees may be required by the Village. Pursuant to Section 617.17 of Part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8-0109.7 of the New York State Environmental Conservation Law (ECL), the Planning Board, acting as lead agency, shall charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If applicant prepares the EIS, the Planning Board shall charge applicant for the actual cost of the review. If applicant does not choose to prepare EIS, Planning Board shall charge applicant for the actual cost of preparing EIS.

SECTION 10 – ARCHITECTURAL AND LANDSCAPE REVIEW

ARCHITECTURAL DESIGN REVIEW

1. Intent and Purpose

The Board of Trustees of the Village of Ellicottville hereby finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings or other structures erected, reconstructed or altered in any area in the Village of Ellicottville adversely affects the desirability of the immediate area and the neighboring area within the community for residential, business or other purposes and by so doing impairs the benefits of occupancy or use of property in such areas; impairs the stability and value of both improved and unimproved real property in such areas; prevents the most appropriate development of such areas; produces degeneration of property in such areas, with attendant deterioration of conditions affecting the health, safety, comfort and general welfare of the inhabitants of the community; and destroys a proper relationship between the taxable value of real property in the areas and the cost of municipal services provided therefor. It is the purpose of this chapter to prevent these and other harmful effects of such exterior appearances of such buildings or other structures and thus to promote and protect the health, safety, comfort and general welfare of the community, to conserve the value of buildings and to encourage the most appropriate use of land within the Village of Ellicottville.

It is the purpose of this Section to promote the health, safety, comfort and general welfare of the community and to preserve and promote the character and appearance and conserve the property values of the village, the attractiveness of whose residential and business areas is the economic mainstay of the community, by providing procedures for an architectural review of all structures henceforth erected, reconstructed, altered or remodeled in the village and, thereby:

- A. To encourage good qualities of exterior building design and good appearance and to relate such design and appearance to the sites and surroundings of structures.
- B. To permit originality and resourcefulness in building design and appearances that are appropriate to the sites and surroundings.
- C. To prevent such design and appearances as are offensive to visual sensibilities.

The Board of Trustees hereby finds that structures which are visually offensive or inappropriate, by reason of poor qualities of exterior design, monotonous similarity or striking visual discord in relation to their sites or surroundings, mar the appearance of their areas, impair the use, enjoyment and desirability and reduce the values of properties, are detrimental to the characters of neighborhoods, prevent the most appropriate development and utilization of land and, therefore, adversely affect the functioning,

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SECTION 10 – ARCHITECTURAL AND LANDSCAPE REVIEW

economic stability, prosperity, health, safety and general welfare of the entire community.

2. Delegation of Architectural Design Review

The Village of Ellicottville Planning Board is hereby charged with the responsibility of administering and carrying out the intent of the Section relative to Architectural Design Review.

3. Application Procedures

It shall be the duty of the Village of Ellicottville Building Inspector/C.E.O. to refer to the Planning Board for architectural design review applications for a building permit for the construction, reconstruction, alteration or remodeling of any structure proposed for any structure located within any of the designated zoning or overlay districts within the Village boundaries as identified on the official Zoning Map for any identified action listed in this section with the exception of the Residential Mobile Home District (RMHD). Placement, construction, reconstruction, alteration or remodeling of any structure proposed in the RMHD shall be required to undergo Site Plan Review and other requirements pursuant to Section 3A.5 and Section 6 of these Codes. Applications shall be referred to the Planning Board for Architectural Design Review upon receipt of applications, provided that the application conforms in other respects to all other applicable laws and ordinances. Applications for architectural design review shall be made separate from any other required applications and on forms so specified by the Building Inspector/C.E.O and the Village of Ellicottville.

- A. Applications must be accompanied by plans showing all elevations of new structures and all affected elevations in the case of additions, alterations or remodeling and such details as to elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, lightposts, parking areas and fences, service and loading areas and such other information as the Board may require for architectural design review. When required by the Building Inspector or by the Board for proper architectural design review, a site plan shall be submitted showing both existing and proposed contours at five-foot intervals, all existing trees with a trunk diameter of four inches or more at a point three feet above ground level and whether such trees shall remain or be removed and/or other topographical features. The Board may also require photographs of all buildings within 250 feet of the proposed structure, addition, alteration or remodeling.
- B. Applications are not necessary for any actions which involve the ordinary maintenance or repair of the any exterior feature in a an architectural design review district which does not involve a change in design, material or outer appearance thereof; thereby considered a replacement in kind. However, such work shall still be governed by the adopted building permit issuance process of the Village of Ellicottville overseen by the Building Inspector/C.E.O.

- C. Architectural design review may occur concurrent with or subsequent to site plan and special use permit review, as so required, at the applicant's discretion. Regardless of whether reviews occur separately or at the same time, separate applications and application fees are required for each review as specified by the Codes and the adopted fee schedule.
- D. An eligible applicant for architectural design review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have official authorization from the current property owner(s) of record to submit an application for architectural design review.
- E. Applications for projects located within the designated Historic Overlay District shall be reviewed in accordance with the historic design standards established for that district in addition to the Architectural Design Review criteria and procedures specified by this Section of the Codes.

**4. Standards for Planning Board Action on Architectural Design Review;
Imposition of Conditions**

- A. Approval of any building architectural design review permit shall be by a vote of at least a majority of the members of the Planning Board.
- B. In considering an application for architectural design review, the Board shall take into account natural features of the site and surroundings, exterior design and appearance of existing structures and the character of the district and its peculiar suitability for particular purposes, with a view to conserving the values of and encouraging the most appropriate use of land.
- C. The Board may approve an application referred to it upon finding that the building or structure for which the review was requested, if erected or altered in accordance with the submitted plan, would be in harmony with the purpose of this article, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability and reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning economic stability, prosperity, health, safety and general welfare of the community.

5. Imposition of Conditions

In approving any application, the Board may impose appropriate conditions and safeguards designed to prevent the harmful effects as defined by this Section of the Codes. Such conditions and safeguards may include screening, planting, fencing or

other methods of keeping from view obviously unsightly features of such buildings or structures. No building or structure shall be approved by the Board unless said conditions or safeguards are agreed to be the applicant

6. Disapproval of Architectural Design Review Application

The Board may disapprove any architectural design review application, provided that the Board has afforded the applicant an opportunity to confer upon suggestions for change of the plans, and provided that the Board finds and states that the building or structure for which the permit was requested would, if erected, altered or remodeled as indicated, provoke one or more of the harmful effects set forth in this Section of the Codes by reason of:

A. In Village Residential (VR) and Historic District Overlay (HDO) Zones

- 1) Visual offensiveness or inappropriateness because of poor quality of exterior design.
- 2) Visual discord in relation to the site, surroundings and nearby structures.
- 3) Marring the appearance of the area.
- 4) Being detrimental to the character of the immediate neighborhood.
- 5) Impairing the use, enjoyment or desirability of the subject property and/or nearby dwellings.
- 6) Reducing the values of properties in the area.
- 7) Preventing an appropriate development and utilization of the site or adjacent lands.

B. In Village Commercial (VC-1 and VC-2) Zones

- 1) Striking dissimilarity, visual discord or inappropriateness with respect to other business or commercial structures located or proposed to be located on the same street or a corner thereof, in respect to one or more of the following features of exterior design and appearance:
 - a) Facade, including color.
 - b) Size and arrangement of doors, windows, porticoes or other openings, breaks or extensions in the facade.
 - c) Cubical content and gross floor area.

- d) Other significant design features, such as, but not limited to, heights, widths and lengths of elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, lightposts, parking areas and fences, service and loading areas.
- 2) Visual offensiveness or other poor qualities of exterior design, including, with respect to signs, considerations of the harmony or discord of colors or incompatibility of the proposed building or structure with the terrain on which it is to be located, including but not limited to excessive divergences of the height of levels of any part of the structure from the grade of the terrain.
- 3) In considering the application to erect, alter or remodel any gasoline station, the Board, in addition to the powers herein granted, may impose such limitations on the exterior colors and materials, signs, lighting and other features as it deems advisable to carry out the purpose of this Section.

7. Architectural Design Guidelines

The following architectural design guidelines apply to all Special (Conditional) and Permitted uses within the Village Residential District, the Historic District Overlay Zone and the Village Commercial-1 and Village Commercial-2 Districts.

A. Prohibited Architectural Styles and Motifs

The following architectural styles and motifs are prohibited in the Village:

- 1) A-frame structures;
- 2) Geodesic dome structures;
- 3) Mediterranean motifs;
- 4) Tudor or mock tudor (half timbering);
- 5) “Swiss” chalets;
- 6) Rustic frontier;
- 7) Other historical or period design motifs which do not have historical connection with the Village.

B. Prohibited Siding Materials

The following materials have proved to be unsuitable for use in the Village due to the extremes of climate, or because their appearance is such that the values of adjoining or abutting properties are adversely affected:

- 1) Thick shake shingles;
- 2) Ceramic tile;
- 3) Slump block, weeping mortar;
- 4) Simulated stone or brick, cultured stone or brick, synthetic stone products, pre-cast stone or block imbedded with stone fragments;
- 5) Lava rock, clinkers;
- 6) Asphalt or hardboard siding;
- 7) Plywood siding;
- 8) Aluminum siding is generally not considered an appropriate material. Within the Historic District Overlay Zone, the Planning Board in conducting an architectural design review may consider requests for the use of aluminum siding. The design of the structure shall be consistent with the Historic District Overlay Design Guidelines. The applicant will be required to bring a sample of the type and color of siding to be approved for review and approval by the Planning Board. When aluminum siding is approved, it shall have a minimum thickness of 0.019 inches and shall be backed or insulated with a minimum of 3/8 inch fiberboard, polystyrene foam or other comparable building product.

C. Design Ornamentation

Architectural design in the Village has historically been simple. Highly ornate buildings are inconsistent with the architectural patterns of the community, are due to the proximity of one development to another, inconsistent ornamentation may become unsightly and distract from property values. To add architectural interest to building, special ornamental siding materials may be used, provided that no more than 25 percent of any façade of the building may be covered with ornamental siding. Examples of ornamental siding, provided for information purposes only and not as a limitation, are as follows:

- 1) Fish scale cut shingles;
- 2) Half timber stucco;
- 3) Match-stick wood or other inlays.

D. Number of Exterior Wall Materials

Different exterior siding materials add interest to a building, and to the community as a whole. The use of too many exterior materials, however, like excessive ornamentation, detracts from the values of adjoining properties. Exterior walls of any building may be sided with up to three different materials per building; no more than three materials may appear on any one wall. Trim shall not be counted as a siding material, but ornamentation is counted as a siding material. If trim covers more than 10 percent of a side of the building, it shall be counted as a siding material on that side.

E. Roofing Materials

Due to the fact that residents and visitors are frequently in a position to look down on the Village from adjoining higher elevations (hills, mountains, ski slopes, etc.), the appearance of roofs in the Village is of more significance than in other communities. The following roofing materials or treatments are prohibited, either because of their appearance, or because they are not likely to perform satisfactorily in the climate in the Village.

- 1) Untreated aluminum or metal (except that copper may be used);
- 2) Brightly colored roofing materials such as bright red, blue, yellow, or similar colors that are highly visible;
- 3) Any roofing pattern or treatment (such as painting, shingle or roofing material layout pattern or roofing material color pattern, etc.) design to convey messages, statement and/or symbols;
- 4) Except on historic renovations, roof ornamentation such as scroll work, finials, and bead-and-dowel work are prohibited.

F. Roofing Shapes

The following roofing shapes are prohibited in the Village because they either do not perform well in the harsh climate, or tend to detract from the values of adjoining property:

- 1) Mansard or fake mansard roofs;
- 2) Curvalinier roofs;
- 3) Domed roofs;
- 4) Geodesic domes;

- 5) Conical roofs;
- 6) A-frame or modified A-frame roofs;
- 7) Mechanical equipment on roofs must be hidden with a visual barrier so it is not readily visible from nearby properties.

G. Skylights and Solar Panels

Skylights and solar panels must be designed to fit flush with the roof surface, or up to a maximum of two feet above the roof's surface. No reflective materials may be used unless thoroughly shielded to prevent reflection into adjoining or nearby properties.

H. Window Treatments

Windows other than rectangular windows may be used as accents and trim, but arched, rounded, or bay windows as the primary window treatment are prohibited. Untreated aluminum or metal window frames are prohibited. Windows that are appropriate for the existing style of the structure are encouraged. In keeping with the historic nature and styling in the Village Residential District and some existing window treatments in the Village Commercial Districts, the preferred window treatment style is the double hung style window. Window, door and façade treatment for structures in the Historic Overlay District should not change in position, style or size so as not to change the overall visual character of historic significant structures. (See Section 11, Historic Preservation.)

8. Special Architectural Design Guidelines

The following guidelines are intended to provide special design guidance for buildings and structures that generally would be constructed in the Village High Density (HD), Village Commercial (VC-1 and VC-2) and the Village Industrial (I) Districts.

A. Façade Length and Variations

- 1) Structures greater than 60 feet, but less than 120 feet in length must exhibit a prominent shift in the façade of the structure so that no greater than 75% of the length of the building façade appears unbroken. Each shift shall be in the form of either a ten foot (10') change in building façade alignment or a ten foot (10') change in roof line totaling ten feet (10').
- 2) Structures which exceed 120 feet in length on any façade shall provide a prominent shift in the mass of the structure at each 120 foot interval (or less if the owner desires) reflecting a change in the form or either a 15 foot change in building façade alignment or a 15 foot change in roof line. A

combination of both a roof line and façade change is encouraged and to that end, if the combined change occurs at the same location in the building plane, a 15 foot total change will be considered full compliance.

B. Canopies and Balconies

- 1) Canopies and balconies attached to a building may extend into public right-of-way over the sidewalks and pedestrian ways only. Supports for canopies may not exceed 18 inches square, and are permitted only within existing sidewalk areas. Canopies are only allowed on the second floor level. Canopies and balconies shall provide clearance of not less than ten feet (10') from the sidewalk. A canopy or balcony may not be enclosed. With reasonable notice, the Village may require that canopies be removed from the Village property without compensating the building owner. No canopy shall be erected, enlarged, or altered over the sidewalk without advance approval by the Village Board.
- 2) Insurance Required: No canopy or balcony projecting over Village property shall be erected, re-erected, located or relocated, or erected or modified structurally or changed in ownership, without first receiving approval of the Village Board, and submitting a certificate of insurance or a continuous bond protecting the owner and Village against all claims for personal injuries and/or property damage in the standard amount determined by the Village Board. The Village must be named in the Certificate of Insurance as an Additional Insured. A thirty (30) day written notice to the Village of cancellation or expiration must be included in the Insurance Certificate. The name of the owner of the canopy or balcony must be clearly identified on the application for a permit, or sole proprietorship with appropriate names of individuals involved.

C. Mechanical Service

All mechanical equipment to be installed on the roofs or walls of buildings must be shown on the plans prepared for architectural review by the Planning Board and Building Inspector/C.E.O. and is subject to review and approval for location, screening or painting of such equipment as part of the architectural review process. Screening and mechanical equipment shall not exceed the allowed height limitation for the zoning district, except as allowed by this Code for architectural details such as chimneys, steeples and cornices.

9. Variations in Height Requirements

The height requirements of Section 3 shall apply to Master Planned Developments, except that after review by the Planning Board, the Commission may approve, disapprove, or approve with modifications a request for an increase in the allowable height of some or all

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of the buildings in the development by up to 25% of the maximum building height established for that zone in Section 3 of this Code after due consideration of the following site specific review standards, in addition to the other standards established for Master Planned Developments by this Section.

- A. The geographical position of the building and possible visual effects on existing structures on or off-site;
- B. Potential problems on neighboring sites caused by shadow, loss of solar access, loss of air circulation, closing of views, or ridge line intrusion;
- C. The influence on the general vicinity including contact with existing buildings and structures, streets, traffic congestion and circulation, and adjacent open space;
- D. Appropriateness of the uses within the building in the neighborhood;
- E. Landscaping and buffered areas of other physical separations that may be proposed to buffer the site from adjacent uses;
- F. The size of the side yard areas between buildings and adjacent streets and alleys and their relationship to pedestrian traffic and open space;
- G. The provision of more than the required useable open space within the project;
- H. Reduction of the height of other buildings or portions of a building to a point that is lower than the underlying zone maximum;
- I. In no case will any increase in height be permitted when the effect of the height increase is to increase the allowable square footage or building volume (above grade) over that which is, or would be, possible under normal zone standards for the zone in which the site is located.
- J. The amount of any increased height is specified for each zone district as the maximum allowable height that is compatible with good planning practices. Good design is a site-specific review item. The burden of establishing the needs and benefits of a height increase is on the developer, and in the absence of a satisfactory showing that the additional height will result in a superior plan and project, the zone height shall be applied.

10. Property in Excess of 25% in Slope

Construction of any public or private roadways, access, or streets on slopes in excess of 25% shall be discouraged. Construction of such roadways will be allowed if it is necessary to cross an area of land with a slope in excess of 25% in order to access an otherwise inaccessible area of land which has a slope less than 25%. In no case shall a structure (residential or non-residential) be constructed on ground which has a slope in

excess of 25% if the roadway which is serving the structure is on ground in excess of 20% in slope. Density credit shall be allowed for land in any zone that has a slope greater than 25% at Agricultural/Residential District density. Land in approved and platted subdivisions as of the date of this ordinance that exceed 25% in slope shall be exempt from this requirement and are to be considered to be "grandfathered".

11. Subdivisions

If any person files an application for a building permit to erect one or more buildings or structures in any subdivision approved by the Planning Board, the Board may require that plans and such other information set forth in this Section and Section 3 of these Codes, as it deems necessary, for all buildings or structures to be erected in such subdivision, be presented to it before it approves any architectural design for any building or structure to be erected in such subdivision.

12. Public Notice of Architectural Design Review

The Planning Board in conducting an architectural design review on a application shall notify adjacent property owners of the application being made and the architectural design review to be conducted on the project. Notification shall consist of notice of date, time and place the Planning Board will be reviewing and acting on the application and a brief description of the substance of the application and other notice as the Planning Board determines is appropriate for the architectural design review to be conducted.

13. Failure of Board to Act

No building permit shall be issued if the Planning Board does not approve an application for architectural design review. A Notice of Decision shall be issued stating the decision by the Planning Board and any conditions of approval for all applications submitted to the Board for Architectural Design Review. If the Planning Board shall fail to approve or disapprove any complete application referred to it for of architectural design review in 62 days of the date of referral of such application to it, the application shall be deemed to have been approved unless the applicant shall have agreed to an extension of time.

14. Appeals

Any applicant aggrieved by an action of the Planning Board resulting in disapproval of an architectural design and of the Building Inspector denying a building permit because of such disapproval, may request the Planning Board to provide the applicant with an opportunity to formally respond to the decision of the Board regarding the architectural design review and any conditions imposed. The aggrieved applicant may present revisions or alternatives to the original submittal and request the Planning Board to reconsider the application on the basis of such re-submittals. If the application is disapproved after such reconsideration, the applicant may bring a proceeding to review in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of

record on the ground that such action is illegal, in whole or in part. Such proceeding must be commenced within 30 days after the filing in the office of the Village Clerk of the decision of the Planning Board.

15. Penalties for Offenses

Any person or corporation, including but not limited to the owner, lessee, architect or builder or the agent or employee of any of them, who violates or is accessory to the violation of any provision of this Section or any regulation made under the authority conferred by this Section; or who shall erect, construct, reconstruct, alter, enlarge, convert or move any building or structure without a building permit or in violation of any statement or plans submitted and approved and under the provisions of this Section; or who shall use any building, structure or land in violation of this Section or any regulation made under the authority conferred by this Section or in violation of the provisions of any building permit or certificate of occupancy, or without a building permit or certificate of occupancy where one is required by this Section shall be subject to fine and/or imprisonment in accordance with the provisions of Violations and Penalties of Section 20 (Administration and Enforcement) of these Zoning Ordinances.

The Building Inspector shall serve or mail notice of any violation of this Section to the last known address of the owner of such property as shown on the official assessment rolls or to the person or corporation committing or permitting the same. In addition, the Inspector shall report all violations to the Board of Trustees. Nothing in this Section shall be construed as depriving the Village or the Board of Trustees of any other available remedy, either of a civil or criminal nature, as provided by law.

LANDSCAPE DESIGN REVIEW

Landscaping Regulations

1. Intent and Purpose

- A. To conserve and stabilize property values and to otherwise facilitate the creation of a convenient, attractive and harmonious community, and a healthful and pleasant environment by requiring the landscaping of all developments including off-street parking and loading areas.
- B. To establish minimum standards and criteria for the landscaping of all nonresidential developments, to prevent the unnecessary clearing and disturbing of land and trees, to preserve the natural and existing growth of flora, and to replace removed flora or place new flora indigenous to the Western New York region.
- C. To relieve the stark, congested and paved appearance of commercial and industrial areas, and reduce the effects of traffic noise and glare.
- D. Provide unpaved areas for the absorption of surface waters and to prevent soil erosion.
- E. Reduce the level of carbon dioxide and return pure oxygen to the atmosphere.

2. Applicability of Landscaping Regulations

- A. Landscaped area is defined as the area required or permitted under this Section to be devoted to landscaping and environmental improvement, which may include existing and new vegetation, fences and walls for screening and contouring purposes, berms, lighting, street furnishings and ornamental features which are integrated with the vegetation.
- B. The provisions of this Section are applicable to every lot with respect to which a Zoning and/or Building Permit is required, in every District except the “C” zone, which shall be exempt from these requirements. MPD’s shall be subject to this requirement regardless of the District.

3. Required Planting Screens, Fences and Walls

- A. A landscape plan shall be submitted and approved as a part of conditional use review procedures. The landscape plan shall be drawn to scale, including dimensions and distances, and shall clearly delineate existing and proposed structures, uses, parking area, access aisles, drainage pattern and the location, size and description of all landscape materials existing and proposed, including all

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trees and shrubs, and including those existing plant materials that are to be removed and such other information as may be required by the Code Enforcement Officer.

- B. Any unenclosed use such as an outdoor storage and loading or service area, trash collection area and litter receptacles or dumpsters, or any other use as may be required by this Article to be landscaped in accordance with this Section, shall provide a fence, screen or landscaping sufficient to obscure such uses from view from abutting properties lying in Residential Districts or from any public right-of-way. Parking lots shall be screened in similar fashion from abutting properties lying in Residential Districts.
- C. Natural site features and vegetation shall be preserved and integrated into the proposed site development whenever possible. Suitable trees and shrubs shall be provided along all walks and streets, around recreation areas, and along the outer property line of the site. All new trees shall have a minimum of two (2) inch caliper measured six (6) inches above the ground. Vegetation shall be appropriate and compatible with soil and growing conditions on the development site and with the regional climate.
- D. When tree removal is occasioned by any development or land use or change thereof requiring a site plan, the approval thereof by the Planning Board shall constitute approval to remove, cut down, kill or otherwise destroy the trees other than those designated to be preserved.

4. Fencing

- A. All fences proposed to be constructed within the required front yard, and all fences located along the edge of a public right-of-way shall require a Zoning Permit. The Zoning Permit application shall be accompanied by a sketch indicating the proposed location of the fence in relationship to buildings, streets and property lines.
- B. No fence or wall shall be placed upon the public right-of-way.
- C. Fences that result in visual obstruction shall not encroach upon the required front yard (front setback) or extend further than the front line of an existing house, whichever is closer to the right-of-way.
- D. No fence or wall in a residential district shall exceed six (6) in height, except where it abuts a nonresidential district, in which event it shall not exceed eight (8) feet in height and except that a fence or wall not exceeding twelve (12) feet in height enclosing a tennis court shall be permitted. Fences and walls on non-residential properties abutting residential properties shall not exceed eight (8) feet in height.

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- E. For the purpose of screening, the Planning Board may require fences, vegetation or other appropriate material in nonresidential districts where they abut residential districts to assure privacy for adjacent land uses with visual, noise and air quality factors considered.
- F. The height of all fences and walls shall be measured from the average finished grade of the lot.
- G. On corner lots, no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty-five feet distance from the intersection, measured along said street lines (edges of pavement). Within that area no fence, hedge, wall, gate or other structure that obstructs visibility from motor vehicles shall be permitted higher than two (2) feet above the average finished grade.
- H. Any fence which is flammable or positioned in such a manner so as to be excessively disruptive to extinguishing a fire shall be prohibited.
- I. All fences shall be maintained structurally and visually by the fence owner.
- J. Enclosure shall be constructed so as to provide the non-climbable face (finished side) visible to neighboring properties.
- K. Pre-existing fencing: Fencing which pre-exists the date of enactment of this section shall be approved as a nonconforming use. All renovations or additions to pre-existing fencing must meet the requirements of this section.

SECTION 11 – HISTORIC PRESERVATION

1. Intent and Purpose

The Ellicottville Historic District was placed on the New York State and National Registers of Historic Places on June 26, 1991 and August 22, 1991, respectively. The district is represented on the Village Zoning Map as an overlay district. Within that district land uses that require conditional use approval from the Planning Board are also subject to review under the Village's architectural design guidelines.

Pursuant to the provisions of New York General Municipal Law, it is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of buildings, structures, places and sights of historic, architectural, cultural or aesthetic value is a public necessity and purpose in the Village of Ellicottville. As a community partially dependent upon the tourism industry, the atmosphere and aesthetic features of the community take on an economic value for the residents and property owners of the Village of Ellicottville. It is in the best interests of the general welfare of the community to protect the aesthetics values of the community through the elimination of architectural styles, and those building, materials which, by their nature, are foreign to this area, and this climate, and therefore tend to detract from the appearance of the community. The Village's older neighborhoods are the Historic District, which is a point of considerable importance to the tourism industry. New development, while distinct from the Historic District Overlay Zone, should not detract from it. The effects of one development are felt on the community as a whole. The objectives of this section are to:

- A. Safeguard the heritage of the Village of Ellicottville by preserving the Historic District Overlay Zone and related architectural design in the Village, which represents and reflects elements of its cultural, social, economic, political and architectural history.
- B. Protect and enhance the attractiveness of the District to home buyers, visitors, shoppers and residents and thereby provide economic benefits to the Village and its citizens.
- C. Conserve and improve the value of property within the District and ensure the harmonious, orderly and efficient growth and development of the Village.
- D. Foster, encourage and advise the preservation, restoration and rehabilitation of structures, areas and neighborhoods.
- E. Promote the use of the District for the education, enjoyment and welfare of the citizens of the Village.
- F. Foster civic pride in the beauty and history of the past as represented in the District.

2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

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SECTION 11 - HISTORIC PRESERVATION

ADAPTIVE REUSE — Conversion of a building originally designed for a certain purpose to a different purpose.

ALTER — To change one (1) or more exterior architectural features of a landmark, an improvement on a landmark site or a structure within a historic district.

BUILDING — Any structure or part thereof having a roof supported by columns or walls for the shelter or enclosure of persons or property.

BUILDING INSPECTOR — The Inspector of Buildings (Code Enforcement Officer) of the Village of Ellicottville.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Historic District Commission (or Planning Board) approving plans for alteration, construction, removal or demolition of a landmark, an improvement to a landmark site or a structure within a historic district.

CONSTRUCTION — Building an addition or making an alteration to an existing structure or building a new principle or accessory structure.

DEMOLITION — Destruction of a building, structure or improvement.

EXTERIOR — Architectural style, design, general arrangement and components of the outer surfaces of an improvement, building or structure as distinguished from the interior surfaces, including but not limited to the kind and texture of building material and the type and style of windows, doors, signs and other such exterior fixtures.

FACADE — The exterior of a building or structure that can be viewed.

HISTORIC DISTRICT — A geographically definable area within the Village of Ellicottville defined through National Register Criteria for Evaluation and placed on the National Register of Historic Places in 1991 and so designated pursuant to this Code.

HISTORIC DISTRICT COMMISSION or COMMISSION — The Historic Preservation Commission (until so appointed the Village Planning Board) for the Village of Ellicottville established in this section.

IMPROVEMENT — Any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment or any part thereof.

LANDMARK — Property, object, structure or natural feature or any part thereof so designated pursuant to this Code.

LANDMARK SITE — A significant historical or cultural site(s) where buildings or structures no longer exist so designated pursuant to this Code.

OWNER — A person, firm or corporation which owns the fee of property or a lessor state therein, a mortgagee or vendee in possession, a receiver, an administrator, an executor, a trustee, or any other person, firm or corporation in control of property.

PRESERVATION — Retention of essential character of an improvement, object, building, natural feature or structure as embodied in its existing form, integrity and material. This term includes the retention of trees, landscaping and vegetative cover of a site. This term may include temporary stabilization work as well as on-going maintenance of historic building materials.

PROPERTY — Land and improvements thereon.

RECONSTRUCTION — Reproduction of the exact form and detail of a vanished building, structure, improvement, or part thereof as it appeared at a specific time.

REHABILITATION — Repair or alteration that enables buildings, structures or improvements to be efficiently utilized while preserving those features of buildings, structures or improvements that are significant to their historic, architectural or cultural values.

RESTORATION — Recovery of the form and details of a building, structure or improvement and its site during a particular time.

SITE — A plot or parcel of land.

STRUCTURE — Anything constructed or erected which requires permanent or temporary location on the ground. This term shall include but not be limited to buildings, walls, fences, signs, billboards, lighting fixtures, screen enclosures and works of art.

3. Historic District Commission

Most municipalities that have enacted historic preservation law and ordinances establish a separate body to review proposed projects located in historic districts or affecting historic bodies. Members of such a board or body typically have more specialized knowledge in historical design and preservation issues. The Village Board of Trustees should appoint an Historic District Commission (hereinafter referred to as the "HDC") composed of five members. Of the members of the Village HDC first appointed, one shall hold office for the term of one year, two for the terms of two years and two for the terms of three years from and after their appointments. In each case, the successor shall be appointed for the term of three years from and after the expiration of the term of his predecessor in office. In the absence of such a duly appointed HDC, the Village Planning Board shall be so designated by enactment of these Codes to function in the capacity of the Historic District Commission.

4. Duties and Powers of the Historic District Commission

- A. The Historic District Commission (HDC) shall have the following powers and duties:
- 1) Review of plans. It shall be the duty of the HDC to review, approve or disapprove all plans and building permit applications for the construction, reconstruction, removal, restoration, alteration or demolition of any exterior architectural feature within the Historic District Overlay Zone. The HDC shall have the power to pass upon such activity before a certificate of approval is granted, provided that the HDC shall pass only on the exterior features of a building or structure as are visible from the public street or waterway and shall not consider interior arrangements. In deciding upon all such plans, the HDC shall be guided by the standards for review enumerated in Subsection 5 and shall give consideration to any factors it may deem pertinent, including:
 - a) The historic, cultural or architectural value and significance of any building or structure.
 - b) The appropriateness and authenticity of the proposed exterior design, arrangement, texture or material and fenestration proposed.
 - c) The relationship of the proposed exterior design and design features to the historic value and architectural style and character of buildings and structures in the surrounding area and in the District.
 - d) The extent to which the action proposed in the permit application will promote the purposes of this section.
 - e) The relationship of the building or structure to open spaces, public ways, signs, landscaping and accessory uses located at and nearby the premises being considered.
 - 2) Investigate and report. The HDC may investigate, report, testify and recommend to the Planning Board, the Zoning Board of Appeals, the Village Board of Trustees and any Village Department or official on matters, permits, authorizations and other actions that affect buildings, structures and places within the district.
 - 3) Surveys and studies. The HDC may undertake the survey and study of neighborhoods, areas, sites, places, buildings and structures that have historic, architectural, cultural or aesthetic value. Pursuant to such survey and study, the HDC may propose regulations, special conditions and restrictions as may be appropriate to serve the purposes of this article.
 - 4) Retain specialists. With the approval of the Village Board of Trustees, the HDC may retain such specialists, consultants or experts to aid in its duties and to pay for their services, not exceeding, in all, the appropriation made for such purpose by the Village Board of Trustees. The HDC may call

upon available Village staff members as well as other individuals for technical advice.

- 5) Assist property owners. The HDC may advise owners of property or structures within the Historic District on the physical and financial aspects of preservation, renovation, rehabilitation and reuse.
 - 6) Other powers. The HDC may undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the advancement of the purposes set forth in this section.
- B. The HDC is not authorized to regulate or limit the bulk of buildings, to regulate and determine the areas of yards, courts and other open spaces, to regulate density of population or to regulate and restrict the locations of trades and businesses or the locations of buildings designed for specific uses or to create districts for any such purpose. These powers are those of the Planning Board, as the case may be, as a function of Site Plan Review, Special Use Permit Review, and/or of the Architectural Design Review and/or within the powers designated by law to the Zoning Board of Appeals.
- C. Notwithstanding any other provisions of this section, the HDC is hereby authorized to regulate and/or limit the height of buildings where the HDC has determined that in consideration of any factors it may deem pertinent, including those factors specifically set forth in Subsection 5.
- D. Notwithstanding any other provisions of this section, the HDC is hereby authorized to regulate and/or limit the size and location of all mechanical equipment to be installed, located and/or maintained outside of buildings, either freestanding or attached to the building in all districts, and whether or not such equipment can be seen from a public way. Typical of such mechanical equipment are air-conditioning and/or heating units or appliances and/or water-cooling systems or towers. This shall not apply in residential districts to window-installed air-conditioning units. The HDC, in performing such regulation and limitation, shall take into account any of the factors it may deem pertinent, including those factors specifically set forth in Subsection 5. The HDC shall also include such measures as camouflaging and/or screening the mechanical equipment from public view and the view of neighbors.

5. Standards for Review

The HDC shall be guided by the following standards in issuing a certificate of approval:

A. Alterations and Additions

- 1) Alterations and additions to existing buildings shall either be made consistent with the spirit of their architectural style or shall alter the structure to an appearance consistent with the architectural styles of historic value existing in the district. Alternatively, contemporary design for alterations and additions to existing properties may be permitted when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, material and character of the property, neighborhood or environment. In applying the principles of consistency and compatibility with the architectural styles existing in the District, the HDC shall consider the following factors: composition, design, texture and other visual qualities.
- 2) Wherever possible, new additions or alterations to structures shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- 3) Window, door and façade treatment of structures in the Historic Overlay District should not change in position, style or size so as not to change the overall visual character of historic significant structures.

B. New Construction

- 1) New construction shall be consistent with the architectural styles of historic value in the applicable District. On sites of proposed new construction, where structures adjoining the site are of significantly dissimilar periods or styles of architecture, the HDC may approve such period or style of architecture as it deems proper for the site and in the best interests of the District.
- 2) In applying the principles of consistency and compatibility with the architectural styles existing in the District, the HDC shall consider the following factors: composition, design, texture and other visual qualities.

C. Repairs

Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

D. Additional General Standards

- 1) The distinguishing original qualities or character of any significant building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- 2) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
- 3) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.
- 4) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

E. Demolition

- 1) Demolition may be permitted only after the developer of the site has submitted and obtained approval for his plans for new development, including HDC approval for new construction, including an acceptable timetable and guaranties which may include performance bonds for demolition and completion of the project. In no case shall the time between demolition and the commencement of new construction exceed six months. No structure may be demolished unless the HDC finds that:
 - a) Preservation of the structure is not warranted under general standards set forth in this section; or
 - b) The structure is deteriorating and that the owner has demonstrated that he cannot economically afford to preserve the structure; has sought financial assistance under established programs for historic preservation and failed to obtain sufficient assistance to enable him economically to preserve the structure; and has offered to sell the parcel upon which the structure is located and has been unable to find a purchaser at the fair market value who would agree to preserve the structure on the parcel. If the HDC finds that the structure should be preserved it may, notwithstanding the demonstration made by the owner, withhold approval of demolition for a period not exceeding one year from the date of the application for a demolition permit. If, during that period, the owner, the HDC or other interested parties are able to obtain sufficient financial assistance to preserve the structure or a purchaser at the fair market value who will agree to preserve the structure on the parcel, the HDC shall deny a permit to demolish the structure. For purposes of this subsection, "economically afford"

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means, in the case of a single-family or two-family owner-occupied house, an inability to preserve the structure without financial hardship; in the case of rental or commercial property, an inability to earn a reasonable return on the property if the structure is preserved; in the case of property owned and used by a nonprofit organization, an inability to preserve the structure without financial hardship. Preservation of a structure includes such additions or other alterations as are permissible in the District.

- 2) Moving of structures or buildings may be permitted as an alternative to demolition.
- 3) Also see Section 16 (Miscellaneous Requirements), Subsection 9 (Demolition of Buildings and Structures) for demolition permit and procedure requirements.
- 4) Issuance of permit for demolition of architecturally significant structures requires the following:
 - a) The Applicant shall provide, with the application, a detailed site reuse plan.
 - b) A thirty (30) day waiting period between the time a demolition application is submitted and a permit is issued.
 - c) Review by the HDC and issuance of a Certificate of Approval in accordance with Subsection 6.8 of this section.
 - d) Signs to be posted for a period of no less than fifteen (15) days on all buildings targeted for demolition.

F. Normal Maintenance and Repair

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the district which does not involve a change in design, material or bulk thereof.

G. Maintenance

No owner or person with an interest in real property included within a Historic District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the HDC, produce a detrimental effect upon the character of the Historic District as a whole or the life and character of the property itself. Examples of such deterioration may include:

- 1) Deterioration of exterior walls or other vertical supports.
- 2) Deterioration of roof or other horizontal members.

- 3) Deterioration of exterior chimneys.
- 4) Deterioration or crumbling of exterior stucco or mortar.
- 5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- 6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety.

6. Procedure for Review

A. Applicability

- 1) No changes in any exterior architectural feature, including but not limited to construction, reconstruction, alteration, restoration, removal or demolition, shall be made except as hereinafter provided.
- 2) Nothing in this article shall be construed to prevent the construction, reconstruction, alteration or demolition of any exterior architectural feature which the Building Inspector, with the advice and consent of the HDC, shall determine is required by public safety because of dangerous or unsafe conditions.

B. Certificate of Approval

Notwithstanding any inconsistent local law, code, rule or regulation concerning the issuance of building permits, no alteration, restoration, construction or demolition of any exterior architectural feature in the District shall be commenced without a certificate of approval from the HDC, nor shall any building permit for such change be issued without such a certificate of approval having first been issued. The certificate of approval required by this section shall be in addition to and not in lieu of, other criteria considered in a Architectural Design Review, any building permit that may be required by any local law, code, rule or regulation of the Village of Ellicottville, New York.

C. Application

- 1) Application for a certificate of approval shall be made in writing, in duplicate, to the HDC and shall contain the following:
 - a) The name, address and telephone number of the applicant.
 - b) The location of the building, structure or land the exterior architectural features of which are proposed to be changed.
 - c) Photographs of the building and property as appropriate.

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- d) Scale drawings of exterior elevations showing all proposed changes.
 - e) Samples of materials to be used in the proposed change.
 - f) Where the proposed change includes signs or lettering, a scale drawing showing the type of lettering, all dimensions and colors, a description of materials to be used and the method of illumination, if any, and a plan showing the location on the building or property.
 - g) A verification from the Building Inspector/C.E.O. and/or the Planning Board that the proposed project conforms to the Zoning Code, is a permitted nonconforming project or that all necessary variances for the proposed project have been granted.
- 2) Within a reasonable time after the complete application is filed with the HDC, but in all events within 62 days, Saturdays, Sundays and legal holidays excluded, after such filing, or within such further time as the applicant, in writing, may allow, the HDC shall make a determination. In such determination, the proposed project shall be approved, disapproved or approved with conditions. A certificate of approval or approval with conditions shall be issued by the HDC, and such certificate shall be valid for a period of one year after the date of issuance.
 - 3) All decisions of the HDC shall be in writing (Certificate of Approval). A copy shall be sent to the applicant by first-class mail, and a copy filed with the Village Clerk's office for public inspection. The HDC's decision shall state the reasons for denying or modifying any application.
 - 4) The HDC shall approve or disapprove such plans and, if approved, shall issue a certificate of approval which is to be signed by the Chairman, attached to the application for the building permit, and immediately transmitted to the Building Inspector.
 - 5) If the HDC disapproves of such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor, in writing, to the Building Inspector and to the applicant. The HDC may advise what it thinks is proper if it disapproved of the plan submitted. The applicant, if he/she so desires, may make modifications to the plans and shall have the right to resubmit the application at any time after so doing.

7. Hardship Criteria

- A. An applicant whose certificate of approval for a proposal has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - 1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

- 2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.
 - 3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- B. After receiving written notification from the HDC of the denial of a certificate of approval, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the HDC makes a finding that a hardship exists.
- C. The HDC may hold a public hearing on the hardship application, at which an opportunity will be provided for proponents and opponents of the application to present their views.
- D. The applicant shall consult in good faith with the HDC, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

8. State Environmental Quality Review Act (SEQRA)

State Environmental Quality Review Act (SEQRA): must be complied with when a state or local agency has discretionary authority over an action, such as the issuance of a certificate of appropriateness (certificate of approval). When historic resources could be affected by an action governed by SEQRA, the thresholds for classification and examining the action may be stricter. An “unlisted action” which occurs within or substantially contiguous to a registered property or a property which has been nominated for the National Register or State List, will be considered a “Type I” action under SEQRA. Type I actions are more likely to require the preparation of an environmental impact statement (EIS), as well as undergo coordinated review. For example, a local government that has site plan review authority over a property that is listed or “substantially contiguous” to a property listed on the State or National Register of Historic Places may also consider the environmental impact upon the listed property.

9. Effect of Approval

Effect of approval. If the HDC approves the application, it authorizes the Building Inspector/C.E.O. to issue the building permit for the work so specified in the application; provided, however, that the applicant has obtained all other permits or approvals that may be required by the codes and local laws of the Village.

10. Administration and Enforcement

- A. Administration. The Building Inspector/C.E.O. shall administer and enforce compliance with the provisions of this section. In connection with overseeing this

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responsibility, the Building Inspector/C.E.O. shall provide a permit procedure coordinated with the established building permit procedure.

- B. Enforcement. All work performed pursuant to this chapter shall conform to any requirements included herein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not being performed in accordance with the certificate of appropriateness, the Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as the stop-work order is in effect.
- C. The certificate of appropriateness shall be displayed on the building in a location conspicuously visible to the public while work pursuant to the certificate is being done.

11. **Civil Remedy**

Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Village Attorney. This civil remedy shall be in addition to and not in lieu of, any criminal prosecution and penalty.

12. **Appeals**

Any applicant aggrieved by the action of the HDC in disapproving an application may take an appeal therefrom to the Zoning Board of Appeals pursuant to Article 7 of the Village Law of the State of New York, or as the same may be amended from time to time, in the same manner as is provided for other zoning appeals. Such Board of Appeals, after proceeding in the same manner as is provided for in other zoning appeals and with the same power and authority therein vested in passing upon appeals before it under the provisions of the Village Law and other laws of the State of New York and this article, and in the exercise thereof, may reverse or affirm or modify and affirm the actions of the HDC.

13. **Conflict With Other Provisions**

Where this section imposes greater restrictions than are imposed by the provisions of any law, ordinance or regulation, the provisions of this section shall apply. Where greater restrictions are imposed by any law, ordinance or regulation, such greater restrictions shall apply.

14. **Compliance With Provisions Required**

No decision to carry out or approve an action subject to the provisions of this chapter shall be rendered by any department, board, commission, officer or employee of the

village. This shall not prohibit environmental, engineering, economic feasibility or other studies, preliminary planning or budgetary processes nor the granting of an application relating only to technical specifications and requirements, but not authorizing commencement of action until full compliance with this chapter has been met.

15. Jurisdiction

This chapter shall apply to the entire Historic District Overlay Zone (HDO) within the corporate limits of the Village of Ellicottville.

16. Severability

If any section, clause or provision of this section or the application thereof to any persons is adjudged invalid, the adjunction shall not effect other sections, clauses or provisions or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of this chapter are declared to be severable.

17. When Effective

This section shall take effect immediately with adoption of this Zoning Local Law for the Village of Ellicottville.

SECTION 12 – SIGN REGULATIONS

1. Intent and Purpose

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

- A. To set forth minimum standards regulating the design, erection, display and maintenance of signs based on the use of land and intensity of development permitted in the Village; to reduce hazards caused by signs overhanging or projecting onto public right-of-way, and by signs that impede or distract traffic or otherwise interfere with public safety.
- B. To acknowledge that the reasonable display of signs is appropriate as a public service and necessary to the conduct of competitive commerce and industry; and
- C. To enhance and protect the natural beauty, historic and aesthetic qualities and neighborhood values throughout the Village; to insure the tasteful display of signs in the high density commercial and residential area of Route 219 South and Route 242 West and to secure economic stability in property values.

2. 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 C.E.O. 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 5 days after notification by the C.E.O. In addition to any costs incurred pursuant to this paragraph, the violator may be subject to penalties defined by these Codes as well as other penalties to the maximum extent allowed by state law.
 - 3) Other damaged or deteriorated signs must be repaired or replaced within 30 days. In addition to any costs incurred pursuant to the provisions of this paragraph, the violator may be subject to penalties defined by these Codes as well as other penalties to the maximum extent allowed by state law.

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- 4) When the 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 7 days.
 - 5) Any non-conforming, abandoned, unsafe or illegal sign existing on or after the effective date of this law shall be removed or repaired, as applicable, by the owner of the premises upon which such sign is located after written notice as provided herein. Upon removal of any wall sign the surface area of the façade shall within 30 days of removal be restored to a condition substantially equivalent to the remaining portion of the face in appearance. The C.E.O., upon determining that any 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 C.1-C.4 above from the date of such notice. Upon failure to comply with such notice within the prescribed time, the C.E.O. shall remove or cause removal of such sign, and shall assess all costs and expenses incurred in the said removal against the property 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 sign is visible to traffic on a State Primary route (e.g. Route 219).
- 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 “homemade” or amateurish appearance.
- F. Signs not requiring a permit will not be charged a permit fee. Unless specified differently in an adopted fee schedule superceding adoption of these Codes, a permit fee of \$25 is required on permitted signs of 32 square feet or less. A charge of \$50 will be made on permitted signs in excess of 32 square feet.
- G. Off premise signs will be limited to no more than a total of 3.
- H. At this time, the sign committee is the Village Planning Board.

3. Signs Not Permitted

The following signs will not be permitted in the Village of Ellicottville.

- 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”, “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 C.E.O.’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 of the provisions of this chapter, notice shall be given in writing by the C.E.O. to the beneficial user and owner of the premises on which sign is located. If the beneficial user/owner fails to remove or alter the structure so as to comply with the standard herein set forth within 5 days after such notice, such sign or other advertising structure may be removed or altered to comply by the C.E.O. at the expense of the owner of the property upon which it is located. The C.E.O. may cause any sign or other advertising structure which is an 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 that contain flashing, moving, or animated parts.
- E. Signs in excess of 96 square feet (equivalent of 3 – 4’x 8’).
- F. 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 20 foot maximum height is not violated.
- G. Signs painted on sidewalks, streets, or curbs.
- H. Signs painted on buildings (including murals).
- I. Signs higher than the building identified or 20 feet from ground to the top of the sign; whichever is less.
- J. Signs with more than two uprights for a sign with two faces, three uprights for a three faced sign, or four uprights for a sign with four faces (i.e. square or rectangular).

4. **Signs Not Requiring a Permit**

The following types of signs shall not require a permit, provided that any such sign is not illuminated and that no more than one such sign shall be located on each street or road line of a lot:

- A. Temporary signs, consisting of:

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- 1) Signs of a temporary nature for special events, such as special event 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 within 24 hours after the advertised event or within 30 days from installation, whichever is earlier.
 - 2) Temporary cloth signs, banners, streamers advertising routine non-special event business activities shall require application, review and approval by the C.E.O. for a sign permit (see Subsection 5.D and Subsection 6). For temporary cloth signs, banners, streamers, etc., which may be suspended over, or placed on public property, see Subsection 6.
- B. Signs required by law or needed for official government business or public safety and installed by local, State or Federal authority.
- C. Non-illuminated real estate signs not exceeding six (6) square feet in area which advertise the sale, rental or lease of the premises upon which such signs are located.
- D. Nameplates not exceeding one (1) square foot in area, containing only the name of the building and name of agent.
- E. Bulletin boards not exceeding fifteen (15) square feet in area, erected upon the premises of a church, funeral home or public institution for the purpose of displaying the name of the institution and its activities or services.
- F. 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 32 square feet in area. In no event will more than one sign per location be allowed, and it must be removed within 48 hours after receipt of the Certificate of Occupancy.
- G. Memorial signs or tablets, names of buildings and dates of erection, provided that such signs do not exceed two (2) square feet in area.
- H. Any temporary sign painted or lettered directly on a window or other necessary part of a building when the sign is inside of the building. Permanent signs to be painted or lettered directly on a window or other necessary part of a building shall require application, review and approval by the C.E.O. and/or Sign Committee consistent with the size requirements of Subsections 5 and 6 of this Section.

- I. Neon signs in the window of a retail establishment not larger than four (4) square feet or 25% of the window area, whichever is less, provided that the sign is lit only during business hours.
- J. Sandwich board signs meeting the following criteria:
 - 1) No sandwich board sign shall be larger than six (6) square feet in area for each face or forty-eight (48) inches in height or 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. While on display, such signs shall be securely fastened so as to prevent accidental tipping or blowing over.
- K. Signs not readily visible from a roadway that are necessary and proper to a commercial operation such as, but not limited to, a ski resort or golf course.

5. Signs Requiring a Permit with Approval of the C.E.O.

Upon proper application and payment of the required fee, the C.E.O. may issue sign permits for:

- A. **Ground Signs** (other than a real estate developer's offering) which meet the following criteria:
 - 1) does not exceed 32 square feet in area
 - 2) does not contain more than three colors
 - 3) set back at least 60 feet from center of road
 - 4) is not internally illuminated
 - 5) The sign must be 8 feet from grade level to the bottom of the sign. However, the 8 foot minimum may be waived if the sign is located in a lawn or other private open area.
 - 6) Only one sign per location is allowed. A location is defined as follows:
 - As an entranceway 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

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appropriate wall signs for identifying the occupants or services available in a particular portion of the complex.

- On large commercial properties requiring significant acreage, such as but not limited to, golf courses or ski resorts, 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.
 - 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.
- 7) No ground sign shall be permitted over public property
 - 8) For safety and appearance, no guide wires will be allowed.
 - 9) 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.
 - 10) 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 (other than real estate developer's offering) which meets the following criteria:

- 1) Does not exceed 32 square feet in area
- 2) Does not contain more than three colors
- 3) Structure on which mounted is set back at least 60 feet from center of road
- 4) Is not internally illuminated
- 5) Only one sign for each face of structure to which fastened is permitted
- 6) No wall sign shall cover, wholly or partially, any wall opening
- 7) No wall sign shall project beyond the ends or top of the building wall to which it is attached, nor be set out more than one foot from the face of the building to which it is attached
- 8) All letters, figures, characters, or representatives in cu-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.

9) 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 Signs** (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 72 hours prior to the event, and must be removed within 24 hours after the event.

D. Temporary cloth signs, banners, streamers advertising routine non-special event business activities shall require application, review and approval by the C.E.O. for a sign permit (also see Subsection 6). Temporary cloth, banner or streamer signs exceeding 32 square feet shall be reviewed and approved by the Sign Committee (Planning Board). No temporary cloth, banner, streamer sign shall remain in place more than 30 days from installation.

6. Signs Requiring Review and Approval by the Sign Committee (Village Planning Board)

Upon proper application and payment of the required fee, the Sign Committee may authorize the C.E.O. to issue sign permits for:

A. Temporary cloth signs, banners, streamers, etc., 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 temporary signs shall be removed within 24 hours after the advertised event or at the end of the season if a seasonal event is advertised. The regular permit fee and permit process is waived for signs in this category. Such signs, banners, streamers/flags to be suspended over a public property (sidewalk) shall hang no lower than eight (8) feet above the public property. Temporary cloth signs, banners or stream type signs not suspended over or placed on public property and exceeding 32 square feet in size shall be reviewed and approved by the Sign Committee (Planning Board) before authorizing the C.E.O. to issue a sign permit.

B. Ground signs (other than a real estate developer's offering) in excess of 32 square feet (but not to exceed 96 square feet) and containing one or more variances from the standards listed in this ordinance. However, maximum height must not exceed 20 feet.

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

D. Developer's Offering – a permit for a sub-division 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 months. The permit may be renewed without payment of an additional fee. These signs, which are expected to be erected for a limited time only, must meet all applicable sign requirements.

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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 extend nearer the curb line than one (1) foot.
- 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 projecting signs, provided that illumination is 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, stripes 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 12" inside the curb line

- 2) the lowest portion thereof shall not be less than 8 feet above grade level
- 3) Construction of Awnings: Awnings shall be constructed of cloth or metal. However, all frames and supports shall be of 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 C.E.O.
- 5) Advertising: No advertising shall be placed on any awning or canopy, except the name of the owner and the business, industry or pursuit conducted within the premises. Said advertising may be painted or otherwise permanently placed in a space not exceeding eight inches in height on the front and side portions thereof.

H. Nonconforming Signs

- 1) Any signs in existence at the date of the adoption of this chapter which would be in violation under the provisions of this chapter shall be allowed to continue. However, such signs shall not be altered, rebuilt, enlarged, extended or relocated, unless such action changes a nonconforming sign into a conforming sign as provided herein. The failure to keep nonconforming signs in good repair within a period of 120 days after due notification by the Building Inspector shall constitute abandonment. Such abandoned signs shall not be reused and shall be removed by or at the expense of the property owner.
- 2) If a project subject to zoning review(s) is proposed for a parcel of property upon which an existing sign is located, and said existing sign is associated with the principal activity which is the subject of the proposed project but does not conform to these standards, the reviewing agency shall require that said nonconforming sign shall be brought into compliance as a condition of the approval of the proposed action.

I. Newsracks

- 1) Purpose
 - a) The uncontrolled placement of newsracks in public rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings and persons performing essential utility, traffic control and emergency services.

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- b) Newsracks located as to cause an inconvenience or danger to persons using public rights-of-way, and unsightly newsracks located therein, constitute public nuisances.
- c) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health and general welfare of persons in the Village of Valley Stream in their use of public rights-of-way.

2) Word Usage and Definitions

Definitions. For the purposes of this Section, the following words and phrases shall have the meanings given herein.

DISTRIBUTOR -- Any person responsible for the installation, use or maintenance of a newsrack in a public street.

NEWSRACK -- Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers, periodicals or other printed matter.

ROADWAY -- That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

SIDEWALK -- That portion of a street between the curblines or lateral lines of a roadway and the adjacent property lines, intended for use by pedestrians.

STREET -- The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and it includes any alley or public grounds in the Village of Ellicottville.

3) Permit Required

It shall be unlawful for any person, firm or corporation to erect, place, maintain or operate on any public street or sidewalk or in any other public way or place in the Village of Ellicottville any newsrack without first having obtained a permit from the Village Building Inspector/Code Enforcement Officer specifying the exact location of such newsrack. 1 permit may be issued to include any number of newsracks and shall be signed by the applicant.

4) Application for Permit

Application for such permit shall be made, in writing, to the Building Inspector/ Code Enforcement Officer upon such form as shall be provided by him/her and shall contain the name and address of the applicant and the proposed specific location of said newsrack and shall be signed by the applicant.

5) Conditions; Inspections; Renewals; Stickers.

- a) As an express condition of the acceptance of such permit, the permittee thereby agrees to indemnify and save harmless the Village of Ellicottville, its officers and employees against any loss, liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as the result of the installation, use or maintenance of a newsrack within the Village of Ellicottville.
- b) Permits shall be issued for the installation of a newsrack or newsracks without prior inspection of the location, but such newsrack or newsracks and the installation, use or maintenance thereof shall be conditioned upon observance of the provisions of this chapter. Permits shall be issued within 72 hours (excluding Saturdays, Sundays and legal holidays) after the application has been filed. A permit fee per each applicant and individually for each newsrack shall be required. Fees shall be per the fee schedule adopted and amended by the Village of Ellicottville Board of Trustees.
- c) Such permit shall be valid for two years and shall be renewable pursuant to the procedure for original applications herein upon payment of the permit fee.
- d) Stickers showing the permit number shall be issued with the permit and must be displayed on the front of each newsrack at all times.

6) Standards for Maintenance and Installation

Any newsrack which, in whole or in part, rests upon, in or over any public sidewalk or parkway shall comply with the following standards.

Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:

- a) It is reasonably free of dirt and grease.

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- b) It is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof.
- c) It is reasonably free of rust and corrosion in the visible unpainted metal areas thereon.
- d) The clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration.
- e) The paper or cardboard parts or inserts thereof are reasonably free of tears, peeling or fading.
- f) The structural parts thereof are not broken or unduly misshapen.

7) Location and Placement Standards

Any newsrack which rests in whole or in part upon or on any portion of a public right-of-way or which projects onto, into or over any part of a public right-of-way shall be located in accordance with the provisions of this subsection.

- a) No newsrack shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.
- b) No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any sidewalk or other public place when such installation, use or maintenance endangers the safety of persons or property or when such site or location is used for public utility purposes, public transportation purposes or government use or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or egress from any residence, place of business or any legally parked or stopped vehicle or the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near said location.
- c) The village may cause the temporary removal of any newsracks for work in the public right-of-way as may be necessary or required from time to time, in the sole discretion of the village.
- d) Newsracks may be placed next to each other, provided that no group of newsrack shall extend for a distance of more than six (6) along a curb and a space of not less than three (3) feet shall separate each group of newsracks.

- e) Any newsrack which in whole or in part rests upon, in or over any sidewalk or other public place shall comply with the following standards:
- (1) No newsrack shall exceed four feet in height, three feet in width or two feet in depth.
 - (2) No newsrack shall be chained, bolted or otherwise attached to any property owned or maintained by the Village of Ellicottville. Newsracks may be chained, bolted or otherwise attached to other newsracks.
 - (3) No newsrack shall be placed, installed, used or maintained:
 - (a) Without obtaining a permit from the Building Inspector/ Codes Enforcement Officer of the Village of Ellicottville according to procedures and for such fees as may be determined by the Board of Trustees.
 - (b) Within three feet of any crosswalk.
 - (c) Within 15 feet of any fire hydrant.
 - (d) Within five feet of any fire or police emergency facility.
 - (e) Within five feet of any driveway, public or private.
 - (f) Within 15 feet of any place marked for handicapped parking nor on any handicap access ramp..
 - (g) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six feet.
 - (h) Within three feet of any display window of any building abutting the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes.
 - (i) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.

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- (j) Within 100 feet of any other newsrack on the same side of the street in the same block containing the same issue or edition of the same publication.
 - (4) No newsrack shall be used for advertising signs or publicity purposes other than that which is essential to identify, on no more than two sides of the newsrack, the newspaper, periodical or other printed matter offered for sale therein. No letter thereon shall exceed two square inches in size. Advertising signs, promotional decorations, banners and moving signs shall not be permitted on the newsrack, except as otherwise provided in this subsection.
 - (5) Each newsrack shall be maintained in a clean and neat condition and in good repair at all times, and it shall be of one color that does not unnecessarily contrast with the immediate surroundings, except that the lettering permitted in subsection C (4) of this section may contrast with such one color. Neither such one color nor any of the permitted lettering shall employ reflectorized paint, Day-glo, fluorescent or Scotchlite reflective materials or materials of like nature.
 - (6) Every person who places or maintains a newsrack on the streets of the Village of Ellicottville shall have his name, address and telephone number affixed thereto in a place where such information may easily be seen.
- 8) **Abandonment**
- In the event that a newsrack remains empty for a period of 30 continuous days, the same shall be deemed abandoned and may be treated in the manner as provided in subsection 10 for newsracks in violation of the provisions of this chapter.
- 9) **Applicability; Time for Compliance**
- The provisions of this chapter shall apply to existing newsracks within the Village of Ellicottville, except that the distributors thereof shall have 30 days within which to comply with the said provisions or such additional time as may be allowed in the discretion of the Village Board of Trustees.

10) Penalties for Offenses

- a) If any distributor violates any provision of this chapter, it shall be the duty of the Codes Enforcement Officer to determine whether or not such a violation has occurred and thereafter to notify the distributor to correct the violation within three days thereafter. Such notification and direction shall be in writing; it shall specify the nature of the violation and whether or not it warrants removal of the newsrack if not corrected within three days, and it shall direct correction; it shall be served upon the distributor in the same manner as a summons or it shall be telephoned to the distributor at the telephone number designated by the distributor as provided in subsection 7.E.6 above and confirmed in a written notice mailed by certified mail, with return receipt requested, to the address designated by the distributor as provided in subsection 7.E.6 above.
- b) If said violation is not corrected within such three-day period or such further reasonable period as may be granted by the Board of Trustees, the Department of Public Works shall be directed by the Mayor to remove such newsrack and place it in storage in a secure place. The cost of removal and storage shall be billed to the distributor, and in the event of nonpayment, a civil suit for money damages may be brought by the Village Attorney.
- c) If such newsrack is not claimed, it shall be treated as abandoned property and disposed of as provided therein.
- d) Any distributor who, having been notified and directed as provided herein to correct a violation of the provisions of this chapter, fails to correct such violation as provided in such notice shall be guilty of a violation and shall be processed in accordance with provisions of Section 20 (Administration and Enforcement) of these Codes.

SECTION 13 - OFF-STREET PARKING AND PRIVATE ROADWAYS

1. Requirement

Except as may be provided elsewhere in this Code, there shall be provided at the time of erection of any building or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provisions for independent ingress and egress by standard size automobiles. If any land, structure, or use is changed from one use to another which requires more off-street parking spaces, there shall be provided such additional off-street parking for the new use as is required by this section. Required parking must be provided on the same lot as the main building. All private roadways and parking lots shall be built to Village Road Standards (see Section 14 – Street and Road Specifications, Subsection 20) and shall be approved by the Village Highway Superintendent and/or the Village Engineer. A Parking Plan shall be submitted for every Site Plan review and Special Use (Conditional Use) permit application as specified by the Building Inspector/C.E.O and/or the Planning Board as need for proper review of applications.

2. Parking Lot Characteristics

Each parcel of land developed for off-street parking in response to the requirements of this section shall provide the following characteristics:

A. Surfacing

Each parking lot shall be surfaced in accordance with the Village Road Standards, as may be amended from time to time, and be maintained in good condition and kept clear in an unobstructed and usable condition at all times. Responsibility for maintenance of the lot shall rest with the property owner. The lot shall provide adequate access to a street or alley.

B. Grading

Parking lots shall be graded for proper drainage with surface water diverted in such a way as to keep the parking area free of accumulated water or ice. Adequate control curbs shall be installed to control drainage and direct vehicle movement. Parking lot drainage shall be controlled on site and channeled to storm drain or gutter as approved by the Village.

Maximum driveway access grades shall not exceed 10% in slope, and shall provide a minimum 20 foot staging or transition area at no greater than 2% slope beginning at the back of the curb where existing, or as otherwise approved by the Village Engineer in anticipation of future street improvements.

C. Lighting

Parking lots shall be illuminated with standards arranged so as to reflect light away from any adjoining residential building.

D. Size of Spaces

Structured parking: Parking within a fully enclosed parking structure where the weather does not affect the availability of spaces; shall require the following;

- 1) 9 feet x 18 feet minimum parking space dimensions;
- 2) 24 foot minimum aisle width (for 90 degree layout);
- 3) any reduction proposed in stall length (no width reductions allowed) require Special Use (Conditional Use) approval; and
- 4) in addition to the specification of minimum stall dimensions, all parking structures shall be reviewed for provision of adequate circulation and to ensure that each required space is readily accessible as well as usable. Column and wall locations shall be specifically addressed in terms of maneuvering and where automobile doors will swing open.

Outside Parking: Each parking space not within a fully enclosed parking structure shall measure at least nine feet (9') wide by eighteen feet (18') long.

Outside Parking Lots: Where parking availability will be affected by weather conditions and snow removal, the above design criteria shall apply in addition to the following:

- 1) adequate, non-hard surfaced and landscaped snow storage areas shall be provided adjacent to each surface lot in a usable, readily accessible location.
- 2) said snow storage areas shall be on-site and the equivalent of 10% of the total hard surfaced area; including, parking spaces, aisles, driveways, curbing, gutters, and sidewalks. Reductions below the 10% requirement outlined shall be treated as Special Uses (Conditional Uses) and reviewed on a case-by-case basis.
- 3) required landscaping shall be designed so as to accommodate snow removal and storage on-site.

E. Design of Parking Areas for Use by More than Four Automobiles

The design of parking areas for use by five or more standard sized automobiles shall provide adequate ingress and egress. The design of parking facilities shall not

necessitate backing cars onto adjoining public sidewalks, parking strips, or roadways in conducting parking and un-parking operations. The spaces shall be independently accessible so that the access of any required space may not be obstructed by any other required space (see G. Tandem Spaces). All parking lots shall maintain the required front yard and side yard setback as would be required for a structure on the property. Wherever a parking lot or driveway to a parking lot abuts a residential use, a substantial light-tight fence constructed of natural materials not less than four or more than six feet high shall be constructed and maintained along the property line up to the building setback line. An earth berm may be substituted for the fence where adequate area exists. Driveways must not exceed 30 feet in width where they cross a sidewalk, adjacent driveways must be separated by any island of the following widths: single-family residential - minimum width 10 feet, residential, multi-family - minimum width 18 feet, commercial - minimum width 24 feet; and driveways must be at least ten feet from the property line of any intersecting street.

F. Street Access

Off-street parking areas shall have unobstructed access to a street or alley.

Driveways: The following width and curb cut dimensions are required.

<u>Use</u>	<u>Minimum Width</u>	<u>Maximum Curb Cut</u>
1 and 2 Family Residential	10 feet	15 feet
Residential, Multi-Family	18 feet	25 feet
Commercial	24 feet	30 feet

Spacing is defined as the distance between the closer edges of adjoining driveways or driveways and right-of-way lines of intersecting streets. Access drives shall be spaced according to the following:

<u>Street Type</u>	<u>Minimum Spacing</u>	<u>Minimum Distance From Intersection</u>
Local	15 feet	25 feet
Collector	50 feet	75 feet
Arterial	75 feet	150 feet

A minimum of 75 feet spacing between major commercial driveways is recommended. Joint use of commercial drives is strongly recommended. The centerline of intersections of the driveways of major traffic generators entering from opposite sides of roadway shall be either perfectly aligned or offset by a minimum of 150 feet.

G. Tandem Spaces

Parking designs which necessitate parking one vehicle behind another are only permitted for single family dwellings. Tandem parking will not be permitted for duplex and other multi-dwellings where occupants of separate dwellings would be required to park behind one another (see Subsection E).

H. Clear View of Intersecting Streets

In all zones, no obstruction will be permitted to the view of drivers and pedestrians ingressing and egressing in excess of two feet in height above road grade on any corner lot within a triangular area formed by the streets at property line and a line connecting them at points twenty-five feet from the intersection of the street right-of-way lines, except a reasonable number of trees pruned high enough to permit automobile drivers and pedestrians an unobstructed view.

I. Special Parking Regulations

- 1) Parking required for a property, development project, or other application shall not include on-street parking or parking within the designated right-of-way in front of a property.
- 2) Open parking spaces may not be permitted in the front yard area. "Open parking spaces" does not include carports or other similar structure.
- 3) To encourage the location of parking in the rear on a property, common driveways may be permitted along shared side yard lines where those drives provide access to parking in the rear of the main building. Restrictions on the deeds to both properties must provide for the preservation of such shared drive.
- 4) Common parking facilities may be permitted, upon approval of the Planning Board, where such a grouping may facilitate the development of individual building that more closely conform to the scale of historic structures in the District.
- 5) Parking shall be provided on site at the rate specified for the use in this section. If no on-site parking is possible, parking shall be secured within close proximity to the site and shall not include on-street parking. The Planning Board, in issuing approval, may require as a condition of approval that the Applicant provide a legal agreement with an off-site property owner to provide dedicated parking spaces for use by the Applicant for a specified period of time.

3. Specific Requirement For Each Land Use

A. Required off-street parking shall be provided for each land use as listed in this section. In some zones, the parking requirement may vary depending on the size of the project and its proximity to major destinations within the Village, where experience has shown a greater or lesser demand for parking.

B. Non-Residential Requirements

In projects which are non-residential in nature, or for non-residential space associated with primarily residential structures, the following parking requirements shall apply to the non-residential space:

Golf course, tennis court
and similar recreation
areas:

Determined by specific review by
Village Engineer based on hourly
capacity and the location of the
facility with respect to the anticipated
users' living accommodations.

Hotel, motel, lodge,
boarding house and similar
uses:

One space per 200 square feet of res-
taurant banquet, assembly, meeting or
similar space, subject to specific
review by the Village Engineer based
on site specific factors.

Intensive retail, commercial
shops selling directly to
public:

Three spaces for each 1,000
square feet of shop space.

Less intensive retail or
commercial such as
furniture, appliance,
lumber and hardware stores:

One space for each 1,000
square feet of commercial
space.

Offices, personal services,
medical and dental clinics:

One space for each 500 square feet
of space plus one space per employee
per shift, or one space per 200 feet of
net usable office space, whichever is
greater.

Restaurants, bars, dining
rooms:

One space for every 100 square
feet, including kitchen areas.

Churches, auditoriums,
Assembly halls:

One space for every five seats.

Industrial and wholesale establishments:

One space for every two employees in the largest shift plus one space for each vehicle used in conducting the business.

Hospitals, schools, civic buildings:

Determined by Village Engineer on a site specific review, based on numbers of employees, numbers of patrons, and or visitors that can be reasonably anticipated.

Shopping centers or complexes of multi-tenant retail spaces:

At least 3.5 parking spaces per 1,000 square feet of rentable floor area excluding corridors.

In addition to the above specific parking requirements, a parking plan for a proposed project shall be submitted for Site Plan/Special Use (Conditional Use) review and may be reviewed by the Village Engineer in accordance with procedures recommended by the most current edition of the Parking Generation Manual published by the Institute of Transportation Engineers (ITE).

C. Parking in Master Planned Developments

Parking in Master Planned Developments shall be provided according to the underlying zone. Commercial spaces within the Master Planned Development shall provide parking as required by this Section. The Planning Board may, in the approval of the Master Plan, upon good showing that these formulas result in a surplus of parking, reduce the overall parking requirement. Evidence that the parking demand from various uses within the development can be satisfied by overlapping use shall be required. Developments requiring eight or fewer parking spaces shall not be granted any reduction in parking required.

4. Calculation of Spaces

When calculating the number of parking spaces required for a given project, and a dwelling unit or commercial space could be classified as more than one kind of use, the classification resulting in the higher number of parking spaces shall be applied.

5. Off-Street Loading Space

On the same premises with every building or structure which is erected or increased in capacity which is to be used for any purpose which involves the receipt or distribution of materials or merchandise by vehicle, there shall be provided and maintained adequate space for standing, loading, or unloading services off the street. All such loading areas or berths shall be so located that no vehicle loading or unloading merchandise or other material shall be parked in any required front yard or in any street or alley or other public way. When any

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required or permitted loading dock or area is constructed adjoining a residentially zoned district, said loading dock or area shall be screened from the adjoining property by completely landscaping the required side yard area and the construction of a substantial light-tight fence or wall constructed of natural materials not over six feet or under four feet in height on the common boundary line.

6. Multi-Family Parking Requirement Table

	Hotel Room	Hotel Suite/Studio Apartment	One Bedroom Apartment	Two Bedroom Apartment or Other	Apartment	Apartment	Apartment in Excess of 2,500 S.F.
	NOT TO EXCEED						
	650 S.F.	1,000 S.F.	1,000 S.F.	1,500 S.F.	2,000 S.F.	2,500 S.F.	
VR	N/A	2	2	2.5	2.5	3	3
LD	1	2	2	2.5	2.5	3	3
MD	1	2	2	2.5	2.5	3	3
HD	1	2	2	2.5	2.5	3	3
VC-1	1	1.5	1.5	2.0	2.0	2.5	3
VC-1	1	1.5	1.5	2.0	2.0	2.5	3
I	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C	N/A	N/A	N/A	N/A	N/A	N/A	N/A

SECTION 14 - STREET AND ROAD SPECIFICATIONS

1. Intent and Purpose

The intent and purpose of this section of the Zoning Codes is to provide specifications for streets and roadways that may be built as part of subdivision and master planned development project and which may eventually be part of the roadway network and maintenance jurisdiction of the Village of Ellicottville. These specifications contain the design and construction requirements of the Village of Ellicottville for streets, curbs/gutters, storm sewer, and appurtenant structures. Circumstances and conditions which are not covered by these specifications will be submitted to the Village representatives as noted for consideration and decision.

A. Specifications Established

These Village of Ellicottville Street and Road Specifications (referred to as "Specifications") contain the design and construction requirements of the Village of Ellicottville for roads, gutters and appurtenant structures. Any conditions which are beyond the scope of these specifications will be submitted to the Village of Ellicottville Department of Public Works (DPW) Superintendent (referred to as "DPW Superintendent") and/or the Village Engineer for consideration and decision.

2. Permit Application and Review; Performance Bond

A. Construction work shall not begin without a construction permit issued by the Village of Ellicottville Building Inspector/Code Enforcement Officer (C.E.O.) after review and approval of street or roadway design by the DPW Superintendent and/or the Village Engineer. A construction permit will be issued only after the Subdivision Map has had the final approval of the Village Planning Board. Application for a construction permit shall be made to the Village Building Inspector/C.E.O. Three (3) complete sets of the final plans and specifications will accompany the application. These plans and specifications will be reviewed by the Building Inspector/ C.E.O., the DPW Superintendent and/or the Village Engineer. The applicant will be required to revise the plans and specifications to reflect any comments by the C.E.O., DPW Superintendent and/or Village Engineer at his own expense. Construction permits will be issued by the Village upon favorable recommendation of the C.E.O., DPW Superintendent and Engineer, and payment of a fee shall be established by the Village Board of Trustees. No work is to commence prior to issuance of the necessary permits. Any work undertaken without the required permits shall be corrected at the expense of the owner (referred to as "owner").

B. The owner shall provide a performance bond to the Village in an amount not to exceed 110% of the estimated costs of construction plus 10% contingencies.

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3. Schedule and Progress of Work

After filing the necessary application for the construction permit and before starting the work, the owner shall submit to the Building Inspector and DPW Superintendent an outline of his proposed methods and manner of executing the approved work, including sequences of operation and a time schedule for performing the work in accordance with these specifications. The outline and time schedule shall be submitted to the C.E.O. and DPW Superintendent no later than two weeks prior to beginning the work.

4. Applicable Standards

A. The latest edition of the following publications shall be considered to be part of these specifications and shall be adhered to unless otherwise stated in these specifications or as modified by the DPW Superintendent and/or Engineer and approved by the Village Board:

- 1) A Policy on Geometric Design of Highways and Streets, by the American Association of Highway and Transportation Officials (referred to as the "design standards").
- 2) Standard Specifications: Construction and Materials, by the Office of Engineering, New York State Department of Transportation (referred to as "Standard Specifications").
- 3) Manual of Uniform Traffic Control Devices, by the New York State Department of Transportation (referred to as "MUTCD").
- 4) Policy and Standards for Entrances to State Highways, by the New York State Department of Transportation (referred to as "Entrances").
- 5) Standard Sheets, by the New York State Department of Transportation (referred to as "Standard Sheets").

B. Whenever the specifications refer to item numbers, such numbers shall be the New York State Department of Transportation item numbers which are referenced in the Standard Specifications.

5. Right-of-Way

The right-of-way for roadway purposes shall have a minimum width of sixty (60) feet for their entire length and shall intersect at an angle of not less than seventy-five (75) feet; reference subsection 13 of this Section. There shall be no dead-end roads with cul-de-sacs unless a reserve of sixty (60) foot-wide right-of-way is provided for future extension of a Village street to an adjacent property.

The Village reserves the right not to issue a construction permit in the event that the proposed right-of-way for the street is comprised of offsets, irregularities and short curves.

6. Legal Description and Survey

Legal deed conveyances to the Village of Ellicottville for rights-of-way shall include a complete description of the parcel or parcels and a fully dimensioned right-of-way map giving all centerline data and measurements in accordance with accepted surveying practices and prepared by a land surveyor licensed to practice in New York State (referred to as a "professional land surveyor"). The map shall be drawn accurately to a scale of no less than one inch to 100 feet on either of the following size sheets: 8 1/2 inches by 11 inches or 11 inches by 17 inches or 22 inches by 34 inches; and the map shall be sealed by a professional land surveyor. The legal deeds must be accompanied by three copies of the map. No work shall begin until the Village has received the proper number of copies of the deed, with boundary description and sealed map.

Right-of-way monuments.

Permanent right-of-way markers shall be installed by the owner at displacements in the right-of-way or where directed by the DPW Superintendent and/or the Village Engineer. The cost of furnishing and installing right-of-way markers shall be at the owner's expense.

7. Acceptance

- A. The Village will accept only those rights-of-way which contain all the necessary streets, curbs/gutters, ditches, storm sewers and appurtenant structures which have been constructed in accordance with these specifications.
- B. The rights-of-way located in areas served by a sanitary sewer system and/or water distribution system must contain provisions for utilities to be constructed in accordance with other governmental regulations.
- C. The owner or his representative shall be responsible for all phases of the work shown on the application for the construction permit and shall be required to protect all adjoining property, existing roadway facilities and utilities. The owner shall be required to notify utility companies and to repair or replace at his expense any such properties damaged or destroyed by him, his employees, agents or representatives during the construction operations.

8. Maintenance Guaranty

The Village shall accept title to the improvements constructed by the owner, provided that the following has been accomplished:

VILLAGE OF ELICOTTVILLE ZONING ORDINANCE

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- A. The owner furnishes three (3) sets of as-built drawings to the Village (for distribution to the C.E.O., the DPW Superintendent and Village Engineer) for their approval.
- B. The owner provides a maintenance guaranty to the Village in the form of a maintenance bond for a period not to exceed two years after the town's acceptance.
- C. The performance bond provided by the owner under Subsection B above shall be in an amount not to exceed 100% of the costs of construction for all work accepted by the Village.

9. Inspection and Control of Work

Inspection shall be in accordance with the following procedure:

- A. All work authorized by the Village in the construction permit shall be witnessed by the Building Inspector/C.E.O. and/or the DPW Superintendent or their representative (referred to as "inspector"). Any person receiving a permit for construction under these specifications shall be required to pay for the services of an inspector appointed by the Village during the installation of the improvements; and the owner shall, before starting the work, furnish a bond or cash deposit in an amount determined by the Village to insure payment of such inspector. The owner or his representative shall keep such inspector advised of the work schedule in order that the work may be properly and fully inspected during all stages of construction by notifying the inspector in writing 24 hours before commencing the work. The inspector will be on site at all times. No work shall be done unless the inspector is on site to witness the operation.
- B. All hard-surfaced roadways constructed for acceptance by the Village shall be supervised during the construction by the C.E.O./DPW Superintendent and/or Village Engineer or their designated representative.
- C. Upon satisfactory completion of the work and acceptance by the Village, the owner will be issued a certificate of compliance by the C.E.O./DPW Superintendent.

10. Preconstruction Meeting

A meeting will be held prior to starting construction to determine the duties of the inspector and the Village's expectations of the owner and his agents, representatives and contractor during the work. The time schedule shall be available at this meeting to facilitate the inspection and coordination of the construction activities. The meeting shall be attended by the Building Inspector/ C.E.O., DPW Superintendent, Village Engineer, inspector, owner and the owner's contractor for the work.

11. Materials

- A. All materials to be incorporated into the work shall be approved by the DPW Superintendent.
- B. The DPW Superintendent may require in situ soil testing to determine the character of the in situ soil. In situ soil testing will be by the owner or his representative, and the written results from the tests submitted to the DPW Superintendent for evaluation and the determination as to soil characteristic and class. All required testing shall be at the expense of the owner. In the areas to be deeded to the Village of Ellicottville for roadway right-of-way, the earthwork construction operations relating to excavation and embankments that require compaction shall not be performed from November 1 to April 1 except with the written permission of and under such special conditions and restrictions as may be imposed by the DPW Superintendent and/or the Village Engineer.
- C. When testing of the in situ soils is required, the tests shall be conducted by a certified and competent soils testing laboratory.
- D. Any testing and certification of other materials to be incorporated into the work shall be done at the expense of the owner when requested by the village.

12. Exits and Entrances

- A. All exits and entrances to adjoining properties from the new street shall conform to the provisions of Entrances, except with the written permission of and under such special conditions and restriction as may be imposed by the DPW Superintendent.
- B. All entrances in to a Village street or roadway will be approved by the DPW Superintendent after review by the Village Engineer. No entrance shall be established prior to the DPW Superintendent issuing a driveway permit that stipulates any special conditions under which the entrance is to be constructed.

13. Geometric Standards for Roadway Design

All streets shall be designed and constructed to conform to the requirements of those portions of the design standards applicable to local road and streets, collector road and streets or as noted below. The minimum cross section for all hard surface roadway types, curve radii, cul-de-sac and turn around dimensions, and locations of underground utilities are shown on the sheets following this section. Design of all roadway utility and drainage systems shall meet the requirements of the current AASHTO Standards.

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14. Roadway Grades

All roadway grades shall be established in a manner to provide maximum safety. The minimum acceptable grade is six inches per 100 feet or 0.5%, and the maximum acceptable grade is 10 feet per 100 feet or 10%. The minimum grade of one (1) foot per one hundred (100) feet or 1% and the maximum grade of five (5) feet per one hundred (100) feet or 5% will control in the following location:

- A. At intersections
- B. School zones
- C. At railroad crossings
- D. In zoned commercial areas
- E. On bridges

All changes in grade shall be accomplished by vertical curves and the maximum change in grade shall not exceed ten (10) percent. All vertical curves shall be separated by a minimum of fifty (50) feet of tangent grade. The minimum length of vertical curve for the changes in grade is shown in the following table:

Change in Grade	Minimum Vertical Curve
2%	100'
3%	150'
4%	200'
5%	250'
6%	300'
7%	350'
8%	400'
9%	450'
10%	500'

Where topography is such as to create severe hardship, the Highway Superintendent and Village Engineer may grant variations to these requirements.

15. Drainage, Ditches and Driveways

Proper drainage of new road beds shall be provided as shown on the typical road section. Provisions shall be made to have all storm sewer or underdrains drain to a natural drainage areas. Where it becomes necessary to transfer drainage from one side of the road to the other, proper cross overs of reinforced concrete pipe shall be used, subject to the approval of the Highway Superintendent. Minimum size of culvert pipe is to be twelve (12) inches in diameter. On cross overs, precaution should be used not to overload ditches with an excessive amount of drainage. Headwalls shall be construction to Village specifications on all drainage lines within the right-of-way to prevent erosion and washouts of fill around culvert pipes. Roadways with gutters shall be drained according to the Village Specifications on storm sewers.

Driveway culverts must be a minimum of twenty (20) feet in length with a minimum diameter of twelve (12) inches, actual length and diameter will be determined by the Highway Superintendent. All culvert pipes for driveways must be concrete or corrugated steel furnished and set by the Owner, and inspected by the Highway Superintendent. The covering of the pipe is also to be at the expense of the Owner. Catch basins, storm sewers, gutters, underdrains and preformed end-sections shall be as shown on drawings. When unsatisfactory conditions exist, and extra drainage is required, it shall be provided by the subdivider when directed by the Highway Superintendent.

16. Clearing and Excavation

Clearing, except as otherwise specified, includes the removal of destruction of all fences, trees, roots, stumps, bushes, timber, sand, decayed or growing organic matter above and below the surface of the ground within the limits of the work in the right-of-way to the extent shown on the drawings or as determined by the Highway Superintendent. The Owner shall use every precaution to prevent injury to buildings, roads, curbs, pipes, or poles, trees and shrubs and utilities. He shall repair or replace any damage done due to negligence on his part. Materials removed under this item, unless otherwise specified, shall become the property of the Owner and shall be removed from the job site.

Excavation shall consist of the loosening, loading, depositing rough and fine grading and the compacting of all materials of every name and nature, wet or dry, necessary for the preparation of subgrades of roads, forming ditches, trenches, and shoulders and pits for structures, to grade the site to the elevation shown on the drawings or as required to make embankments and fills for obtaining material from borrow pits, other than borrowed topsoil or for any other operation necessary to complete the work of the contract.

17. Preparation of Subgrade

Subgrades for roadways shall be accurately shaped and crowned to the grades and levels shown on the drawings or as directed. In the process of preparing subgrades for roadways, all topsoil must be removed on both present grade levels and where fill is required to raise the present grade level. If fill is required, it is to be applied in not more than 8 inch layers and rolled before additional fill is added. Fill for subgrades must be free of topsoil, stone, roots and organic matter. All subgrades for pavement shall be compacted with an approved self-propelled roller weighing not less than ten (10) tons, subgrades shall be rolled only during optimum moisture contents to the satisfaction of the Highway Superintendent. In case of soft clay or quicksand or muck or wet spots or other unsuitable material is encountered in the subgrade, it shall be removed to the limits designated by the Highway Superintendent and properly drained with 6 inch perforated pipe to the storm drainage system and then refilled with dry material or granular material as directed by the Highway Superintendent and then properly compacted to maximum density and bearing capacity Granular material shall be stone or slag as approved by the Highway Superintendent.

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The material shall be spread in such depths that the thickness of any layer, after compaction, shall have a maximum of 8 inches. Water shall be added in such amounts as the Highway Superintendent may consider necessary to secure satisfactory compaction. When the moisture content of the layer is within the limits for proper compaction, the entire surface shall be rolled with a pneumatic tired roller having an operating weight of between 1,000 and 2,500 pounds per tire, or a smooth wheel roller having a minimum weight of 10 tons. Each portion of the layer shall be covered by a minimum of eight passes of the roller.

For heavier and more efficient types of rolling equipment, the minimum number of passes required on all portions of the layer shall be determined by the Highway Superintendent after appropriate field tests to evaluate the efficiency of the equipment. In limited areas where the use of a roller is impractical, approved mechanical tampers shall be used to compact the material. After compaction, the course shall be true to grade and cross section.

Any depressions that develop during rolling shall be filled with additional granular material and further rolled until the entire surface of the subgrade is true to grade and cross section. Should the subgrade become churned up into or mixed with the granular material through any cause whatsoever, the Owner shall at his own expense, remove such mixture of subgrade and replace with additional granular material.

Minimum drainage requirements shall consist of 12 inch perforated P.V.C. of approved equal for underdrains at each edge of pavement with underdrain relief not more than 500 feet to the storm drainage system as shown on the drawing. Where extraordinary conditions exist, additional drainage provisions as directed by the Highway Superintendent shall be provided. All utilities shall be installed at the time of construction. Where such utilities cross the roadway, such crossing shall be made before paving operations commence. Trenches for utility crossing shall be backfilled with No. 1 or No. 1A crushed stone for one (1) foot over the pipe and the balance with crusher run stone. Utility trenches shall be inspected by the Highway Superintendent before commencing paving operations.

18. Pavement

A. **Types**

Pavement type shall be as shown in the following table.

Subbase Course, Type 1 (304.02) – 12” Depth (compacted in 3-4” lifts)
Binder Course, Type 3 (403.13) – 4” Depth
Top Course, Type 7 (403.18) – 1” Depth

B. **Materials**

All materials shall conform to the NYSDOT Standard Specifications.

C. Material Placement

All material placement shall conform to NYSDOT requirements under Section 304 (subbase) and Section 401 (asphalt) or A.O.B.E.

19. Guide Rails

When deemed necessary for public safety by the Highway Superintendent and Village Engineer, the Owner shall submit a plan showing locations and type of guide rail or guide post to be installed.

The plan shall be submitted to the Highway Superintendent and Village Engineer for approval.

All Construction cost shall be born by the Owner of the proposed development.

20. Parking Areas

A typical section of parking areas showing type and thickness of each course shall be submitted for review by the Highway Superintendent and the Village Engineer.

Drainage of parking areas is to be suitable to assure adequate drainage.

Drainage and construction of parking areas are subject to Highway Superintendent and Village Engineer approvals.

NOTE:All references herein to Items as New York State Department of Transportation (NYSDOT) shall refer to the latest NYSDOT Specifications as prepared and printed by the State of New York

21. Existing Streets With Curb Or Gutter

Where approved by the Highway Superintendent, discharges from sump pumps and downspouts may be connected to the stone bedding of the street underdrain as shown above. When connecting to the stone bedding, the relief riser at the right-of-way is necessary to allow the escape of water should the underdrain before frozen, obstructed or overloaded. The method of connecting the discharge line to the stone bedding must be approved by the Highway Superintendent. Such connections must be inspected by the Highway Department before being backfilled.

22. Existing Streets With Roadside Ditches

Sump and downspout discharge lines may be outletted to a roadside ditch. When doing so, the end of the discharge pipe should not protrude into the ditch. (Highway maintenance activities frequently damage protruding pipes.) The relief riser at the right-

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of-way is advisable to allow the escape of water should the ditch become frozen or the end of the discharge line be damaged or obstructed.

23. Splash Blocks

Sump and downspouts discharge may be released on splash blocks adjacent to the house where:

- A. The ground slopes away from the house fast enough to prevent ponding of the water around the house.
- B. The water so discharged will not pass over adjacent properties or cause ponding on adjacent properties.
- C. Water so discharged will not create hazardous conditions on sidewalks or other pedestrian ways in freezing weather.

24. Road Cuts of Existing Streets

All road cuts proposed on streets located within Village limits shall be saw cut to protect the integrity of the existing pavement. This requirement shall hold for all road cuts (water, sewer, gas, storm, etc). Sawcut shall be performed one foot beyond the trench limits (or as ordered by the Highway Superintendent). Trench shall be backfilled with #2 ROC stone (or as ordered by Highway Superintendent) and compacted in 12" lifts. Work will only be allowed after the Village permit process is complete and proper notification of the work has been given to the proper authorities.

25. Drainage

- A. Proper drainage of the subgrade surface shall be constructed as shown on the approved road section. Provisions shall be made during construction to have all underdrain and storm sewers drain to a natural drainage area. Where drainage must be transferred from one side of the roadway to the other, culverts of corrugated steel pipe or reinforced concrete pipe meeting the provisions in Section 700 of the Standard Specifications shall be used unless otherwise modified by the DPW Superintendent. A minimum twelve-inch-diameter pipe or equivalent shall be installed unless the study recommends a larger diameter. Headwalls and/or end sections shall be installed on all drainage pipes and culverts within the right-of-way. The installation shall be done in a method to prevent erosion of the material surrounding the pipes and culverts. All work will be completed at the owner's expense.
- B. In the event that the unsatisfactory drainage conditions are encountered during construction, the owner is responsible for providing positive drainage to a natural drainage area as directed by the DPW Superintendent. A hydraulic study undertaken by a licensed professional engineer may be necessary to determine if

the new drainage patterns will negatively affect natural drainage conditions. The owner is responsible for the cost of this work.

- C. Catch basins, gutters, underdrain and end sections shall be detailed on the approved plans. Figures ST-1 through ST-8 shall be used during the design of these details. Furthermore, these facilities shall conform to the Standard Specifications and Standard Sheets.

26. Clearing and Grubbing

The general provisions of Sections 201-1 through 201-3 of the Standard Specifications shall apply unless modified by the Superintendent. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense. The owner shall repair or replace any damage done due to negligence on his part or by his agents and representatives.

27. Excavation and Embankment

- A. The general provisions of Sections 203-1 through 203-3 of the Standard Specifications shall apply with the exception of Section 203-3.14, Proof Rolling in Cut Sections, unless modified by the DPW Superintendent. Proof rolling in embankment sections may be waived by the DPW Superintendent after review by the Village Engineer. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.

- 1) Whenever unsuitable material (Section 203-1.09 of the Standard Specifications) or soft clay, quicksand, muck or wet spots are encountered in the subgrade area, the following shall be accomplished:

- a) The unsuitable material must be removed to the limits determined by the DPW Superintendent.
- b) The area shall be properly drained with six- or eight-inch-diameter perforated underdrain as directed by the Superintendent.
- c) Dupont Fabric Tyvar R-3401 or equal, approved by the DPW Superintendent, shall be placed over the entire area.
- d) The area shall be filled with stone or gravel material meeting the requirements of Section 304-2.02 of the Standard Specifications, Gradation Type II, and compacted in accordance with Section 203-3.12, Compaction, of the Standard Specifications.

- 2) The DPW Superintendent or Village Engineer must approve the subgrade prior to placement of underdrain and subbase materials.

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- 3) The roadbed limits of work shall be six inches wider on each side than the total width of the designed pavement and gutter shown on the approved typical road section.
- 4) Foundation courses for permanent roads shall not be used for access or haul roads in wet weather during winter or frozen conditions or at such times when the subgrade could intrude into the foundation course.
- 5) Three classes of subgrade have been established based upon the following three soil classifications:
 - a) Soil Class 1: Well-drained gravel or sand soils.
 - b) Soil Class 2: Average clay/loam soils which are not plastic when wet.
 - c) Soil Class 3: Heavy clay soils which are plastic when wet.

B. The DPW Superintendent after review by the Village Engineer will make the determination of subgrade class based upon the written test results provided under Subsection 11, Materials, of these specifications.

28. Bases and Subbases

The general provisions of Sections 304-1 through 304-3 of the Standard Specifications shall apply, with the exception of Section 304-3.05, Optional Type, unless modified by the DPW Superintendent upon review by the Village Engineer. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.

- A. Blast furnace slag and sand will not be used.
- B. Only material meeting the gradation requirements of Type 1 or 2 subbase course is acceptable. Material will be placed to the following number of courses and depth.

Soil Class	Number of Courses	Course Thickness (inches)	Compacted Depth (inches)
1	2	Maximum 8	12
2	2	Maximum 8	14
3	3	Maximum 8	18

29. Bituminous Pavements

- A. The general provisions of Sections 401-1 through 401-3 of the Standard Specifications shall apply unless modified by the DPW Superintendent upon review by the Village Engineer. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.
- B. The minimum-compacted pavement thicknesses for each course of pavement depending on soil class shall conform to the following.

1) Base course:

Soil Class	Number of Courses	Course Thickness (inches)	Compacted Depth (inches)	NYSDOT Item No.
1	1	3	3	403.11
2	1	4	3	403.11
3	1	4	3	403.11

2) Binder course:

Soil Class	Number of Courses	Course Thickness (inches)	Compacted Depth (inches)	NYSDOT Item No.
1	1	3	3	403.12
2	1	3	3	403.12
3	1	3	3	403.12

3) Top course:

Soil Class	Number of Courses	Course Thickness (inches)	Compacted Depth (inches)	NYSDOT Item No.
1	1	1.5	1.5	403.1901
2	1	1.5	1.5	403.1901
3	1	1.5	1.5	403.1901

4) Tack coat:

The general provisions of Sections 407-1 through 407-3 of the Standard Specifications shall apply unless modified by the Superintendent. Specific

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references to New York State Department of Transportation contract documents and agreements are not part of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.

5) Weather and seasonal limitations:

Asphalt concrete or tack coat shall be placed on surfaces having a temperature of 45° F. or greater unless otherwise authorized by the DPW Superintendent. Top course shall be placed only during the period of May 1 to October 1 unless otherwise authorized by the Village with the recommendation of the DPW Superintendent.

30. Guide Railing

The general provisions of Sections 606-1 through 606-3 of the Standard Specifications shall apply unless modified by the DPW Superintendent. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications.

- A. The type of guide rail to be installed will be determined by the Superintendent.
- B. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.

31. Maintenance and Protection of Traffic

The general provisions of Sections 619-1 through 619-3 of the Standard Specifications shall apply unless modified by the DPW Superintendent. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications.

- A. Necessary measures to maintain and protect traffic during construction shall conform to Section 300 of the MUTCD.
- B. The owner shall be responsible for maintaining and protecting the roadway and cul-de-sac and/or turnaround until the right-of-way is accepted by the Village and the owner is issued the certificate of compliance by the DPW Superintendent.
- C. The owner shall submit a schedule of his proposed roadway maintenance program to the Village for approval. This schedule must detail maintenance methods, time schedule of maintenance and an estimate of maintenance costs.
- D. The approved road maintenance program shall become part of the project work, and the approved estimate of maintenance costs shall be included in the maintenance guaranty described in subsection 9.

32. Concrete Gutters

- A. The general provisions of Sections 624-1 through 624-3 of the Standard Specifications shall apply with exception of references to asphalt concrete gutters and cobble gutters unless modified by the Superintendent. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. All concrete gutters shall be designed and constructed in accordance with Exhibits 2 and 3 of these specifications. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.
- B. Concrete gutters shall not be installed on a frozen or frost-covered base.

33. Catch Basins; Drop Inlets; Field Inlets

The general provisions of Sections 604-1 through 604-3 of the Standard Specifications shall apply with exception of references to manholes and leaching basins unless modified by the DPW Superintendent with review by the Village Engineer. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications. Catch basins shall be designed and constructed in accordance with Exhibit 4 of these specifications. Drop inlets shall be either Type A or Type B in accordance with Exhibits 5 and 6 of these specifications or the appropriate Standard Sheet 604-5 through 604-8 as authorized by the DPW Superintendent. The cost of furnishing all materials, labor and equipment necessary to satisfactorily complete the work will be at the owner's expense.

- A. Precast catch basin or drop inlets may be used with the approval of the DPW Superintendent. A precast catch basin is manufactured by Kistner Concrete Products, No. CB-3036, or equal may be approved by the DPW Superintendent.
- B. Precast catch basins shall be cast with a six-inch-diameter opening on two opposite sides to allow for connection of six-inch-diameter underdrain.
- C. Frame and grates shall meet the requirements of Section 655-2.02, Frames and Grates, of the Standard Specifications unless otherwise approved by the DPW Superintendent.
 - 1) An approved frame and grate may be No. R-3350, as manufactured by Neenah Foundry or equal high velocity grate of the dimensions 28 inches by 28 inches.

34. Guide Signs; Traffic Signs; Special Devices

The general provisions of Sections 645-1 through 645-3 of the Standard Specifications shall apply unless modified by the DPW Superintendent with review by the Village

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Engineer. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications.

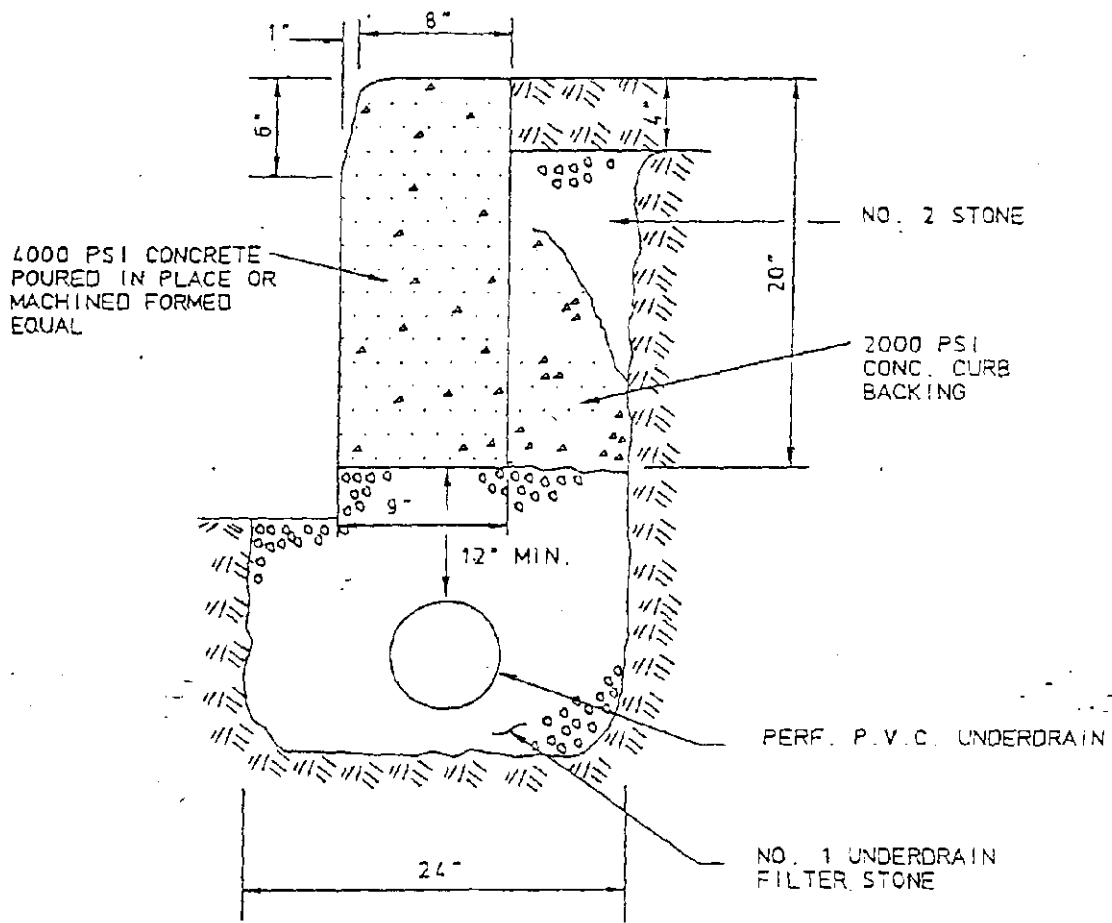
- A. The owner will provide the DPW Superintendent with a sign plan showing the location and text of permanent regulatory, warning and guide signs, delineators and other special devices required to safely control traffic after the project's completion.
- B. Signs, delineators and other special devices shall conform to the requirements of the MUTCD.
- C. The cost of furnishing all materials, labor and equipment necessary to complete the work shall be at the owner's expense.

35. Underdrains

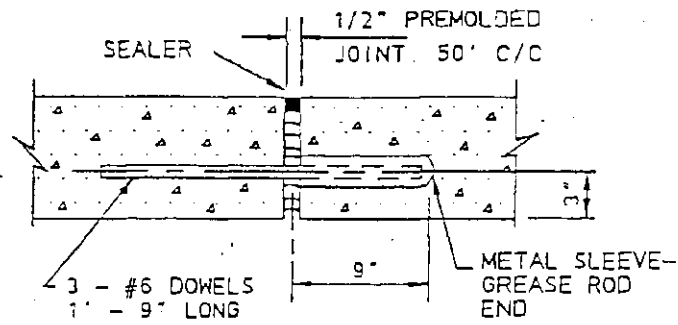
The general provisions of Sections 605-1 through 605-3 of the Standard Specifications shall apply unless modified by the DPW Superintendent. Specific references to New York State Department of Transportation contract documents and agreements are not part of these specifications.

- A. The material used for the underdrain pipe shall be reviewed and approved by the DPW Superintendent.
- B. Underdrain Filter Type III meeting the gradation and quality requirements of Section 703-07, Concrete Sand, of the Standard Specifications will not be used.
- C. The cost of furnishing all materials, labor and equipment necessary to complete the installation of underdrain pipe and filter shall be at the owner's expense.

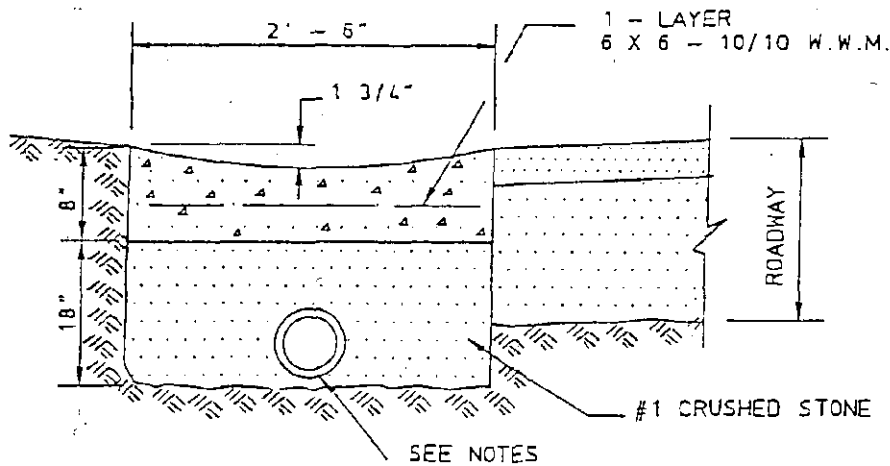
(See Figures ST-1 through ST-8)



CURB AND GUTTER DETAIL



EXPANSION JOINT DETAIL

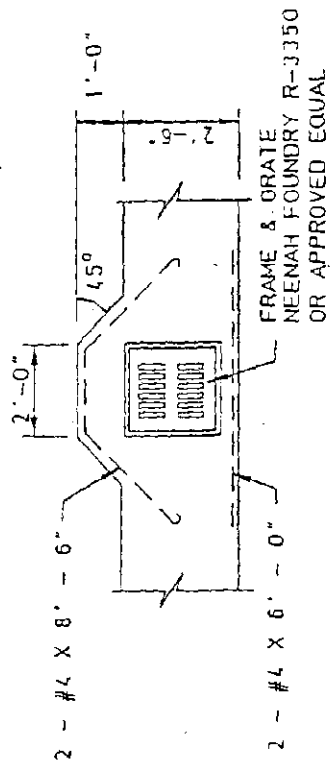


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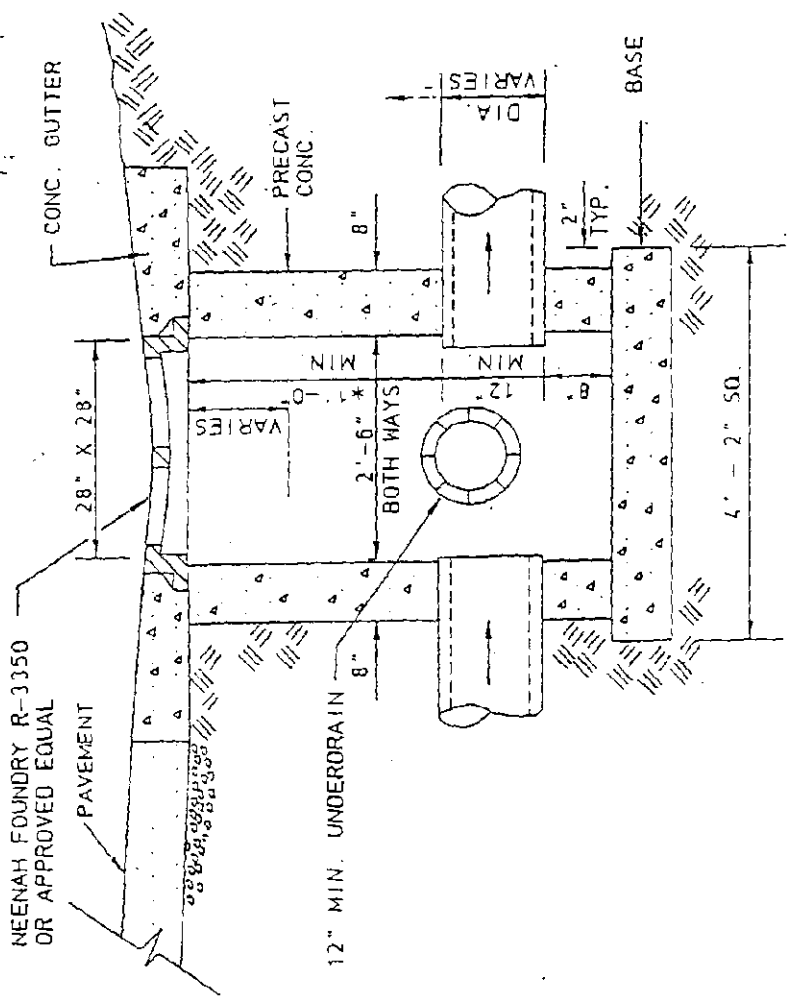
1. 12" PERFORATED PVC UNDERDRAIN SHALL BE SLOPED TO TIE INTO CATCH BASIN.
2. SEE VILLAGE OF ELLICOTTVILLE HIGHWAY SPECS.
3. UNDERDRAINS SHALL BE A MIN. OF 12" BELOW GUTTERS.
4. SEE PAVEMENT SECTION FOR LOCATION OF UNDERDRAINS.

GUTTER SECTION

TYPICAL GUTTER DETAILS

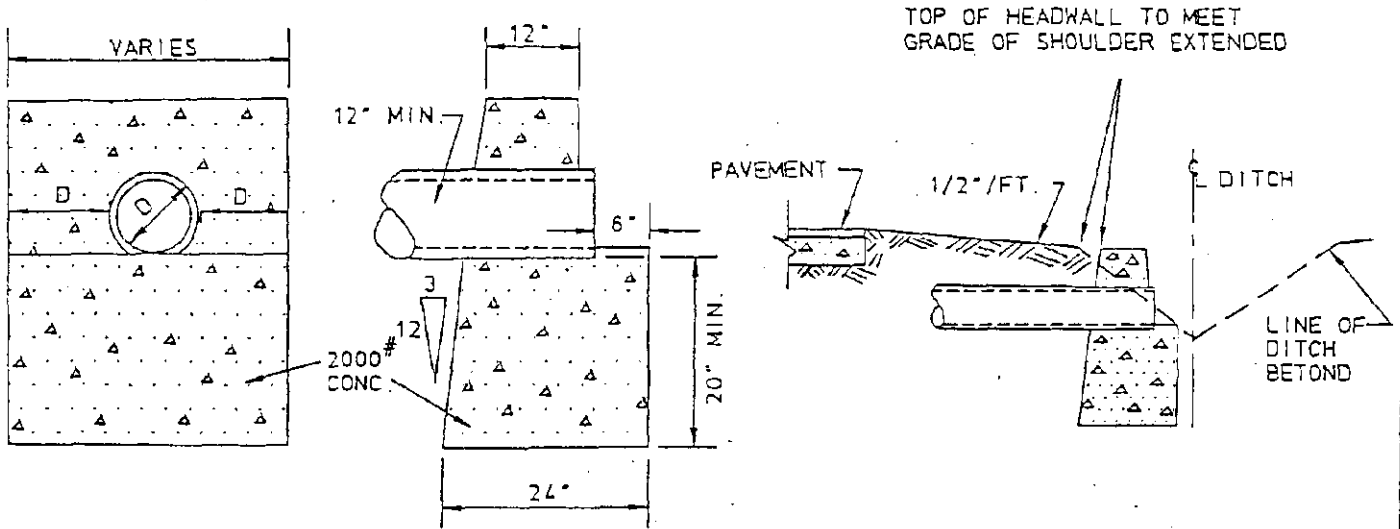


FRAME & GRATE BROUGHT TO GRADE
WITH A MAX. 6" EXTENSION
(BY BRICK OR PRECAST RISERS)



*INSIDE DIM TO BE 3' - 2" FOR
STORM SEWERS BETWEEN 24" AND 36"

TYPICAL CATCH BASIN IN CONCRETE GUTTER

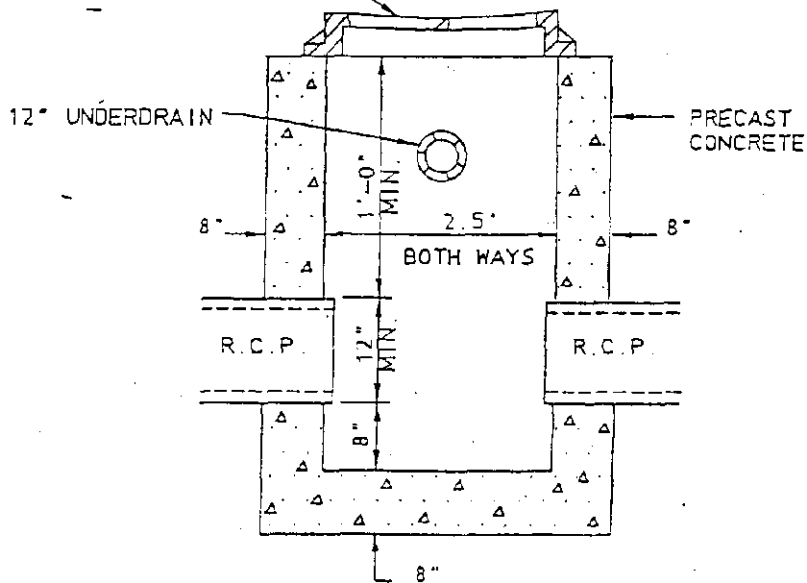


ELEVATION

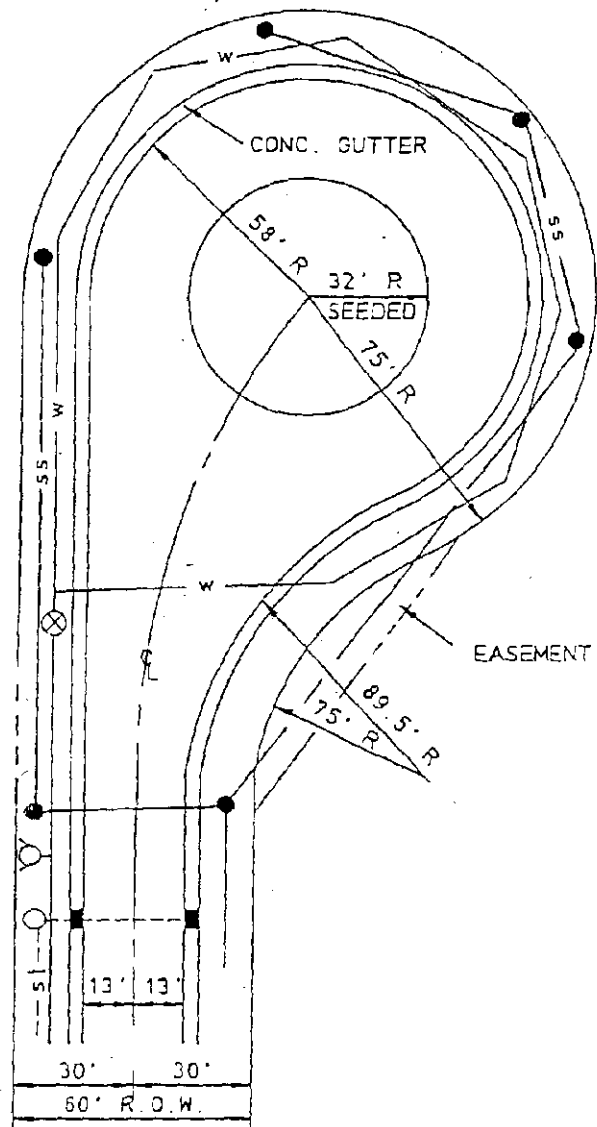
SECTION

HEADWALL DETAIL

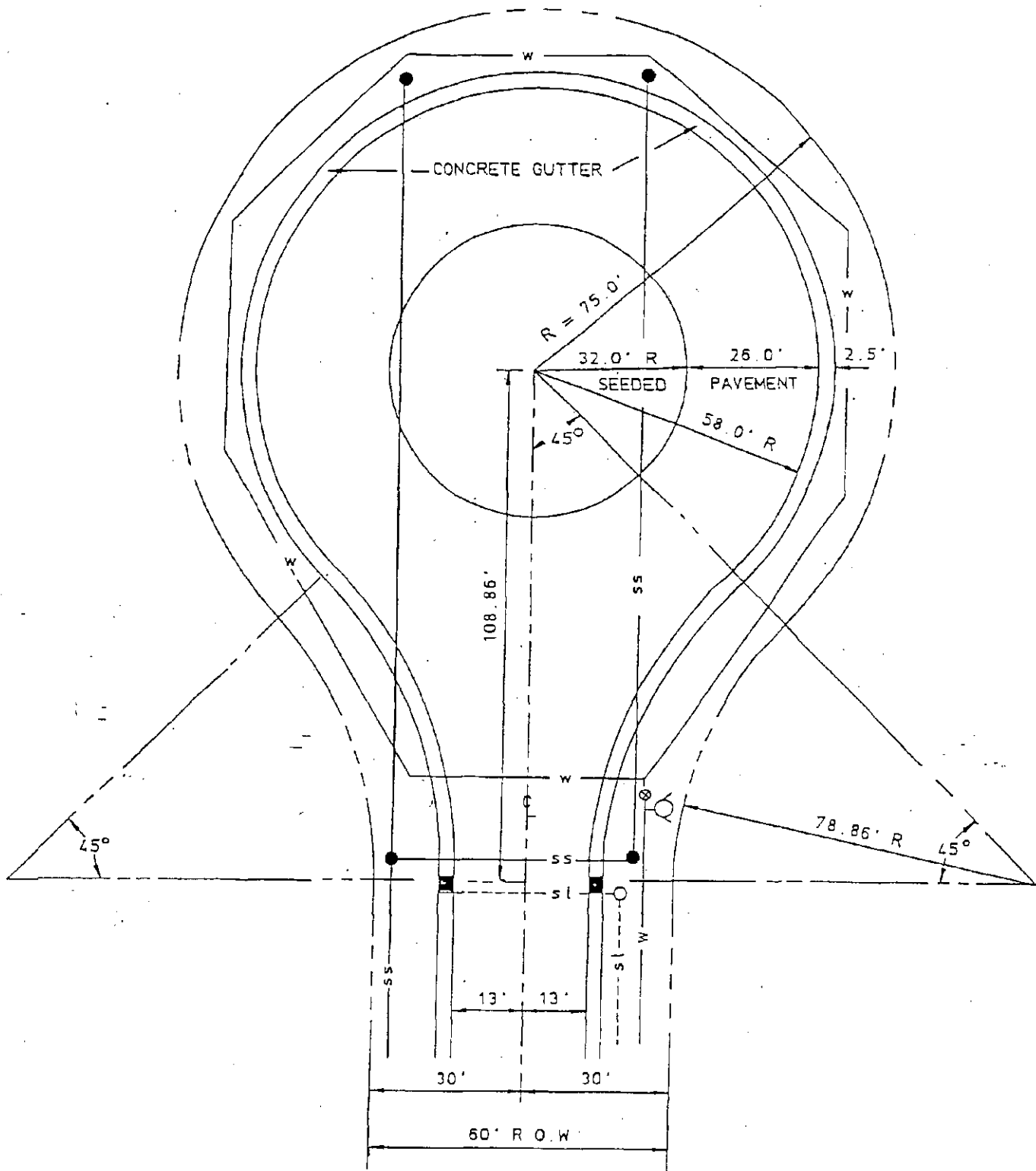
NEENAH FOUNDRY R-3350
OR APPROVED EQUAL



CATCH BASIN DETAIL

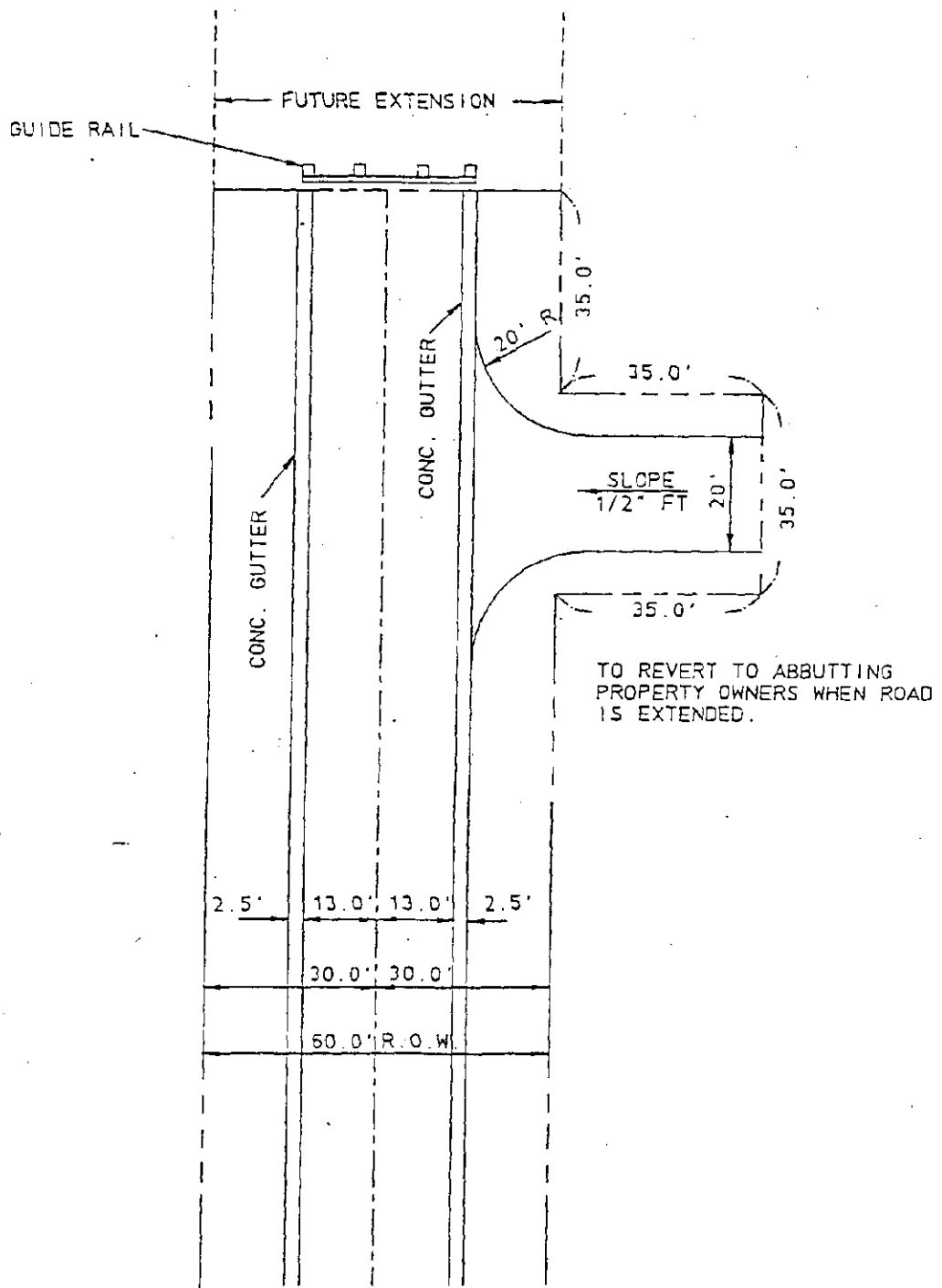


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VILLAGE OF ELLICOTTVILLE
STANDARD STREET DETAILS



TEMPORARY TURN AROUND

VILLAGE OF ELLICOTTVILLE
STANDARD STREET DETAILS

ST-8

**SECTION 15 - SATELLITE ANTENNA, ANTENNA,
TELECOMMUNICATIONS FACILITIES AND TOWER ORDINANCE**

1. Title

This chapter shall hereafter be known as the "Satellite Antenna, Antenna, Telecommunications Facilities and Tower Ordinance."

2. Legislative Authority and Jurisdiction

This chapter is adopted pursuant to the authority delegated to the Village of Ellicottville under the Telecommunications Act of 1996, Municipal Home Rule Law and Article 7 of the Village Law of the State of New York. The provisions of this chapter shall be applicable in the Village of Ellicottville. This chapter shall become effective upon adoption of this Zoning Local Law by the Village of Ellicottville in accordance with NY State Village Law. When necessary to further its purposes, this chapter shall be amended in accordance with the Telecommunications Act, Municipal Home Rule Law and the NYS Village Law.

3. Intent and Purpose

The intent of this chapter is to promote and protect the public health, safety and welfare of the citizens of the Village of Ellicottville by regulating the installation of antennas, parabolic dishes, windmill towers, energy-creating devices, personal communication services towers, cellular telephone facilities and other wireless telecommunication facilities.

The Village of Ellicottville recognizes the changing television and communication technologies, the changing needs for transmitting and receiving installations, and the increased demand for wireless communication transmitting facilities and the need for the services they provide. Often these transmitting, receiving communication services and facilities require the construction of antennas, telecommunication towers and/or similar facilities. The intent of this section of the Satellite Antenna, Antenna, Telecommunications Facilities and Tower Ordinance is to regulate telecommunication towers/antennas in accordance with the guidelines of the Telecommunications Act of 1996 or as amended and to accomplish the following:

- A. Accommodate the need for telecommunications facilities and other similar technologies while regulating their location and number in the community.
- B. Minimize adverse visual effects of telecommunications facilities through careful design, siting and vegetative screening.
- C. Preserve and enhance the positive aesthetic qualities of the built and natural environment in the Village of Ellicottville.

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- D. Avoid potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of telecommunications facilities.
- E. Maximize the use of any new or existing tower or existing building and/or structure to reduce the number of towers and/or similar facilities needs, while allowing wireless service providers to meet their technological and service objectives.
- F. Protect the public health, safety and general welfare of the residents and property within the Village of Ellicottville.

4. Interpretation; Higher Standards To Prevail

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare. The provisions of this chapter shall supersede any prior inconsistent provisions of any local law, ordinance or resolution of the Village of Ellicottville. If a higher standard is imposed by any applicable law, ordinance, resolution, rule or regulation adopted by a higher level of government, the more restrictive or higher standard shall supersede these provisions.

5. Definitions

For the purpose of this chapter, certain words and terms used herein are defined as follows:

ACCESSORY STRUCTURE — A non-habitable accessory building or structure serving or being used in conjunction with a telecommunications tower and/or similar structure and usually located on the same lot as the telecommunications tower. Examples of such structures include utility or transmission equipment storage sheds or cabinets.

AMATEUR COMMUNICATIONS — The use of radio and television antennas/antenna systems for home, recreational, hobby or noncommercial use by a person holding a valid license issued by the Federal Communications Commission, where applicable.

ANTENNA — A system of electrical conductors designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC). Such signals shall include but not be limited to radio, television, cellular telephones, paging, personal communication services (PSC) and microwave communications. Design examples of such antennas are described as "whip," "panel" and "dish."

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BOND, ABANDONMENT — An abandonment bond duly issued by a bonding or surety company approved by the Town Board and Town Attorney with security acceptable to the Town Board, or alternately, an abandonment bond acceptable to the Town Board and Town Attorney duly issued by the applicant-obligor, accompanied by security in the form of cash, certified check or United States Government bearer bonds deposited with the Town Board guaranteeing complete restoration of the site, should the telecommunications facility be obsolete for any consecutive twelve-month period.

BUILDING-MOUNTED ANTENNAS — Telecommunications facilities which utilize existing buildings and structures other than towers as defined in this section for supporting antennas. A building-mounted antenna which does utilize a building or structure for its primary means of attachment or structural support will be defined as a "telecommunications tower," as set forth in this section.

COLLOCATED ANTENNAS — Telecommunications facilities which utilize existing towers, as defined in this section, for placement of antenna(s) or replacement of existing towers which do not require construction of a new tower. Replacement of an existing tower to accommodate collocation, provided that such new tower does not exceed the height of the existing tower, will not be deemed to be construction of a new tower.

ENGINEER or LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.

FALL ZONE — The radius around the tower equal to the height of the tower and antenna in which the tower and antenna would fall in the event of a structural failure of the tower. The fall zone must be owned or leased by the telecommunications carrier. [Amended 10-8-1998 by L.L. No. 1-1998]

GUYED TOWER — A telecommunications tower that is supported, whole or in part, by guy wires and ground anchors. This type of tower is not classified as a self-supporting tower.

LOT — A parcel of land used or occupied or capable of being used or occupied by a building, structure or use and the accessory buildings, structures or uses customarily incidental to it, including such yards and open spaces belonging to the same.

MONOPOLE TOWER — A telecommunications tower consisting of a single pole, constructed without guy wires and ground anchors. This type of tower is classified as a self-supporting tower.

OBSOLETE — When a telecommunications facility is no longer in use for the originally intended purpose or remains unused for its intended purpose for a period of more than 12 consecutive months due to a change in technology or by any fault of the telecommunications facility owner.

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PLANNING BOARD — The Planning Board of the Village of Ellicottville.

SELF-SUPPORTING LATTICE TOWER — A telecommunications tower that is supported by a lattice-work frame which does not require guy wires for structural support.

SURVEYOR — A person licensed as a professional land surveyor by the State of New York.

TELECOMMUNICATIONS FACILITY — Towers, antennas, accessory structures and all appurtenant site-specific infrastructure used in connection with the provision of cellular telephone services, personal communications services, paging services, radio and television broadcast services and similar broadcast services.

TELECOMMUNICATION FACILITY — Any commercial equipment used in connection with the provision of wireless communication services, including but not limited to cellular telephone services and personal communication services, which are regulated by the Federal Communications Commission in accordance with the Telecommunications Act of 1996, as it may hereinafter be amended. A telecommunication facility shall include antenna(s), accessory telecommunications structures and supporting masts, support towers or monopoles.

TELECOMMUNICATIONS TOWER — A tower greater than 35 feet in height and which does not exceed 250 feet in height, including antenna(s), and which supports telecommunications transmission or receiving equipment. The term "telecommunications tower" shall not include amateur radio operators' equipment as licensed by the FCC. Design examples of telecommunications towers are self-supporting lattice, guyed and monopole.

TOWER/ANTENNA — Includes any communications tower, pole or other structure, whether attached to a building, guyed or freestanding, designed to be used for the support of any device for the transmission and/or reception of communications signals, including but not limited to broadcast, shortwave, citizens band, AM FM, television, microwave, cellular, digital, PCS or any wind-driven devices (i.e., windmills, turbines, etc.) whether or not used for energy conversion or creation.

6. Application Procedures – Telecommunication Tower Facilities

Criteria For Complete Application: The following items are required to be submitted to constitute a complete application for the placement of telecommunications facilities within the Village of Ellicottville. Eight (8) copies of all application materials shall be submitted to the Village of Ellicottville Building Inspector/ Code Enforcement Officer and in accordance with special use permit procedures specified in **Section 5** of these Zoning Codes of the Village of Ellicottville. Applications lacking any of the following items shall be considered an incomplete application, and all materials submitted will be

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returned to the applicant suspending project review by the Village. Applications for collocated antennas will typically require a lesser degree, or waiver, of the requirements in Subsections B, C, D, E, H, I, K, L, R, S and T. For applications for collocated antennas, the necessary degree of compliance to satisfy the above-referenced parts of this section shall be at the discretion of the Code Enforcement Officer and Village of Ellicottville Planning Board charged with review of an application. This shall not supersede the provisions of Subsection U of this Section.

- A. A completed special use permit application for the Village of Ellicottville must be submitted. This form can be obtained from the Building Inspector/C.E.O. Officer of the Village of Ellicottville.
- B. The Village Planning Board, in its review, may require a State Environmental Quality Review (SEQRA) full Environmental Assessment Form (EAF) for proposed facilities at key viewpoints in the community. A visual environmental assessment form (Appendix B of Title 6 of Section 617.20 of NYCRR) and supplemental visual assessment report providing details related to the completion of the visual environmental assessment form shall also be submitted. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.
- C. A visual simulation being a large (minimum 22 inches by 34 inches) graphic suitable for public display, mounted on a rigid backing, which accurately represents the visual impact during post-construction conditions from key vantage points, must be available for public and town review at the time of application.
- D. A preliminary report describing the feasibility of collocation on existing structures and telecommunications facilities, applicant's full map and grid coverage in the Village, surrounding topography and relation to line of sight transmission, available road access, electric power and land-based telephone lines and/or microwave link capability, required improvements or construction activities, including those within the public right-of-way of lands owned or controlled by the Village of Ellicottville, identity of location, ownership and usage of currently existing telecommunications facilities within the town, plans for construction of telecommunications accessory equipment building or structure and landscaping plan, proposed mitigation measures for visual impacts, proposed safety measures and compatibility with existing telecommunications networks such as fire, ambulance, police and 911.
- E. In the case of an application for a telecommunications tower, additional information shall be provided describing the telecommunications tower height and design, including a profile of the structure; the telecommunications tower's compliance with applicable structural standards; the telecommunications tower's capacity, including the number and type of telecommunications antennas it can accommodate; and the basis of calculation of capacity.

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- F. In the case of a telecommunications antenna mounted on an existing structure, additional information shall be provided indicating the existing structure's suitability to accept the telecommunications antenna(s); the proposed method of affixing the telecommunications antenna to the structure; and complete details of all fixtures and couplings; and the precise point of attachment shall be indicated.
- G. Filing of certificate of public convenience and necessity in this geographic area from New York State Public Service Commission for applicant with the Village.
- H. Demonstration that the proposed site is the most appropriate available site within the immediate area for the location of the telecommunications facility and the search radius within which the telecommunications facility must be located to satisfy radio frequency requirements.
- I. Inventory of existing telecommunications facilities within the village outlining opportunities for shared use as an alternative to the proposed use. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on an existing approved telecommunications tower or facility.
- J. Filing map with the village showing all of applicant's proposed facilities within the geographic area covered by the certificate of public convenience and necessity.
- K. Proof of certified mail announcements to all other telecommunications providers in the area declaring the applicant's ability and willingness to facilitate collocation.
- L. A certified statement that the applicant would participate in future collocation on his or its telecommunications facility should the application be approved and future collocation be requested.
- M. A site plan indicating the location of the premises for which the permit is sought and all features of the facility necessary for providing road access, electrical service, land-based telephone line connection and/or microwave link capability within the property boundaries of the proposed location. The map must be based upon an accurate survey certified by a surveyor of the property and indicate all structures on the property and within 500 feet of any property line.
- N. All plans and/or specifications required by the State Education Law to be prepared by or under supervision of a professional engineer (PE), surveyor or architect shall be stamped and signed by such licensee.
- O. Appropriate application fees as amended by the Village Board.

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- P. Proof of landowner's consent if the applicant will not own the property. A copy of the lease agreement must also be provided if the applicant will not own the property.
- Q. Copies of any FCC NEPA environmental assessments or other environmental reports related to the proposed telecommunications facility.
- R. Proof of Federal Aviation Administration (FAA) approval of the project and a statement of no objection from all surrounding airports, public or private.
- S. Pre- and post-construction propagation studies prepared by a qualified radio frequency engineer, demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility. Further, the radio frequency engineer must certify that the cumulative emissions from all antennas proposed to be located at the proposed site meet federal guidelines.
- T. An estimated cost certified by a PE for the complete restoration of the site and proof of an abandonment bond in the amount to cover the estimated restoration cost. An agreement by the applicant, in writing, to remove the telecommunication facility if such facility becomes technically obsolete or ceases to be used for its originally intended purpose. A demolition bond for the purposes of removing the telecommunication facility shall remain in force for the life of the tower in an amount approved by the Village Board but not less than \$20,000.
- U. Such other information as may be required by the Village Board of Trustees, Planning Board, Village Engineer or Village Attorney.

7. General Requirements and Design Standards – Telecommunication Tower Facilities

- 1. No Special Use Permit relating to a telecommunication facility shall be authorized by the Planning Board unless it finds that such telecommunication facility:
 - A. Is necessary to meet current or expected demands for the services supported by the telecommunication facility for that applicant's network.
 - B. Conforms with all applicable regulations promulgated by the Federal Communications Commission.
 - C. Is designed and constructed in a manner which minimizes its visual impact to the extent practical.
 - D. Complies with all other requirements of this section.

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- E. Is an appropriate site within the technically feasible area for the location of the telecommunication facility.

8. Zoning/Permitting Requirements

- A. Colocated/existing structure antennas. An antenna that is to be attached to an existing communication tower, smokestack, water tower or other tall structure is permitted by Special Use Permit review and approval. The Special Use permit application will include a structural analysis/report verifying the ability of the structure to handle the colocated antenna.
- B. Non-colocated/new tower antennas. An antenna that will not be mounted on an existing structure as defined above and requires the construction of a tower is permitted as follows:
 - 1) Municipal/government owned property: site plan review by the Village Planning Board.
 - 2) Village Commercial and Industrial zoned property districts: site plan review and approval by the Village Planning Board.
 - 3) All Village Residential zoned properties: site plan review and approval by the Village Town Planning Board. Such applications shall be classified as a Type I action under the State Environmental Quality Review Act (SEQRA).

9. Regulations And Prohibitions

- A. New telecommunications facilities shall be sited on existing telecommunications facilities or in areas already in use for telecommunications and/or utility distribution lines in order to preserve the aesthetic and scenic value of the Village town unless the applicant demonstrates collocation is not feasible.
- B. All new towers shall be structurally designed to accommodate at least two additional telecommunications carriers for collocation to minimize the number of towers within the Village of Ellicottville.
- C. The Village may express a preference that the proposed telecommunications facility and/or similar facility or technology shall be located in an alternate technologically feasible and available location. A guideline for the Village's preference from most favorable to least favorable districts/property is as follows:
 - 1) Property with an existing structure suitable for collocation;
 - 2) Property owned by the Village of Ellicottville;
 - 3) Property owned by any other municipal or government-owned property;

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- 4) Other nonresidential districts; and finally
 - 5) Highly discouraged – Village Residential districts and historic districts and important preservation/conservation areas, including parks and recreational sites owned by private owners. The maximum height of a tower in these zoning districts is 40 feet. An area variance for height will be required from the Zoning Board of Appeals to exceed this height, following initial review by the Planning Board. Applications for placement in these locations shall be classified as a Type I action under SEQRA).
- D. A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) attached upon its zenith. The minimum setback from all property lines for a telecommunications facility shall be equal to the height of the tower to all lot lines. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Planning Board on a case-by-case basis.
- E. No habitable structures shall be permitted within the minimum setback established in Subsection D above.
- F. No telecommunications towers shall be permitted within 500 feet of any residential dwellings, school, parks, church or designated historical districts, historical landmarks and historical sites. This shall in no way limit the development of schools, parks or churches within 500 feet of a telecommunications tower nor shall this render the existing telecommunications tower nonconforming.
- G. All telecommunications facilities shall be totally enclosed with an eight-foot-high chain link fence, with barbed wire on the top and a locking gate.
- H. Adequate access, parking and turnaround area shall be provided to assure adequate emergency and service access to the tower and accessory structure facilities. Maximum use of existing roads, public or private, shall be made. The use of public roadways or right-of-way for the siting of a tower's accessory structures shall be prohibited. All access drives shall be equipped with a locked gate at the access route right-of-way.
- I. A landscaping plan and plantings shall be designed incorporating shrubs planted on three-foot centers and/or eight-foot-high coniferous trees planted on ten-foot centers on all sides to obscure the base of the tower and ground equipment. These landscape plan requirements shall be reviewed and/or revised by the Planning Board depending upon site specifics.

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- J. There shall be no permanent climbing pegs within 30 feet of the ground on any tower.
- K. In the interest of public safety (mercy flights in particular), towers exceeding 100 feet in height shall have red warning lights meeting FAA standards. No lighting otherwise unless required by federal, state or other authority.
- L. No tower shall contain any signs or advertising devices, including but limited to company name, phone numbers, banners, streamers, and balloons. A small sign on the fencing shall be placed to identify the ownership of the facility and a telephone number for emergencies.
- M. The applicant shall sign an agreement in writing to remove the tower within 12 months if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for 12 consecutive months. The applicant shall be required to notify the Village Building Inspector/Code Enforcement Officer of his cessation of use of the tower within the twelve-month period and indicate that he will not be using the tower. The Planning Board shall require the applicant to provide an abandonment bond, as previously defined, for the removal of the telecommunications facility in the event that the applicant fails to remove it as required above. The Village must receive the abandonment bond prior to any building permit being granted. The Village does have the option of negotiating with the owner and to acquire the tower rather than having it demolished.
- N. The amount and terms and conditions of the abandonment bond shall be subject to review by the Village Attorney every two years.
- O. A structural integrity report shall be submitted to the Village Engineer on an annual basis or at any such time that the Code Enforcement Officer deems it necessary.
- P. Noise-producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.
- Q. The applicant shall annually provide the Code Enforcement Officer with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation of the telecommunications facility.
- R. The order of preference for designs of future towers within the Village of Ellicottville in order of decreasing preference is as follows:
 - 1) Self-supporting lattice.
 - 2) Monopole.
 - 3) Guyed towers.

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- S. Telecommunications towers and telecommunications antennas shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings. The facility shall have the least practical visual effect on the environment Any tower that is not subject to FAA required marking shall be of a galvanized finish or painted gray above the surrounding treeline and gray or green below the treeline; the mountings of telecommunications antennas shall be nonreflective and of the appropriate color to blend with their backgrounds as deemed appropriate by the Planning Board. If appropriate, a tower facility shall be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- T. The applicant shall pay the costs of the Village's Engineer and Attorney for the time spent reviewing and analyzing the application.
- U. Special use permits issued for telecommunications facilities shall be issued for a term of one year. Permits may be renewed yearly, without the need for a public hearing.
- V. An inspection every two years by a licensed professional engineer and a copy of the inspection report shall be submitted to the Village Engineer. Any work or repair of the tower shall comply with all applicable code requirements, and a permit shall be obtained to conduct such work.
- W. If the applicant violates any of the conditions of his or its permit or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the Special Use permit. Revocation may occur after the applicant is notified of the violations and the Planning Board holds a hearing pertaining to the same.

10. Application Procedures – Antenna and Satellite Dish Equipment Placement Requirements

A. Intent and Purpose

- 1) The federal Telecommunications Act of 1996 (Section 207) states specific rules with regard to regulation of installation of telecommunication equipment on private property. While the law states that restrictions can not be enforced that ban all antenna installations by municipalities, nor enforce restrictions which unreasonably delay or unreasonably increase the cost of installation, maintenance, or use, or preclude acceptable signal reception, the law does provide for municipalities to enforce reasonable architectural restrictions relating to installation, camouflage antenna and dish where installation is allowed as long as reasonable signals can be

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received. The intent of this Section of the Village Codes is to establish reasonable criteria for installation of antenna and satellite receiving equipment where they can be installed within the context of the federal law while promoting the health, safety and general welfare of the community and the citizens of the Village of Ellicottville.

- 2) The Village of Village finds that the installation of large masts, towers and antennas, including guy wires, poles, cables and other appurtenant mechanical devices, throughout the Village can create a visual blight offensive to those who reside and work in the Village of Ellicottville. The bulk and unsightliness of large masts, towers and antennas require reasonable screening and placement requirements to avoid adverse aesthetic impacts and to protect community character. Further, large masts, towers and antennas that are improperly designed can endanger the lives and property of persons on the property or surrounding property if they collapse. It is the purpose of this Section to permit towers, masts and antennas where they can be installed without creating adverse safety impacts and to promote the health, safety and general welfare of the community.
- 3) It is further the intention of this Section of the Village Codes to regulate all antennas of whatever type without differentiation and to impose only those restrictions and requirements as are necessary to protect the public health and safety from improperly installed structures and to preserve and protect the uncluttered appearance of residence, office, business and manufacturing and other zoning districts of the village. To the extent that differentiation in regulation of satellite antennas and other types of antennas may be determined to exist in this Section, the regulation of satellite antennas shall be interpreted and applied so as not to impose unreasonable limitations on the reception or transmission of satellite signals, impose costs on the satellite antenna user that are excessive in light of the cost of the antenna or permit unreasonable delays in installation, maintenance or use of satellite antennas. To the extent that differentiation in regulation of amateur radio antennas may be determined to exist in this Section, such regulation shall be interpreted and applied so as to reasonably accommodate amateur communications and constitute the minimum practicable regulation to accomplish the goals set forth herein.
- 4) Further, this Section of the Codes recognizes that it would be too impractical and too large of an administrative burden to require permits for every television broadcast service antenna, satellite dish and wireless cable antenna. Moreover, with current technology and future advances, television broadcast service antennas and satellite dishes are becoming less obtrusive and present less significant impacts on the health, safety and

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welfare in the community and therefore certain type antennas and satellite dishes have been exempted from the permit requirements of this Section

B. Definition

Antenna and satellite dish station equipment shall mean and include any accessory structure, any system of poles, wires, rods, antenna, or dish devices or similar equipment located outside of the primary structure for the purpose of transmission or reception of radio-frequency signals, microwave signals, or other signals transmitted to or from other antennas when such system is either external to or attached to the exterior of a structure.

C. Exempt Antennas

Antennas meeting the following standards and specifications are exempt from the permit requirements of this article, except as otherwise specifically noted:

- 1) Television broadcast service antennas used to receive conventional UHF and VHF television broadcast reception, if such antennas are mounted on a wall or roof not extending above the ridge line of the wall or roof line.
- 2) Amateur radio antennas that are less than 20 feet in height
- 3) Satellite antennas that are one meter (39.37 inches) or less in diameter or diagonal measurement.
- 4) Satellite antennas that are two meters or less in diameter or diagonal measurement and are located or proposed to be located in any Village Commercial Districts (VC-1 or VC-2) and the Village Industrial (I) District.

D. Permit Required

After the effective date of this local law and except as otherwise provided herein, it shall be unlawful and a violation of this Section for any person to erect, construct, relocate, reconstruct, display or maintain or cause to be erected, constructed, displayed or maintained within the Village of Ellicottville any nonexempt antenna or satellite dish without first having obtained a building permit therefor from the Village Building Inspector. The installation of said antennas and satellite receiving stations, unless otherwise provided in this local law, shall be deemed a permitted use, rather than a Special (Conditional) Use.

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E. Application for Permit

Any person desiring to procure a permit for a nonexempt antenna shall file with the Building Inspector a written application which shall contain:

- 1) Specific site data placed on a map, acceptable in form and content to the Building Inspector, which shall be prepared to a scale and sufficient detail and accuracy so as to accurately depict the placement of all component parts of the antenna, including any guy wires or enclosures, in relation to:
 - a) The location of the property lines and permanent easements.
 - b) The location of all structures on the site and all structures on any adjacent property within ten feet of the property lines.
 - c) The location of all utility poles, aboveground and below ground utility lines, trees or other natural or artificial structures within 25 feet of the proposed location of the antenna.
 - d) Location, nature and extent of any proposed fencing, buffering, plantings or other screening measures, if any.
 - e) The dimensions of said antenna, including its width, depth and height.
 - f) Provide any pertinent information prepared by the manufacturer/installer of the antenna.
 - g) A statement, if other than the applicant, of the owner or person in control of the building(s) on the premises where said antenna is to be located and the authorization to obtain a permit.
 - h) Such other information as the Building Inspector may reasonably require to show compliance with the provisions of this Section.
 - i) A fee for said permit, as established by this Section of the Code or as set amended from time to time by resolution of the Village Board of Trustees.

F. Permit Fee

The Building Inspector/C.E.O. shall collect a fee of twenty-five dollars (\$25.00) for the review and inspection of antenna and satellite dish station equipment. The fee for said permit may be amended from time to time by resolution of the Village Board of Trustees.

G. Required Criteria And Performance Standards

The following requirements, criteria and standards apply to the installation of antennas and satellite dish stations:

- 1) A freestanding satellite dish radio or television receiver, receiving or transmitting antenna or similar device shall be permitted as an accessory

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structure in the Village of Ellicottville subject to the issuance of a building permit by the Building Inspector/C.E.O.

- 2) The height of the antenna/dish device shall be measured from the highest point of the apparatus to the ground underneath the apparatus, with the apparatus set in its operating position.
- 3) Each antenna/satellite dish station mounted on the ground shall be screened by planting masses of plant material, shrubbery or trees as much as possible while still allowing reasonable signals as intended for the device to receive or transmit. Required screening shall be a minimum of six feet in height.
- 4) Plant massing shall be placed to obscure the view of the antenna/dish devices and associated structures from the adjoining street. Screening is only required where the device is clearly visible from a street, park or other public place. Such apparatus shall be screened from any adjacent property if any part of such apparatus is located less than 10 feet from such property line. Screening must provide year-round coverage, such as evergreens or dense brush.
- 5) Antenna and satellite devices and associated structures installed on the ground external to principal structure shall maintain all normal building setbacks and side yards applicable to the zoning district in which the apparatus is located.
- 6) Ground based antenna/dish apparatus must not be located within the front yard areas in any district and preferably in the rear of the principal structure on the property. The only exception to this requirement is if no location other than a front yard location is possible to provide reasonable and acceptable signal reception or transmission as required.
- 7) Roof or wall mounted antenna or satellite dish devices should not extend above the ridge line of the roof or wall to which they are attached, and should not be located on a portion of a wall or roof fronting on a public street. Roof or wall mounted antenna/satellite devices are highly discouraged in the Historic District Overlay zone.
- 8) Cables connecting the antenna/dish apparatus to the principal building on the property shall be buried rather than installed overhead.

H. Subdivision and Condominium Covenants

Many subdivision and condominium covenants may address the location of antenna and satellite dish apparatus within condominium units and lots of a

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subdivision. The Village is not a party to those covenants, and no permit from the Village shall have the effect of overriding or amending those covenants which may be more restrictive than this local law. Applicants for any permits for the installation of any antenna/dish devices are advised to determine what private land use restrictions or requirements apply to their site before applying for a permit from the Village. If the proposed installation is within the area of a condominium association or subdivision with adopted covenants, the applicant shall be required to provide a letter indicating the consent of the development association to the location of installation and any conditions placed on the installation as a part of the permit application filed with the Village.

11. Variances

The Village of Ellicottville Zoning Board of Appeals may, in appropriate cases and after public notice and hearing and subject to the appropriate safeguards, vary or modify the application of this chapter in harmony with its general purpose and intent.

12. Enforcement; Penalties For Offenses

- A. It shall be the duty of the Village of Ellicottville Building Inspector/Code Enforcement Officer to enforce the provisions of this chapter.
- B. Violation of the provisions of this chapter shall be deemed a misdemeanor, punishable as provided by law, and with each week such violation constitutes a separate offense. The Village of Ellicottville shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter.

SECTION 16 – MISCELLANEOUS REQUIREMENTS

1. Adult Uses

- A. Adult uses, due to their nature, have serious objectionable characteristics that can have a significant impact on the neighborhood and community in which they are located, particularly when located in close proximity to residential areas and recreational commercial areas. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be inconsistent with the Village as a primarily residential and family oriented community as well as a recreational destination. Such uses can contribute to the blighting or downgrading of areas in which they are located as a result of their related potential for an increase in crime and the undermining of the economic and social welfare of the community. The special regulations deemed necessary to control the undesirable secondary effects arising from adult uses are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of the residential community. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to adult uses.
- B. No adult use shall be established except upon the receipt of a Special (Conditional) Use Permit approval from the Village Planning Board in accordance with Section 5 of this ordinance and the provisions herein. All adult uses shall only be allowed in the district(s) as identified on the Land Use Tables of this ordinance.

An adult use shall also conform to the following requirements:

- 1) An adult use shall not be located within a three hundred-foot (300') radius of any property currently in residential use.
- 2) No adult use shall be located within a five hundred-foot (500') radius of another adult use.
- 3) No adult use shall be located within a five hundred-foot radius of any church, school, day care center, park or playground, civic facility, or historic resource.
- 4) No more than one adult use shall be located on any lot.
- 5) No adult use shall be located in any building that is used in whole or in part for residential uses.

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- 6) All building openings, including doors and windows shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area.
- 7) As a condition of approval of any adult use, there shall be a restriction that no person under the age of eighteen years shall be permitted into or on the premises.
- 8) As a condition of approval of any adult use, there shall be a restriction that there shall be no outdoor sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such sign shall be reviewed by the Planning Board in conjunction with the Special (Conditional) Use Permit application and shall conform to all signage requirements of this ordinance as per Section 12, Signs.
- 9) No loudspeakers or sound equipment shall be used by the adult uses that can be heard by the public from outside the establishment.

2. Bed and Breakfast Inns

Bed and Breakfast Inns may be approved by Special Use (Conditional Use) permit by the Planning Board. In making a determination whether or not a Bed and Breakfast Inn use is appropriate, the Planning Board shall consider the following criteria:

- A. Bed and Breakfast Inns are to be considered for structures of historical significance, whether or not they are officially listed on the National Register of Historic Places. As a part of the renovation of a structure as a Bed and Breakfast Inn, every attempt will be made by the applicant to restore the structure to its original condition so that it may become eligible for listing on the National Register.
- B. Bed and Breakfast Inns should have a minimum of two rentable rooms. The maximum number of rooms will be determined by the applicant's ability to demonstrate that the impacts such as parking and neighborhood compatibility can be adequately mitigated.
- C. The length of stay for patrons of Bed and Breakfast Inns will be limited to less than 30 days (nightly rental).
- D. It is preferable that Bed and Breakfast Inns have an owner/manager living on the site, but may, as a minimum requirement, have 24-hour on-site management and check-in.
- E. Common kitchen facilities are allowed for the benefit of guests only and are not intended to serve outside visitors. Individual kitchens within rooms shall not be permitted.

- F. Signs shall be limited to one sign which shall not exceed twelve square feet in size. A permit must be obtained for the sign and it must comply with the provisions of the Village sign regulations specified by Section 12 of this Local Law.
- G. Parking shall be provided on site at the rate of one space per rentable room. If no on-site parking is possible, parking in close proximity to the Inn shall be secured and provided for the guests of the Inn. The Planning Board may waive the parking requirements if it is found that no on-site parking is possible and all alternatives for other parking have been explored and exhausted. The burden of proof in requesting a parking exception shall be on the applicant.

3. Control of Excavating

Where permitted in the Land Use Tables of this ordinance, all mining, quarrying, removal of topsoil, and sand and gravel extraction shall conform to the following requirements:

- A. The applicant must personally manage, or be responsible for the management of the activity or business for which the permit is granted.
- B. The applicant must submit to the Village Planning board a plan of operation including final grading and seeding of the excavation site, or an approved New York State Department of Environmental Conservation Mining and Reclamation Plan.
- C. No excavation or stockpiling shall take place closer than 1,000 feet from any inhabited dwelling in existence when the NYS Mine Reclamation Permit is issued, or 1,000 feet from any adjoining property line.
- D. No excavation shall be performed or proceed to such a depth as to diminish, pollute, or impede the water available to any such person drawing water from a private well located within 2,000 feet of such excavation.
- E. During the excavation for sand, gravel or soil, the applicant shall be responsible for protection of such excavation. All excavations must either be firmly sheeted in an approved manner, or sloped and graded. Excavations made to a water producing depth, shall be sloped to a minimum grade of 1 foot vertical to 1.5 foot horizontal to mean water level. Mine faces below water level will be excavated at a slope of 1 foot vertical to 1.5 foot horizontal at the water perimeter. Excavations not made to a water-producing depth must be graded to a minimum slope of 1 foot vertical to 1.5 foot horizontal on mine faces, and graded in a manner that water will not be impounded on the mine floor. Such grading shall be designed to minimize erosion and shall be covered with topsoil and overburden and revegetated.

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- F. The applicant shall be required to reclaim all affected areas within one year of the expiration of the Village Permit if said permit is not renewed. Before the issuance of a permit, the applicant shall execute and file with the Village Clerk, a performance bond, cash deposit, or other security acceptable to the Village Board in an amount to be fixed by the Village Board but not less than Two thousand dollars (\$2,000) per acre affected by any activities required to carry out mining operations but not limited to the actual excavation. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Village Board. In the event the applicant has obtained a New York State Department of Environmental Conservation Mining Permit, the Village Bonding requirements will be waived.
- G. Nothing contained in this ordinance shall require a person to obtain a permit to remove or prevent a person from removing topsoil, sand, gravel or subsoil from part of his lands to another part of the same premises when such removal is necessary as an accessory use or is made for the purpose of farming or improving said property.
- H. The applicant shall provide the Village Board with the proposed methods for preventing water, air and noise pollution, reducing soil erosion and minimizing the effects of mining on adjacent landowners.

4. Sanitation

- A. The dumping of garbage or rubbish shall only be permitted in locations and under conditions approved by the Village Board and the Cattaraugus County Health Department. Any new or modified facilities for the treatment, storage or disposal of sewage, including excreta, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of New York State and Cattaraugus County Department of Health. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies.
- B. The casual dumping of clean fill is permitted in the Industrial ("I") only. Fill may be placed in a floodfringe overzone area only as permitted under the Village of Ellicottville Local Law No. 1-1994 Flood Damage Provention. No fill of any nature is permitted in the Conservation District (C).

A permit must be obtained for the dumping of more than 10 truck loads (approximately 100 cubic yards) of such clean fill within any twelve month period or if the owner of the land or the dumper of such fill expects or should reasonably expect that such dumping will change the character of the land surface in such a way as to adversely affect existing drainage, accessibility, or views of the property or adjacent properties.

In any case, all fill dumped in the Village of Ellicottville shall be leveled within 5 working days after being placed unless otherwise stated in the conditions of a valid Dumping Permit issued pursuant to this Section.

The owner of the land, or his agent, shall apply for a Dumping Permit, if required to the C.E.O. The application shall be made on forms available from the C.E.O. and a Proposed Site Grading Plan sufficient to illustrate the effect of the fill on drainage, accessibility and views shall accompany the application.

- C. No lot, or other piece of property, other than a legally zoned Auto Repair Shop or Automobile Graveyard shall contain more than one ungaraged motor vehicle that lacks a current inspection and is not road worthy.

5. Refuse Service and Dumpsters

All structures in the Village must have a means of properly storing refuse generated by the structure's occupants and such refuse service areas shall be on the site and accessible. Properties in the Village Commercial, Industrial, High Density District and large developments such as condominium and apartment buildings must provide a means of storing refuse generated by structure occupants in accessible refuse service areas that are fully enclosed and properly ventilated so that the enclosed trash does not become a nuisance due to odor or unsanitary conditions.

Trash storage by use of dumpster facilities (as defined in Section 2 of these Codes) is acceptable under the following conditions:

- A. No dumpster may be placed or allowed to remain on any properties in the Village Residential zoning district on a permanent basis. Dumpsters may be placed on properties in the Village Residential districts only on a short term temporary basis for collection of construction debris (construction, reconstruction, remodeling, etc.), demolition activities and other activities where collection and storage of debris by dumpster is appropriate. The use of such dumpsters shall be regulated by Building Department construction or demolition permits. Dumpsters should not be placed or allowed to remain in place in front yards unless there is no practical alternative location.
- B. In the Village Commercial, Industrial, High Density Districts and large developments such as condominium and apartment buildings:
- The Planning Board encourages all Village businesses and other users of dumpsters to enter into shared agreements when possible for dumpster and trash storage facilities.
 - It is recognized that the Village provides a recycle pickup program for pickup of recyclables, under certain conditions (boxes crushed), and this village service is provided at certain locations throughout the Village. All property

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owners are directed to diligently participate in the Village's recycle program and to pursue any agreements possible for sharing dumpster service facilities.

- C. All dumpsters must have tightly fitting covers that are kept closed at all times except when the dumpster is in the process of being filled or emptied. Garbage, refuse materials, and other solid waste must be completely contained within the dumpster and shall not accumulate so that the dumpster cover cannot be firmly closed.
- D. Dumpsters shall not be located in any area or location that will present a hazard to the public safety, access to or by emergency vehicles or where such placement may violate fire, building or public safety laws or requirements.
- E. All dumpsters shall have the name and telephone number of the company or individual owning such dumpster clearly printed, in letters at least three inches high, on either the front or back of the dumpster.
- F. Dumpsters in the Village Commercial and High Density districts that are located in the public view shall be enclosed or screened in accordance with the following screening requirements:
 - 1) Dumpsters shall be surrounded on all sides that are visible from the public view by enclosure walls or vegetation screens such as trees or hedges. There shall be a minimum of two feet of clearance between the dumpster and each wall or vegetation screen. The walls or vegetation screen shall be higher than the dumpster and shall fully screen the dumpster from the public view.
 - 2) Constructed enclosure walls shall be made of wood, masonry or other materials compatible with the main structure or surroundings. Chain-link fencing shall not be considered acceptable screening material. Enclosure walls must be constructed of masonry or other noncombustible materials if they are in close proximity to buildings. Enclosures and partial enclosures shall be constructed to be as inconspicuous as possible.
 - 3) Where vegetation screens are used, they shall form a year-round dense screen at least four feet high, and in any event at least as high as the dumpster, within two years of the initial planting.
 - 4) Where a gate is necessary to provide access to the hauler, the gate shall either swing fully outward or slide parallel to the wall of the enclosure. Gates shall be designed to be secured when in the open and closed positions. Gates shall be closed at all times except when the dumpster is being accessed. There shall be a minimum of 10 inches of clearance between the bottom of the gate and ground.

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- 5) All enclosures and partial enclosures (whether constructed or created by vegetation screens) shall be easily accessible to collection vehicles and personnel while providing for collection/removal operations that will not damage the dumpster enclosure.
 - 6) Property owners must keep constructed enclosures and partial enclosures in good repair and in a safe and structurally sound condition. Property owners must maintain the effectiveness of vegetation screens by properly caring for and replacing, as necessary, the plantings that serve as screening devices.
 - 7) The property owner shall be responsible for the cleanup of the interior of each enclosure and partial enclosure. Enclosure areas and partial enclosure areas shall be kept free from litter and other solid waste, except for that which is placed in dumpsters. Enclosure areas and partial enclosure areas shall be maintained to prevent odors and rodent and insect infestation. Garbage and other solid waste shall not accumulate in any manner that creates a visual or public health or safety nuisance.
 - 8) Recycling receptacles may be located inside the enclosure or partial enclosure.
- G. In making any determination with respect to any proposed dumpster, the Planning Board and/or the Building Inspector shall be guided by and consider the following:
- 1) Need for the dumpster: the number of tenants to be serviced by the dumpster and the availability of alternative methods of solid waste storage and disposal.
 - 2) Proximity to neighbors: the proximity of the proposed dumpster to neighboring properties and residences.
 - 3) Other dumpsters: other dumpsters in the vicinity of the proposed dumpster.
 - 4) The character of the neighborhood: The proposed use shall not be detrimental to the general amenity or neighborhood character so as to cause a devaluation of neighboring property values or material inconvenience to neighboring inhabitants or material interference with the use and enjoyment by the inhabitants of the neighboring property.

6. Junkyards

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Village of Ellicottville and the safeguarding of their

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material right against unwarranted invasion and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Village and the welfare of its citizens. It is further declared that the unrestrained accumulation of junk is a hazard to such health, safety and welfare of the citizens of the Village of Ellicottville necessitating the regulation, restraint and elimination thereof.

Therefore, as defined in Section 2 of this Local Law/Zoning Ordinances and as specified in the Land Use Tables (Section 3), junkyards are Not Permitted within the Village of Ellicottville. No junkyards shall be established in any district on or after the effective date of this chapter.

7. Property in Excess of 25% in Slope

Construction of any public or private roadways, access, or streets on slopes in excess of 25% shall be discouraged. Construction of such roadways will be allowed if it is necessary to cross an area of land with a slope in excess of 25% in order to access an otherwise inaccessible area of land which has a slope less than 25%. In no case shall a structure (residential or non-residential) be constructed on ground which has a slope in excess of 25% if the roadway which is serving the structure is on ground in excess of 20% in slope. Density credit shall be allowed for land in any zone that has a slope greater than 25% at Agricultural/Residential District density. Land in approved and platted subdivisions as of the date of this ordinance that exceed 25% in slope shall be exempt from this requirement and are to be considered to be "grandfathered".

8. Sewerage

All development at densities greater than that allowed in the LD Residential Development District shall connect to the existing Village sewage treatment facilities, be required to construct sanitary sewers to collect wastewater generated in the development and to discharge the collected sanitary sewerage into the existing sewage treatment facility or to provide a package sewage treatment facility as approved by the appropriate state, county and local agencies.

9. Demolition of Buildings and Structures

A. **Definitions**

As used in this Section, the following terms shall have the meanings indicated:

APPLICATION FOR DEMOLITION PERMIT — The application for a permit to demolish a building or structure.

BASE AREA — The product of the length of the building or structure as measured from its exterior walls times the width of the building or structure as measured from its exterior walls.

BASEMENT — The space of a building which 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.

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.

CELLAR — The space of a building which is partly or entirely below grade, which has 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.

CONTRACTOR — A person(s), firm or corporation employed by the owner of the property, empowered by written consent of the owner or employed by the village to perform the specific duty of demolition as may be specified in the authorizing permits.

DEMOLITION and DEMOLISH — The demolition, razing, dismantling or tearing down of an existing building or structure or any part thereof.

DEMOLITION PERMIT — The permit required for demolition of an existing building or structure.

GROSS FLOOR AREA — The entire floor area within the surrounding walls of the building or portion thereof.

LOCATION — The actual physical boundaries or area of the demolition. The "location," as described in the application for permit and as approved by the Building Inspector therein, shall be the only area approved for the demolition.

OWNER or PROPERTY OWNER — The person or entity who has legal title to land on which the building or structure is located and/or whose name appears on the most recent tax assessment rolls of the Village of Ellicottville.

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PAYMENT TO THE VILLAGE CLERK — Payment to the Village Clerk of all applicable fees as set forth in the License and Fee Schedule adopted by resolution of the Board of Trustees.

PUBLIC WAY — A street, alley, sidewalk or other thoroughfare or easement permanently established for passage of persons or vehicles. The term "public way" shall be construed, when used herein, as though followed by the words "or part thereof."

SALVAGE — Component parts of a building or structure being demolished, removed or to be removed from said building or structure for reuse or resale.

SALVAGE CONTRACTOR — A person, firm or corporation, identified in the application for demolition, authorized by the owner or, if ordered by the village, the contractor that the village has contracted with to do the work, in writing, to remove items of salvage from premises, which may or may not be the same person, firm or corporation designated by the owner as the contractor to perform the demolition.

STOP-WORK ORDER — An order issued by the Director of Public Works or Building Inspector to the owner, lessee, the owner's agent or the agent of the lessee to immediately stop the work if it is not performed in a lawful, safe and sanitary manner.

STRUCTURE — An assembly of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

B. Demolition Permit; Issuance, Terms And Conditions

No person shall demolish any building or structure having a gross floor area or use area of two hundred (200) square feet or more within the Village of Ellicottville or which adjoins or is within five (5) feet of any other building or structure without first obtaining a demolition permit, signed by the Building Inspector/Code Enforcement Officer (C.E.O.) of the Village of Ellicottville allowing such demolition. Such permit shall be applied for and issued to the owner of the property or his representative pursuant to the following procedures:

- 1) Written application for a demolition permit shall be on forms provided by the Village of Ellicottville Building Inspector/C.E.O.
- 2) Said application shall require the name, address and telephone number of the owner; the names, addresses and telephone numbers of all contractors (general, special or salvage) authorized by the owner or his representative employed to perform the work; insurance coverage information, including the name of each insurance company and policy number, the date of expiration of the policy and the type of insurance and coverage limitations for the owner and every contractor involved in the demolition; a written description of the building or structure to be demolished; the identification of the presence of asbestos or any other hazardous material in the building

or structure to be demolished and the names, addresses and telephone numbers of the contractors that will perform the removal of such material; starting and completion dates; a written list of materials to be salvaged; a provision for disposal of refuse; and a descriptive statement as to security and/or barricades to safeguard premises from unauthorized entry during demolition work and to provide for the protection of the general public.

C. Certificate of Insurance

- 1) As part of this application for a demolition permit and prior to the issuance of any permit, a certificate of insurance for liability shall be delivered to the Building Inspector/C.E.O of the Village of Ellicottville for each contractor involved in the demolition, including salvage. The minimum limits of said liability for the demolition of buildings and structures, whether in a homeowner's insurance policy or a separate liability policy, shall be one million dollars (\$1,000,000.) for each occurrence. The Building Inspector/C.E.O. shall have the authority to increase this minimum limit as a condition for the issuance of a permit if he or she deems such an increase to be necessary to protect members of the general public at the time the permit is applied for. In addition, the Building Inspector/C.E.O. shall have the authority to increase the amount of insurance after the permit is issued, at any time during the demolition, if he or she deems such increase to be necessary to protect members of the general public.
- 2) Insurance certificates or agreements on behalf of each contractor involved in the demolition, including salvage, in a form approved by the Village Attorney, naming as additional insured and holding the Village of Ellicottville, its officers and employees and agents free from liability resulting from work allowed by a demolition permit, shall be delivered to the Building Inspector/C.E.O. as agent for the Village of Ellicottville prior to the commencement of demolition.

D. Bond

Prior to the issuance of a demolition permit, the applicant must post cash, a bond or letter of credit with the Village if required by the Building Inspector/C.E.O. to ensure that the site restoration is completed in accordance with the plans submitted by the applicant and in accordance with applicable local and state building codes.

E. Terms and Conditions of Permit

- 1) Any person making application for a demolition permit shall obtain approval for the demolition from the Cattaraugus County Department of

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Health if such approval is determined to be necessary by the Village of Ellicottville Building Inspector/C.E.O.

- 2) Prior to demolition, the contractor will erect a system of barricades around the construction site and have all utility services, including cable television, electric, gas, water and telephone services, disconnected by the respective utility companies and provide proof of said disconnection to the Building Inspector/C.E.O.
- 3) In the case of the demolition of an existing building which has a common or party wall with one (1) or more adjoining buildings, the owner of the building to be demolished shall be responsible for and bear all costs in relation to the safeguarding of said adjacent wall.
- 4) Where beams, girders and joists are removed from party walls, the resulting pockets in said walls shall be cleaned out and filled with solid masonry. Necessary repairs shall be made to put the party wall in a safe condition. This work shall be done at the expense of the property owner having said demolition performed.
- 5) Where such demolition work is to be made and no immediate new construction is intended at the site, the adjacent wall, whether of the party-type or otherwise, shall be left in an acceptable condition as far as appearance is concerned. Such maintenance shall consist of painting, installation or repair of walls, copings and flashings, waterproofing of joints, waterproof coatings, installation or repair to termite shields, treatment of soil or other suitable means. In addition to the repair of all joists, pockets and similar openings, the owner of the demolished building will be required to remove all old plaster, wallpaper and other decorative material in addition to any loose work, trim or other unrecorded material, subject to the approval of the Village of Ellicottville Building Inspector/C.E.O.
- 6) During the demolition work, debris must be systematically and regularly removed from the site and not be allowed to accumulate or cause any obstruction which would prevent movement within the property or the blocking of means of egress and ingress from the property.
- 7) When a building to be demolished contains a cellar or basement, the contractor shall remove all debris and organic material from the cellar or basement. The bearing or foundation wall shall be removed up to a depth of at least twenty-four (24) inches below any future grade to be established.
- 8) Demolition of any building or structure shall be carried on and between the hours of 8:00 a.m. and 7:00 p.m. during daylight hours on normal

village workdays. Demolition of a building or structure may proceed on days other than normal village workdays, provided that notice of the work is given in advance to the Building Inspector/C.E.O. and said official issues permission for the work to be performed on those days.

- 9) Salvage materials that are a structural part of the building or structure shall not be removed except as part of the actual demolition of said building or structure.
- 10) In-ground storage tanks on the demolition site shall be removed from the demolition area in accordance with all applicable federal, state, county and village governmental regulations.
- 11) No explosives may be used in connection with demolition of buildings or structures in the Village of Ellicottville.
- 12) In the event that the building or structure to be demolished contains any asbestos or any other hazardous material, the owner and/or contractor shall notify the Building Inspector/C.E.O. of its presence prior to any demolition. The asbestos or other hazardous material shall be removed from the building or structure in an environmentally sound manner by a contractor licensed by the appropriate governmental authorities to perform such removal and in strict compliance with all federal, state, county and village regulations governing such materials and their removal. Within three (3) days of the completion of said removal, the owner or contractor shall provide the Building Inspector/C.E.O. with a satisfactory air sample test result of the demolition site. No further demolition shall occur until such a satisfactory air sample is provided to these officials.
- 13) All demolition work shall comply with the New York State regulations pertaining to demolition operations at or near underground facilities as set forth in 12 NYCRR 53.

F. Historic District Overlay Zone

See Section 11 (Historic Preservation) Subsection E (Demolition) for consideration and requirements for demolition within the Village Historic District.

G. Permit Time Limit

- 1) A demolition permit shall be valid for a period of thirty (30) days from the date of issuance.
- 2) One (1) ten-day extension may be granted by the Building Inspector/C.E.O. in the event that unusual circumstances prevent completion of the work.

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- 3) Under no circumstances shall work continue after the time limits stated in Subsections A or B above except on application and issuance of a new permit to cover the remaining work.
- 4) Unsafe buildings. Where a building or structure is designated as unsafe, that building or structure shall be demolished within five (5) days of issuance of a permit with no extension of time.

H. Restoration of Site

- 1) All cellars and basements of demolished buildings or structures shall be filled in and made safe by filling and tamping such basement or cellar with fill materials approved by the Building Inspector/C.E.O. and causing the surface of the location to be on a level with the surrounding premises. No materials will be permitted as fill which may corrode, rot, decay or collapse. All barricades, guardrails and temporary structures erected during demolition shall be removed prior to completion. The restoration of the site shall be approved by the Building Inspector/C.E.O., in writing.
- 2) In the event that the owner refuses or neglects to fill in and make safe such cellar or basement or refuses or neglects to dismantle and remove any barricades, guardrails or temporary structures erected during demolition, the Village may do the necessary work involved, either with Village employees or outside contractors, and the cost of making the location safe shall be assessed against such property. The owner shall have ten (10) days to pay the assessed costs. If the owner does not pay these costs within the ten-day period, such costs shall constitute a lien against the land on which said building is located and shall be levied and collected in the same manner as provided in the Village Law for the levy and collection of real property taxes.
- 3) Any underground foundations, structures, tanks, or other appurtenances to remain buried after demolition shall be recorded by a survey mapping of the property and provided to the Building Inspector/C.E.O. upon completion of the demolition. This survey record of the location of buried structures shall be kept on file by the Building Inspector/C.E.O.

I. Notification of Completion; Inspection

Immediately after said demolition the property owner shall notify the Building Inspector/C.E.O., in writing, that demolition for which a permit was issued has been completed. The Building Inspector/C.E.O. shall then, within five (5) business days, inspect the site for compliance and, thereafter, notify the property owner, in writing, that the requirements of this Section and all other governmental rules and regulations relating to the demolition have been complied with.

J. Fees

The fees to be charged for applications, permits and inspections conducted pursuant to this Section shall be established by resolution of the Board of Trustees. The current License and Fee Schedule is on file in the Village Clerk's office.

K. Enforcement

The Building Inspector/C.E.O. is empowered to issue a stop-work order if, in the judgment of the Building Inspector, the work is not being performed in a safe and sanitary manner or is not otherwise in conformance with the requirements of this chapter.

L. Penalties for Offenses

Any violations by a person, firm, association or corporation of any of the provisions of this Section shall be and hereby is declared to be a violation, and in conviction, such person, firm, association or corporation shall be subject to penalties defined in Section 20 (Administration and Enforcement) of these Zoning Codes.

10. Swimming Pools, Private

A. Definitions

As used in this Section the following terms shall have the meanings indicated:

SWIMMING POOL — An artificial body of water or receptacle for water over two feet in depth at any point or having a surface area exceeding 100 square feet and used or intended to be used for swimming or bathing and including all appurtenant docks, walks and equipment constructed, installed and maintained in or above the ground outside of the principal structure to which the pool is accessory, and maintained by an individual for the sole use of his household and guests without charge or the purpose of profit and not in connection with any business operated for profit, located as an accessory use on the same lot as his residence.

B. Applicability

The provisions of this section shall not be applicable to municipally and county-owned and operated swimming pools.

C. Enforcement

The provisions of this chapter shall be enforced by the Village of Ellicottville Building Inspector/Code Enforcement Officer (C.E.O.) or his representative.

D. Permit Required; Fee

- 1) Application: No person shall construct or install a private swimming pool without first having applied for and secured approval of the issuance of a permit therefor from the Building Inspector/Code Enforcement Officer on such form as may be prescribed. Such application shall be accompanied by plans and specifications and sufficient detail to show the following:
 - a) Pool dimensions, depth, volume in gallons, the distance of the pool from all lot lines, existing and proposed structures and septic tanks and their fields, if any.
 - b) Pool fencing.
- 2) Issuance: Building Inspector/C.E.O., after finding that the application and plans and specifications comply with the provisions hereof, shall approve the issuance of a permit for the construction or installation of such pool. All work shall conform to the approved application, plans and specifications.

- 3) Fee: The fee to be charged for applications, permits and inspections conducted pursuant to this Section shall be established by resolution of the Board of Trustees. The current License and Fee Schedule is on file in the Village Clerk's office.

E. Maintenance and Operation

A person may maintain and operate a swimming pool as an accessory use on property owned by the person, subject to the regulations set forth in this section.

F. Lot Coverage

Swimming pools shall be considered in the calculation of lot coverage to the extent to which their gross area exceeds 15% of the total area of the lot; provided, however, that for swimming pools the water levels of which are at or below the surface of the ground, the gross area occupied by all appurtenances which are situated beyond a point four feet from the perimeter of the water shall be subject to the lot coverage requirement as set forth in zoning regulations for the Zoning District in which the lot is located.

G. Location of Pools and Appurtenances

All swimming pools and the appurtenances thereto shall be constructed and located so as to have a yard not less than 10 feet in width on all sides except where the pool is attached to or part of a principal structure.

H. Setbacks for Corner Lots

All swimming pools constructed on corner lots shall conform to the setback required for a principal residential structure on the secondary or side street.

I. Fencing Requirements

- 1) Generally: For the protection of the general public, all swimming pools as defined in this section shall be effectively fenced by an artificial enclosure not less than four feet in height surrounding either the property or the pool area, strong enough to make the pool inaccessible to small children. The fencing shall be opaque or made so by plantings such as bushes or trees.
- 2) Above-ground Pools: For pools projecting above the ground and which are self-enclosed by the exterior projections thereof, said enclosures shall be constructed to satisfy the requirements of this section, provided that they are not less than four feet in height above the ground.

VILLAGE OF ELICOTTVILLE ZONING ORDINANCE

SECTION 16 – MISCELLANEOUS REQUIREMENTS

J. Use of Artificial Lighting

No person may use a floodlight to illuminate a swimming pool if the floodlight casts light directly on adjoining property. No person may use another kind of light to illuminate a swimming pool if it unreasonably annoys the occupants of adjoining property.

K. Maintenance Equipment

- 1) Location: Pool heating, filtering, disinfecting and recirculating equipment shall not be located at any point within five feet of adjacent property lines.
- 2) Screened and Enclosed: All pool maintenance equipment shall be effectively screened and enclosed so as not to adversely affect the character of surrounding properties.
- 3) Restrictions: No equipment shall be permitted the use of which by reason of the emission of noise, vibrations, dust or odors would be considered obnoxious or dangerous to the health and safety of the public.
- 4) Filtration: No swimming pool, whether of permanent or plastic construction, shall have a water capacity in excess of 7,500 gallons without a recirculating and filtering system of sufficient capacity to meet good public health and engineering practice.

L. Penalties for offenses

Any violations by a person, firm, association or corporation of any of the provisions of this Section shall be and hereby is declared to be a violation, and in conviction, such person, firm, association or corporation shall be subject to penalties defined in Section 20 (Administration and Enforcement), Subsection 4.C of these Zoning Codes.

M. Variances

- 1) The Zoning Board of Appeals (ZBA) of the Village of Ellicottville may in appropriate cases vary or modify the application of this chapter in harmony with its general purposes and intent to prevent and minimize undue hardship.
- 2) Any person aggrieved by any decision of the Building Inspector/C.E.O. relative to the provisions of this section may appeal such decision to the Zoning Board of Appeals as provided in Section 19 of this Zoning Local Law of the Village of Ellicottville.

- 3) Any person aggrieved by any decision of the Zoning Board of Appeals may have the decision reviewed in accordance with Section 19 of this Zoning Local Law of the Village of Ellicottville in a manner consistent with the provisions of Section 7-712 (c) of NYS Village Law and pursuant Article 78 of the Civil Practice Law and Rules.

SECTION 17 - FLOOD DAMAGE PREVENTION

1. Special Flood Hazard Areas

A. Purpose:

The purpose of the Special Flood Hazard Areas is, in compliance with the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and other statutes amendatory thereof and supplementary thereof, some or all of the permanent provisions of which constitutes the National Flood Insurance Program (42 U.S.C. 4001-4128) and Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations promulgated thereunder, to delineate the area in which zoning regulations to protect the future health, safety and welfare of inhabitants of the Village from hazards due to periodic or intermittent flooding are to be enforced. These zoning regulations shall include those for the protection of persons and property, the preservation of water quality, and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside the Special Flood Hazard Area or uses within the Special Flood Hazard Area will be free from flooding or flood damage. The Special Flood Hazard Area consists of:

- 1) The Floodway District (FW), being the floodways established by the Federal Insurance Administrator on the Flood Boundary and Floodway Map for the Village of Ellicottville; is a separate zoning district.
- 2) The Floodway Fringe Over-District (FF), being those portions of the other zoning districts adjoining the Floodway District located within the Special Flood Hazard Area established by the Federal Insurance Administrator on the Flood Boundary and floodway map for the Village; and the zoning regulations applicable at any point thereof are those of the underlying zoning district. Applicants for projects must have agency or an engineer's approval to develop in the Floodway Fringe Areas.

B. Flood Damage Prevention:

Local Law No. 1 of 1994 enacted the Flood Damage Prevention law for the Village of Ellicottville. The purpose of enacting that law was to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas of the Village. The law specified certain provisions and procedures for obtaining the objectives of flood damage prevention. This Local Law has been included in its entirety in **Section 17** of these Codes.

C. Map of Special Flood Hazard Area:

Due to the scale and detail of the official Zoning Map of these Codes, the Special Flood Hazard Area has not been included on that map. Specific delineation of the Special

VILLAGE OF ELICOTTVILLE ZONING ORDINANCE

SECTION 17 – FLOOD DAMAGE PREVENTION

Flood Hazard Areas and the Floodway and Floodway Fringe Over-District can be found on the Federal Emergency Management Agency (FEMA) National Flood Insurance Program Map for the Village of Ellicottville (dated May 2, 1994) and the companion Flood Insurance Study for the Village of Ellicottville (revised May 2, 1994). The Map and Study are available through the Village of Ellicottville Building Inspector/ C.E.O.

Village of Ellicottville

Local Law No. 1 of the year 1994

A local law for FLOOD DAMAGE PREVENTION

as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation law, Article 36.

Be it enacted by the Village Board of Trustees of the

Village of Ellicottville, Cattaraugus County,

N.Y. as follows:

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Board of Trustees of the Village of Ellicottville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Ellicottville and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(If additional space is needed, attach pages the same size as this sheet, and number each.)

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before

the effective date of the floodplain management regulations adopted by the community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the flood plain.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For manufactured homes the "actual start" means affixing of the manufactured home to its permanent site.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Village of Ellicottville.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency (COMPLETE ONE THROUGH FIVE AS NECESSARY):

- (1) Flood Insurance Rate Map (single panel) No. 360070 0001C, whose effective date is May 2, 1994.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Village of Ellicottville", New York, Cattaraugus County" dated May 2, 1994.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: The Village offices, Ellicottville, N.Y.

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through November 1, 1989 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Ellicottville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Village of Ellicottville, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made thereunder.

SECTION 4.0 ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer (Building Inspector) is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of

protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimize its exposure to flooding. It shall be unlawful to undertake an development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

- (1) All applications for a floodplain development permit shall be accompanied by an application fee of \$ 0.00. In addition, the applicant shall be responsible for reimbursing the Village of Ellicottville for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDEN-

TIAL STRUCTURES.

- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section

5.1-1 SUBDIVISION PROPOSALS.

- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

4.4-3 ALTERATION OF WATERCOURSES

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or

to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0 CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals

and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreation vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

- (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

- (ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revision.

- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

- (ii) the Village of Ellicottville agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all

necessary data, analyses and mapping and reimburses the Village of Ellicottville for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Village of Ellicottville for all costs related to the final map revisions.

5.2 STANDARDS FOR ALL STRUCTURES

5.2-1 ANCHORING

- (1) New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery, and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards, in addition to the standards in subsections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES, apply to structures located in areas of special flood hazard as indicated.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- (2) Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two

feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2; STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure, together with attendant utility and sanitary facilities, shall either:
 - (i) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (ii) be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (i) be on site fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (4) and (5).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either:
 - (i) outside of an existing manufactured home park or subdivision as herein defined;
 - (ii) in a new manufactured home park or subdivision as herein defined;
 - (iii) in an expansion to an existing manufactured home park or subdivision as herein defined; or
 - (iv) in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

- (3) A manufactured home to be placed or substantially improved in Zone

A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:

(i) elevated in a manner such as required in paragraph 5.5(2), c

(ii) elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

(4) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

(5) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

SECTION 6.0 VARIANCE PROCEDURE

6.1 APPEALS BOARD

(1) The Zoning Board of Appeals as established by the Village of Ellicottville shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure".
 - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met;
 - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

SECTION 18 – PLANNING BOARD

1. Planning Board

There is in existence a Village Planning Board consisting of five members. Members shall be appointed as provided by New York State Law. The Planning Board, as so constituted and appointed under § 7-718 of the Village Law of the State of New York shall continued on the effective date of these Zoning Codes.

2. Intent and Purpose

The Planning Board is intended to act as a non-political, long range planning body for the Village. Review of specific projects shall be limited to those matters specifically requiring their consideration.

3. Term of Office; Removal

Members of the Planning Board shall be appointed for a term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Village Board of Trustees by appointment for the unexpired term and in accordance with the provisions of the Village Law of the State of New York. The Village Board shall have the power to remove any member of the Board for cause and after public hearing.

4. Chairman

The Village Board shall designate a member of the Planning Board to act as Chairman thereof, or, on its failure to do so, the Planning Board shall elect a Chairman from its own members.

5. Powers And Duties

The Planning Board shall have the power and perform all the duties set forth herein and all necessary powers conferred on Planning Boards pursuant to New York State Law, as amended. The Planning Board shall have the powers prescribed by statute and this chapter, including the authority to:

A. Rules and Regulations

The Planning Board may recommend to the village Board of Trustees regulations relating to any subject matter over which the Planning Board has jurisdiction

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pursuant to the Village Code or any other statute or under any local law or ordinance of the Village. Adoption of any such recommendations by the Village Board shall be by local law or ordinance.

B. Report on Referred Matters; General Reports

The Village Board may by resolution provide for the reference of any matter or class of matters, other than those referred to in Subsection A of this section, to the Planning Board before final action is taken thereon by the Village Board or other office or officer of said Village having final authority over said matter. The Village Board may further stipulate that final action thereon shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time, to be fixed by the Village Board in said resolution, to submit the report.

C. The Planning Board may review and make recommendations on a proposed Village Comprehensive Plan or amendment thereto. In addition, the Planning Board shall have full power and authority to make investigations, maps, reports and recommendations in connection therewith relating to the planning and development of the town as it seems desirable, provided that the total expenditures of said Board shall not exceed the appropriation provided therefor.

Specifically, but not in limitation of the foregoing powers, the general planning and review of specific development projects by the Planning Board shall include the following functions: (a) Village Comprehensive planning and zoning review, (b) subdivision approval, (c) Plat approval, (d) Large Scale Master Planned Development approval, (e) Small Scale Master Planned Development approval, (f) Notification and review of Special Use (Conditional Use) Permit applications and Granting of Special Use (Conditional Use) Permits, (g) Site Plan Review, (h) Termination of inactive applications, (i) Review of trams and lifts. The scope of review for some of these functions is as follows:

D. Village Comprehensive Master Planning

The Planning Board shall have the primary responsibility to initiate long-range master planning for the Village, including planning for adequate streets, parks, trails and recreation facilities, long-range zoning objectives, and periodic review of existing plans to keep them current. Development of the Comprehensive shall be conducted pursuant to the requirements of Section 7-722 of the Village Law of New York State. The Board shall review proposed annexation to the Village and recommend action and zoning on land to be annexed.

E. Zoning Code

The Board shall initiate or recommend zone changes and review the development standards within zones. The Board shall hear all requests for zone changes.

F. Interpretation of this Zoning Code

The Planning Board shall have responsibility to interpret any conflicts or contradictions regarding this Local Law, subject to the appeal provisions of Section 1 and Section 19 of these codes.

G. Subdivision Approval

The Planning Board shall review all applications for subdivisions under the provisions of the Subdivision Local Law.

H. Site Plan and Special Use Permit Review and Approvals

The Planning Board shall review applications for site plan review and special use permits as prescribed by Sections 5 and 6 of these Codes.

I. Review of Passenger Tramway Proposals

The Planning Board shall hold hearings and perform the review of proposals for passenger tramways and liftways located in zones where they are conditional uses. Although these uses are conditional uses in these zones, the neighborhood impacts are such that specific review by the Planning Board is required. Conditional use permits for passenger tramways and liftways shall be voted on by the Planning Board. In the zones where passenger tramways or liftways are permitted uses, no Planning Board action is required.

6. Staff

In order to assist the Planning Board in carrying out its duties, the Planning Board may request the assistance of the Zoning Code Enforcement Officer. See Section 20 for duties and responsibilities of the CEO.

7. Conduct of Meetings

Meetings of the Planning Board shall be held at the call of the Chairman and at such other times as the Planning Board may determine. All meetings shall be open to the public to the extent provided in Article 7 of the Public Officers Law of the State of New York. Such Board shall keep minutes of its proceedings showing the vote of each member upon

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every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

8. **Hearings**

The Planning Board shall establish procedures for its own hearings governing presentations of projects and public responses, and public impact or comment on specific projects or general issues. Upon a hearing, any party may appear in person or by agent or by attorney.

9. **Minutes**

The Planning Board shall keep official minutes of its meetings, which shall be permanently stored with the Village Clerk.

10. **Decisions**

All decisions of the Planning Board shall be included in the minutes. Where written findings are required, the findings may be prepared separately, but shall be incorporated into the minutes.

11. **Quorum Requirement**

The Board shall not conduct any business at a meeting unless a quorum is present. A quorum shall consist of a simple majority of the appointed members of the Board, including the Chairman for computation purposes.

12. **Voting**

Actions of the Board pass by majority vote. A majority is a simple majority of those members present at the meeting entitled to vote on the matter under consideration. The vote of the Chairman shall be counted only when he votes in order to break a tie vote of the other Board members. Voting to remove an item of business from the consent agenda for ratification of departmental actions shall require an affirmative vote of a simple majority of the members present to pass.

13. **Imposition of Conditions**

Pursuant to applicable provisions of the Village Law of the State of New York, the Planning Board shall have the powers to attach conditions to the approval of special use permits, site plans, subdivisions, master plan development, and any other approvals the Planning Board is authorized to act upon. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and

incidental to a proposal. Upon its approval, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Village.

14. Judicial Review of Planning Board Decisions

Any person aggrieved by a decision of the Planning Board or such other designated body or any officer, department, board or bureau of the Village may apply to the Supreme Court for review by a proceeding under Article Seventy-eight of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision by such Board in the office of the Village Clerk.

SECTION 19 - ZONING BOARD OF APPEALS

1. Establishment of Zoning Board of Appeals

In order to carry out the provisions of New York Law relating to planning and zoning, a Zoning Board of Appeals (ZBA) has been established. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, interpretation or determination appealed.

A. **Appointment**

- 1) The Village Board of the Village of Ellicottville, pursuant to the provisions of NYS Village Law applicable thereto, shall appoint a Zoning Board of Appeals consisting of five members. The terms of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. All terms of office shall expire at the end of the calendar year.
- 2) Consistent with NYS Village Law, Members of the Village Board of Trustees are not eligible for membership on the Zoning Board of Appeals.
- 3) The Village Board shall designate the chairperson of the Zoning Board of Appeals. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson.

B. **Alternate Members**

- 1) The Village Board of Trustees may establish alternate Zoning Board of Appeals member positions for the purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest and/or absence of a quorum of the regular members of the board. Alternate members of the zoning board of appeals shall be appointed by the mayor, subject to the approval of the Board of Trustees for terms established by the Village Board of Trustees.
- 2) The Chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate in matters before the Board.
- 3) All provisions of this section relating to Zoning Board of Appeals member training and, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and shall also apply to alternate members.

C. Vacancies

If a vacancy shall occur otherwise than by expiration of term, the new member shall be appointed for the unexpired term.

D. Training and Attendance Requirements

The Village Board may establish requirements for members of the Zoning Board of Appeals to complete training and/or continuing education classes on zoning and planning issues. In addition, the Village Board may establish minimum requirements for attendance at Zoning Board of Appeals meetings.

E. Removal from Office

The Village Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Village Board.

F. Expenses

The Village Board may provide for compensation to be paid to experts, clerks and a secretary, and may provide for such other expenses as may be necessary and proper.

2. Powers and Duties

With due consideration for the purpose and intent of this Zoning Ordinance, and without limiting the powers with which the Board is vested by Section 7-712 of NYS Village Law, the Zoning Board of Appeals shall have the power and authority to:

- A. Hold a public hearing and approve or deny each application for a use or area variance.
- B. Hear and determine appeals from and review any order, requirement, decision, interpretation or determination made by a Village official and/or the Zoning Official charged with the enforcement of this Code. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Zoning Official.
- C. The Board shall have the power to rule on all requests for enlargement, modifications, or changes in the character of any non-conforming use as addressed in Section 10 of this Code. The Board shall have the power to hold

public hearings to determine whether the use in question is in fact a non-conforming use, as opposed to a violation of the local law or an allowable use within the zone.

- D. Revoke any decision to grant a variance after a public hearing, if the owner/applicant fails to comply with any conditions of approval of the original application. Prior to a public hearing on this issue, the Zoning Official may pursue abatement of the failure to comply as a violation in accordance with Section 20 of this Ordinance.

3. Meetings

- A. Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson, and at such other times as the Zoning Board of Appeals may determine. The Board shall meet at least monthly unless there are no matters to be heard.
- B. The chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.
- C. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. The minutes shall include the reasons for all decisions, and any conditions of approval.
- D. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board.

4. Variances

The Zoning Board of Appeals may issue a variance for any use of structures or lots (use variance) or for any dimensional or physical regulations (area variance) in the Village of Ellicottville, provided such variance complies with the standards set forth in NYS Village Law and in this section and with the special requirements enumerated elsewhere herein. Each case must be determined on its own merits.

No such variance shall be contrary to the public interest. In reviewing applications for a variance, the ZBA shall insure that the spirit of this Code shall be observed and substantial justice done, provided that before any variance may be authorized, it must be shown that:

- the variance will not substantially affect the comprehensive master plan of zoning in the Village and that adherence to the strict letter of the Code will

cause difficulties and hardship, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan;

- special circumstances do not apply generally to other property in the same district;
- because of said special circumstances, property covered by the application is deprived of the same privileges possessed by other property in the same district and that the granting of the variance is essential to the enjoyment of the substantial right possessed by the other property in the district.

A. Use Variances

- 1) In order for the Zoning Board of Appeals to grant a use variance, the applicant shall show that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - a) The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence; and
 - b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
 - c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d) That the alleged hardship has not been self-created.
- 2) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Area Variances

- 1) In making its determination on an application for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - c) Whether the requested area variance is substantial.
 - d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.
- 2) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. Imposition of Conditions

The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

D. Expiration of Grant of Variance

A variance shall expire one (1) year from the date of approval if a building permit has not been issued or if use of the property in accordance with the grant of variance has not commenced, in cases where a building permit is not needed. The Zoning Board may grant an extension of the variance for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the start of construction or operation, such as inclement weather, delays in financing, or similar factors.

A variance shall expire if the use of the property in accordance with the grant of a variance shall cease continuously for one (1) year.

Nothing in this section shall be construed to prohibit the Zoning Board from requiring, as a condition of approval, that a variance be renewed periodically.

5. Procedures

A. Application and Filing of Appeals

- 1) Any party aggrieved by a decision of the Zoning Official shall have sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Official to file an appeal with the Zoning Board of Appeals and with the Zoning Official.
- 2) Such notice of appeal shall be in writing, on forms prescribed by the Zoning Official and shall specify the grounds for the appeal and the relief or natural of the variance being sought. Every appeal shall refer to the specific provision of this Ordinance that is involved and shall exactly set forth the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. The appeal shall also contain the following information:
 - a) The name and address of the appellant /applicant, and property owner, if different from the applicant. If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
 - b) A brief description and the location of the lot to be affected by such proposed change or appeal.
 - c) A statement of the present zoning classification of the lot in question, the improvements thereon, and the present use.
 - d) An accurate description of the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof.
 - e) A plot plan of the site, drawn to scale, with a north arrow, indicating the location and size of the lot and location and size of the improvements thereon and proposed to be erected thereon. Distance from the existing and proposed structure to all lot lines shall be indicated. If the Zoning Board of Appeals determines that it is necessary, the Board may require a survey prepared by a licensed surveyor that shows building locations and lot lines.
 - f) An Environmental Assessment Form, with Part I completed and signed by the applicant, if required.

- g) Nine (9) copies of all required materials shall be submitted.
 - h) A list of the owners of record of all properties located entirely or partly within 200 feet from any boundary of the property subject to the application.
 - i) All required fees.
- 3) The Zoning Official shall transmit to the Zoning Board of Appeals copies of all the papers constituting the record of the appealed action.

B. Public Hearing

- 1) Before acting on any matter appealed to it, the Zoning Board of Appeals shall hold a public hearing. The public hearing shall be held within 62 days of the date that the complete application and notice of appeal is received. The Zoning Board of Appeals shall determine when the application/appeal is complete.
- 2) Notice of the public hearing and nature of the application shall be provided by the Village Clerk in the following ways:
 - a) By publication at least once in a newspaper of general circulation in the Village at least five (5) days prior to the date of the public hearing and shall be on file in the office of the Village Clerk. Complete information regarding the application to be on file in the Village Clerk's office.
 - b) By mailing a notice of the hearing to the owners of every parcel that is within two hundred (200) feet of the perimeter of the site that is the subject of the application. However, if a condominium project is one of the properties within the 200 foot radius from the applicant's property or if a Homeowners Association owns one of the properties within said 200 foot radius, notice shall be given to the Management Committee, Board of Directors, the condominium owner's association, or the Homeowners Association rather than to each individual unit owner. Notice may also be mailed to such other persons as the chairperson of the Zoning Board of Appeals may direct.
 - c) Such notices shall be deemed adequate if mailed to the address shown on the current tax assessment roll, at least five (5) days prior to the public hearing.
 - d) By mailing a notice to the Applicant at least five (5) days prior to the hearing.

- e) For all appeals that meet the requirements contained in Section 239m of NYS General Municipal law, the Zoning Board of Appeals shall mail a full statement of a proposed action and notice of such hearing to the Cattaraugus County Planning Board for review. Consistent with NYS Village Law, such notice shall be mailed at least ten (10) days prior to any public hearing. No action shall be taken of any such application before the Village Zoning Board of Appeals until notice of Cattaraugus County Planning Board action/recommendation on the application referral has been received by the Village.
- 3) At the public hearing any person may appear in person, or by agent or by attorney.

C. Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Official certifies to the Zoning Board of Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate, they would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Zoning Official and on due cause shown.

D. Decision

- 1) The concurring vote of a majority of the total membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Official or to grant a use variance or area variance.
- 2) The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days of the public hearing at which the matter was considered. The time within which the board must render its decision may be extended by mutual consent of the applicant and the board.

E. Filing Of Decisions and Notice To The Applicant

Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Village Clerk within five (5) business days and shall be a public record.

A copy of the decision of the Zoning Board of Appeals shall be mailed to the applicant within five (5) business days of the decision.

F. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith reliance upon the reheard order, decision or determination will not be prejudiced thereby.

G. Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Code or by the requirements of the State Environmental Quality Review Act.

H. Judicial Review of Zoning Board of Appeals Decisions

Consistent with the provisions of Section 7-712 (c) of NYS Village Law, any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of the Village, may apply to the Supreme Court for review pursuant to Article 78 of the Civil Practice Law and Rules.

Such proceeding pursuant to Article 78 shall be instituted within thirty (30) days after the filing of a decision of the board in the office of the Village Clerk.

SECTION 20– ADMINISTRATION AND ENFORCEMENT

1. General Procedure

A. General Sequence of Steps

This Zoning Ordinance shall be administered and enforced by the Village's Zoning Official/Code Enforcement Officer. All persons desiring to undertake any new construction, structural alteration, or change in the use of a building or lot shall apply to the Zoning Official for a Zoning Permit by filing the appropriate application form and by submitting the required fee. The Zoning Official will then either issue or refuse the Zoning Permit or refer the application to the Planning Board. After the Zoning Permit has been received by the applicant, he/she may proceed to undertake the action permitted in the Zoning Permit and upon completion of such action, shall apply to the Zoning Official for a Certificate of Zoning Compliance.

B. Zoning Permit Types. Under the terms of this Code, the following classes of Zoning Permits may be issued:

- 1) Permitted Use. A Zoning Permit for a permitted use may be issued by the Zoning Official of his own authority.
- 2) Conditional Use/Special Use. A Zoning Permit for a Conditional Use/Special Use may be issued by the Zoning Official upon order of the Planning Board, after a public hearing held by the Planning Board for the purpose of receiving information regarding the application.
- 3) Zoning Permit After an Appeal or a Request for a Variance. A Zoning Permit may be issued by the Zoning Official upon the order of the Zoning Board of Appeals and after a public hearing held by the Board of Appeals for the purpose of receiving information regarding the application or request for a variance.
- 4) Zoning Permit After Site Plan Review. A Zoning Permit may be issued by the Zoning Official upon the order of the Planning Board and after a public hearing held by the Planning Board for the purpose of receiving information regarding the application.

2. Zoning Permits

A. General Requirements

No building or structure shall be erected, added to, or structurally altered until a permit has been issued by the Zoning Official. No building permit shall be issued

for any building project unless the plans for the proposed structure have been submitted to and approved by the Code Enforcement Officer. Proposals submitted to the Code Enforcement Officer shall be reviewed to either the Permitted Use Review process or the Conditional Use (Special Use) Review process. Subdivisions, Site Plan and Master Planned Developments are initially review by the Zoning Official and staff and submitted to the Planning Board for review and final approval. No planning review shall occur until all applicable planning fees have been paid, and no final approval shall be effective until all other fees assessed by the local law, including applicable staff review and engineering fees, have been paid. No final approval shall be effective until all conditions of approval, preceding project implementation, have been satisfied. Except upon written order of the Zoning Board of Appeals, no such Zoning Permit or Certificate of Zoning Compliance shall be issued for any building where said construction, addition, or alteration of use thereof would be in violation of any of the provisions of this local ordinance. Upon issuance of final planning approval, the plans shall be forwarded to the Building Department/Code Enforcement Officer for issuance of a building permit under the provisions of the New York State Uniform Fire Prevention and Building Codes.

B. Application

All applications for a zoning permit shall contain the following information, in addition to the information required by the NYS Uniform Fire Prevention and Building Code:

- 1) Complete construction drawings for the structure.
- 2) A minimum of two copies of a plot plan, drawn to scale, showing the lot dimensions and the location of all proposed structure(s), driveways and other improvements on the lot. A certified survey done by a land surveyor licensed by the State of New York may be required on projects with structures on or near the lot lines or when the lot lines are difficult to determine from existing plats and monuments. Topographic data may be required when the site is sloping or when the building height cannot be readily determined from the elevations without topographic data.
- 3) The location and size of adjacent utility lines and a statement regarding the type of sewerage facilities to be provided.
- 4) The name, address and telephone number of the owner or responsible agent. If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted.
- 5) Street address of the lot.

- 6) Tax map number of the lot.
- 7) All required fees.

C. Review by Zoning Official.

The Zoning Official shall review the application to determine if the proposal is (1) a permitted use within the zoning district in which it is located (2) complies with all the dimensional requirements of this code, in terms of height, setbacks, yards and lot coverage, etc., (3) complies with all other requirements of this zoning ordinance, and (4) does not require site plan review pursuant to Section 6 of this Code. Upon finding that the proposal complies with the applicable requirements of the zoning code and that the development can be adequately served by existing utility systems or lines, the plans shall be reviewed for Building Code compliance. If it is in compliance with the Building Code and zoning code, a zoning permit and building permit shall be issued. If the proposal does not comply with applicable requirements of the zoning code, or if the proposal requires a special use permit or site plan review, the Zoning Official shall not issue the zoning permit and shall notify the property owner or his/her agent as to what further action may be required.

D. Issuance of Permits

It shall be the duty of the Zoning Official to issue a Zoning Permit, provided he is satisfied that all requirements of this local ordinance are satisfied, and that all other reviews and actions, if any called for in this ordinance, have been complied with and all necessary approvals secured therefor. One copy of the plot plan shall be returned to the applicant along with the zoning permit. The other copy of the plot plan shall be retained, along with the zoning permit, by the Zoning Official and shall be maintained as a public record.

E. Abandoned Applications/Termination of Projects

It is the policy of the Village to require developers submitting projects to the planning process to move their projects to either approval or denial in a reasonably expeditious manner. The time required in the planning review process will vary with the size and complexity of each proposal, and the establishment of exact time requirements for review is impractical. It is the policy of the Village to formally deny projects submitted to the process which remain inactive for long periods of time due to acts or omissions of the developer.

An application will be deemed abandoned and terminated and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Village with information necessary to proceed with

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE

SECTION 20 – ADMINISTRATION AND ENFORCEMENT

review of the application, including materials and/or information that are required by this code or by the requirements of the State Environmental Quality Review Act.

F. Expiration of Zoning Permit

A Zoning Permit shall expire after one year if the applicant fails to implement his application as filed with the Zoning Official.

G. Revocation of Permits

If it shall appear, at any time, to the Zoning Official that the application or accompanying plot is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the application filed with him under existing laws or ordinances, he may forthwith revoke the Zoning Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to said Zoning Official. After the Zoning Permit has been revoked, the Zoning Official, at his discretion, before issuing a new Zoning Permit, may require the applicant to file an indemnity bond in the favor of the Town with sufficient surety conditioned for compliance with this ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

H. Filing of Decisions

The Zoning Official shall maintain a permanent record in his/her office of every administrative decision that he/she makes. Each decision shall be filed in the Zoning Official's office within five business days of the date of the decision and shall be a public record.

3. Certificates of Zoning Compliance

- A. No land shall be occupied or used and no structure hereafter erected, altered or extended and no change in use shall occur until a Certificate of Zoning Compliance shall have been issued by the Zoning Official.
- B. Application for Certificate of Zoning Compliance shall be made within fifteen (15) days of completion of the structure, alteration, or other work.
- C. Said Certificate of Zoning Compliance shall be issued by the Zoning Official within thirty (30) days after the application is received. The Certificate shall state that all work completed is in compliance with the provisions of this Ordinance, including any variances or other permits that may have been issued.

- D. The Zoning Official shall maintain a record of all Certificates of Zoning Compliance. Copies of said certificates shall be furnished upon request to any person having a proprietary or tenancy interest in the parcel or building affected.

4. State Environmental Quality Review (SEQR)

This local law shall not preclude any of the requirements of State Environmental Quality Review (Environmental Conservation Law) of the State of New York (Chapter 6, NYCRR Part 617, Section 8-0113).

5. Violations and Penalties

A. Complaints of Violations

Whenever a violation of this Zoning Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Official, who shall properly record such complaint and immediately investigate and report thereon to the Village Board.

B. Procedure for Abatement of Violations

- 1) In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this code, notification of the violation will be issued in writing by the Zoning Official/Code Enforcement Officer. Compliance with this zoning ordinance must be met within the time period specified in the notice of violation.
- 2) After the specified number of days, the Village Board, or with their approval, the Zoning Official, or any other proper person, authority or official, may commence an action to enforce this ordinance.

C. Penalties

- 1) A violation of this ordinance is hereby declared to be an offense, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense. Conviction of a second offense, both of which were committed within a period of five years, is punishable by a fine not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six months, or both. Conviction for a third or subsequent offense, all of which were committed within a period of five years, is punishable by a fine of not less than \$700.00 nor more than \$1,000.00 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this ordinance shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.
- 2) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this ordinance, the Village Board, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use of land, to restrain, correct or abate such

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE
SECTION 20 – ADMINISTRATION AND ENFORCEMENT

violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

- 3) The provisions of this Section shall not limit the available procedures for enforcement and remedies provided for under the Village Law of the State of New York or any other law.

SECTION 21 - AMENDMENTS

1. Village Board May Amend

The Village Board may, from time to time, on its own motion, or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations, restrictions, boundaries and other provisions of this ordinance, after public notice and hearing as provided by NYS Village Law.

2. Planning Board Review

Every such proposed amendment or change, whether initiated by the Village Board or by petition, shall be referred to the Village Planning Board for a report thereon prior to Village Board action on the proposal. Prior to the public hearing, the Planning Board shall forward a formal report of recommendations to the Village Board regarding the matter before it, approving, disapproving, modifying and/or recommending conditions for the proposal. If the Planning Board fails to submit such report within thirty (30) days of the date of referral, or within such longer time period as may be established by the Village Board, it shall be deemed that the Planning Board has approved the proposed amendment or change. The recommendations of the Village Planning Board are advisory only, and the Village Board may overrule the recommendations.

3. Contents of Petition

A petition to change the zoning district of any land within the Village of Ellicottville shall be filed on a prescribed form for that purpose with the Zoning Official, who shall refer it to the Village Board. The petition shall include a legal description of the land affected by the petition as well as identify the land that is the subject of the application by tax map number and by street address. The petition shall state the current zoning designation of the property, the proposed zoning district and the proposed future use of the property. The petition shall include a statement of the petitioner's interest in the property and if he/she is the owner of record of the property for which the change is requested. To change or amend the zone within a legally recorded subdivision, the petition shall include signatures of owners of at least fifty-one percent (51%) of the platted lots in the subdivision.

In the event the Village Board elects to hear the petition from a property owner or a recommendation from the Planning Board, the Village Board shall set a date for a public hearing and comply with the other referral provisions of the Code.

4. Public Notice

The Village Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments, and shall cause notice to be given as follows:

VILLAGE OF ELLICOTTVILLE ZONING ORDINANCE

SECTION 21 – AMENDMENTS

- A. Notice of the public hearing shall be published of at least ten (10) days in advance of such hearing in a newspaper of general circulation in the Village. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.
- B. In addition, the following notices shall be given, if applicable:
- 1) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any State Park shall be mailed to the Regional State Park Commission having jurisdiction over such State facility at least ten (10) days prior to the date of such public hearing.
 - 2) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any city, village, town, or county, shall be mailed to the clerk of such municipality at least ten (10) days prior to the date of such hearing.
 - 3) A written notice of any proposed change or amendment affecting property within 500 feet of the property of any housing authority erecting or owning a housing project authorized under the public housing law shall be mailed to the executive director of such housing authority and to the chief executive officer of the municipality providing financial assistance thereto, at least ten (10) days prior to the date of such hearing.
- C. Posting Notice of Petition of Zoning Changes
- 1) When a petition has been received for the change of the zoning on a particular tract, notice shall be posted on that tract of land prior to any public hearing.
 - 2) If the request is for an open area consisting of four or more parcels in separate ownerships, notice shall be posted in at least three conspicuous places in the area affected by the petition.

5. Public Hearing and Adoption

- A. The hearing shall be held at the stated time and place by the Village Board and shall include within its proceedings:
- 1) The proposed change, amendment or supplement, either in complete or summary form.
 - 2) An opportunity for all interested persons to be heard in a manner prescribed by the Village Board.

- B. Prior to final action by the Village Board on the proposed amendment, it shall be referred to the Cattaraugus County Planning Board pursuant to the provisions of Section 239m of NYS General Municipal Law.
- C. The Village Board may act on the petition at the time of the hearing.
- D. Any amendments may be approved by a simple majority vote of the Village Board, except that any such amendment shall require the approval of at least three-fourths of the members of the Village Board in the event such amendment is the subject of a written protest, presented to the Village Board and signed by:
 - 1) The owners of twenty (20) percent or more of the area of land included in such proposed change; or
 - 2) The owners of twenty (20) percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred (100) feet therefrom; or
 - 3) The owners of twenty (20) percent or more of the area of land directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land.

6. Filing Requirements

- A. Amendments made to this ordinance, excluding any map incorporated therein, shall be entered in the minutes of the Village Board. Such minutes shall describe and refer to any map adopted in connection with the amendment.
- B. A copy or a summary of the amendment, excluding any map incorporated therein, shall be published once in a newspaper published in the Village, if any, or in a newspaper having circulation in the Village.
- C. Affidavits of the publication of the summary or copy of the amendment shall be filed with the Village Clerk.
- D. The Village Clerk shall maintain every map adopted in connection with this zoning ordinance and every amendment thereto. Said documents shall be made available during regular business hours for public inspection.

Village of Elliccottville Zoning Map

January 10, 2005

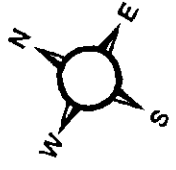
Note: This Zoning Map does not show the boundaries of the 100-year Flood Plain (Special Flood Hazard Area -SFHA) or the Floodway areas. Flooding can occur from the following sources: Great Valley Creek, Plum Creek, and Elk Creek.

The SFHA and Floodway boundaries are overlays to the existing zoning map. There are additional restrictions to development within these areas. Please refer to the following documents for official boundaries of the SFHA and Floodway:

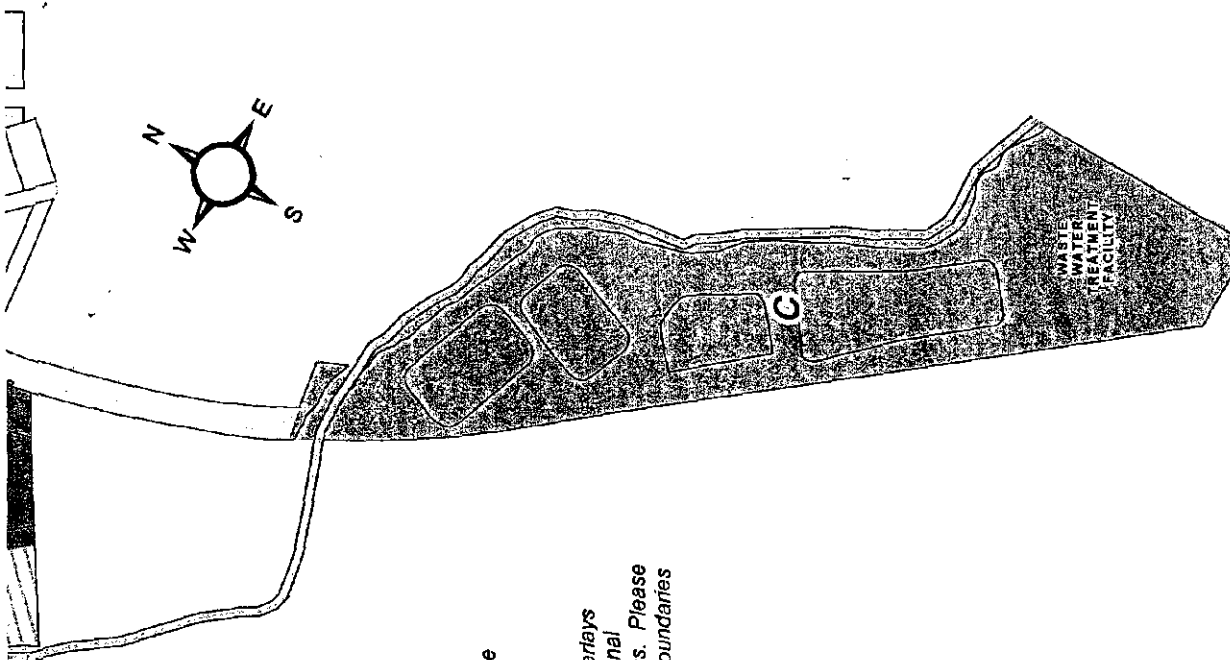
Flood Insurance Rate Map
Village of Elliccottville, NY
Community-Panel No: 360070-0001 C
May 2, 1994

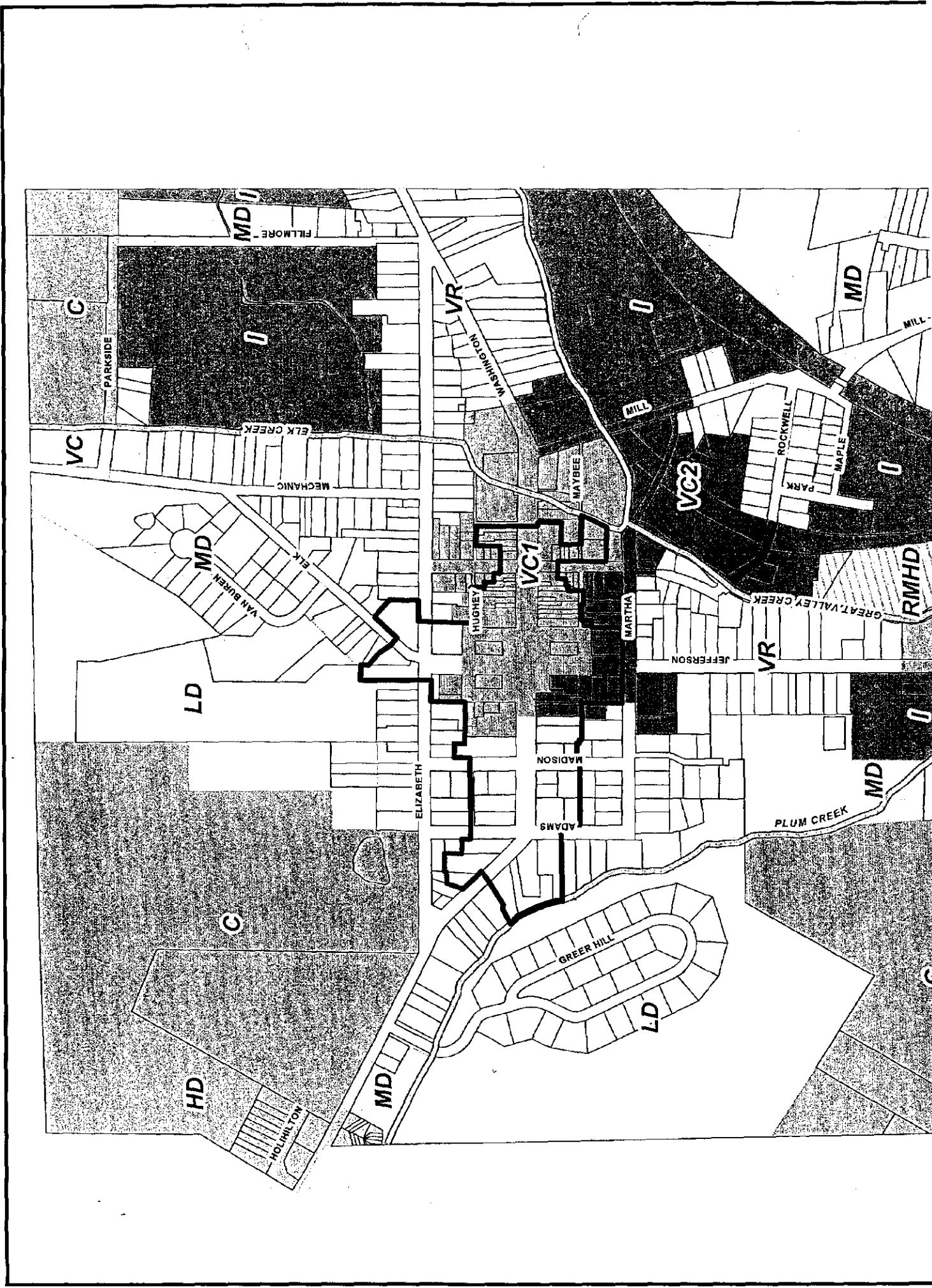
Flood Insurance Study
Village of Elliccottville
May 2, 1994

Map Prepared By:



Legend	Historic District Boundary
Zoning Update	
CLASS	
	Residential Mobile Home District
	Conservation District
	Village Residential
	Low Density Residential
	Medium Density Residential
	High Density Residential
	Village Commercial 1
	Village Commercial 2
	Industrial





Village of.....Ellicottville.....

Local Law No. 2..... **of the year 2005**

A local law adopting Subdivision Regulations and Procedures for Subdivision Review for the Village of Ellicottville

Be it enacted by the..... Board of Trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

SUBDIVISION REGULATIONS

VILLAGE OF ELLICOTTVILLE

CATTARAUGUS COUNTY, NEW YORK

ARTICLE I - GENERAL PROVISIONS

SECTION 1. AUTHORITY

Pursuant to Section 7-728 of the NYS Village Law and by the authority of a resolution adopted by the Board of Trustees of the Village of Ellicottville, the Planning Board of the Village of Ellicottville is empowered and authorized to approve, approve with modification, or disapprove plats for the subdivision of land within the village of Ellicottville, County of Cattaraugus, State of New York.

SECTION 2. PURPOSE

The purpose of these regulations as herein adopted shall be to provide for the orderly growth and development of the Village with adequate provision for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare of its population.

SECTION 3. SCOPE

These regulations are not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by deed, covenant or other private agreements except that where these regulations impose a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of these regulations shall control. These regulations specifically supersede any Village of Ellicottville Subdivision regulations approved or in use prior to the 10th day of January, 2005.

SECTION 4. DEFINITIONS

For the purpose of these regulations, certain words used herein are defined as follows:

A. County - means the County of Cattaraugus, State of New York.

B. Health Department - means the Department of Health of the County of Cattaraugus, State of New York.

C. Highway Department means the Department of Highways of the County of Cattaraugus, or the Town or Village of Ellicottville, or the State of New York, whichever department exercises jurisdiction over the roadways involved.

D. Lot - any parcel of land in a subdivision, whether it be a lot, plot, site, or other division.

E. Letter of Intent - an initial presentation in writing submitted to the Planning Board for its consideration in classifying the subdivision as a major or minor subdivision.

F. Planning Board - means the Planning Board of the Village of Ellicottville, New York.

G. Plat - means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Board for review, also known as the final plat, and which, if fully approved, shall be submitted by the subdivider to the County Clerk for recording.

H. Preliminary Plat - means the preliminary drawings indicating the proposed layout of the subdivision required to be submitted to the Planning Board in conforming with the requirements of Article II, Section 3 of these regulations.

I. Street - means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, place or however otherwise designated.

J. Subdivider - means any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

K. Subdivision - the division of any parcel of land into two or more lots or other divisions of land by deed, land contract or other conveyance for the purpose, whether immediate or future, of transfer of ownership or building development. This definition shall be deemed to

include townhouse or condominium developments where the lands are common and no actual transfer of ownership is held in involved.

For the purpose of these regulations there shall be two classifications of land subdivision. A subdivision as defined herein shall be considered a Minor Subdivision if it meets the following criteria:

1. The division of any parcel into five (5) or fewer lots or all lots are five (5) acres or more in area; and

2. All lots front on an existing public highway; and

3. All lots meet the Health Department standards with regard to water supply and sewage disposal.

All other subdivisions as defined herein shall be considered Major Subdivisions.

L. Village - means the Village of Ellicottville, Cattaraugus County, New York.

ARTICLE II - PROCEDURE FOR FILING SUBDIVISION APPLICATIONS

SECTION 1. GENERAL

Whenever any subdivision is proposed, before the transfer of any lot or other interest therein and before the execution of any contract providing for such transfer, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his authorized agent shall apply for and secure the final approval of the Planning Board for such proposed subdivision, and shall record the plat in the office of the Cattaraugus County Clerk in accordance with the procedures set forth herein.

SECTION 2. LETTER OF INTENT

A. Filing Requirement

Should the subdivider interpret these regulations as defining his proposal as a minor subdivision, he must submit a Letter of Intent to the Planning Board on the standard form available from the Village Zoning Enforcement Officer. Attached to the Letter of Intent shall be a scale drawing of the proposed subdivision or a survey map prepared by a licensed NYS Surveyor. Drawing or survey shall include the following:

1. Location of property, including name of Town and Township, Range and lots as

per Holland Land Company's survey, and liber and page numbers.

2. All existing and proposed houses and buildings.
3. All existing and proposed property lines, easements, streets and rights-of-way.
4. Minimum building setback lines (building envelopes).
5. A table of area and dimensional requirements for applicable zoning district (s).

6 Subdividers name and address, scale, north arrow, date, and name, address and license information of surveyor.

B Submission Requirement

The Letter of Intent, map and application fees shall be submitted to the Village Clerk or the Village Planner who shall forward the submittal to the Chairperson of the Planning Board; such letter shall be submitted at least fourteen (14) days prior to the meeting of the Planning Board at which the matter is to be considered and the Village Clerk shall give notice of such meeting to the subdivider, who should attend but is not required to do so.

C. Planning Board Review

The Planning Board shall review and respond to the Letter of Intent within sixty-two (62) days of the date that the Letter of Intent is received by the Village Clerk.

1. If the Planning Board determines that the proposal does not meet the criteria, in Article I, Section 4., established for a minor subdivision, it shall return one copy of the Letter of Intent to the subdivider and require that the subdivider submit a preliminary plat as outlined in Article II, Section 3 of these regulations.

2. If the Planning Board determines that the proposal does meet the criteria established for a minor subdivision, but further determines that the proposed subdivision will potentially have the impact of a major subdivision; ie: on the orderly growth or development of the Village it shall return one copy of the Letter of Intent to the Subdivider and require that the subdivider submit a preliminary plat as outlined in Article II, Section 3 of these regulations.

3 If the Planning Board determines that the proposal does meet the criteria established for a minor subdivision and further determines that the proposed subdivision will not have a major impact on the orderly growth or development of the village, it shall return one copy of the Letter of Intent to the subdivider marked as approved, dated, and signed by the Chairperson of the Planning Board. The Planning Board Chairperson may also be authorized by the Planning Board to sign a plat for filing in the Cattaraugus County Clerk's office if the requirements of this paragraph have been met.

SECTION 3. PRELIMINARY PLAT - SUBMISSION REQUIREMENTS

A. Initial Presentation - Sketch Plan Review

Prior to the preparation of the preliminary plat, the subdivider should seek the assistance of the Planning Board staff in order that he may become familiar with the zoning requirements, subdivision procedures, and with other plans, proposals or regulations which might affect the geographic area in which the proposed subdivision is located. Applications shall be made on Subdivision Development Form No. 1 and are available in the office of the Town Clerk. Applications shall be accompanied by a fee of \$50.00.

The Planning Board shall review the sketch plan and hear the applicants general project plans. The sketch plan shall be reviewed for its compliance with the zoning requirements in terms of land use, yield, area and dimensional requirements, general road layout and availability of services.

The sketch plan shall be drawn to scale, indicate proposed and existing property lines and, in the case of townhouses, the general location of buildings. The plan shall also include sufficient contours and topographic features to allow the Planning Board to evaluate the project.

B. Preliminary Plat Application

On reaching conclusions regarding his general program and objectives, the subdivider shall make application in writing to the Planning Board for preliminary approval of the proposed subdivision. Included in this submission shall be ten (10) copies of the preliminary plat and three (3) copies of all other exhibits required in Article II, Section 4 of these regulations,

Applications for Preliminary Plat Approval, Subdivision Development Form No. 2, shall be available in the office of the Town Clerk. Applications shall be submitted to the Town Clerk, who shall forward the application to the Chairman of the Planning Board. Applications shall be accompanied by a fee of \$100.00 plus \$75.00 per lot.

C. PublicHearing

As required by Section 7-728 of the NYS Village Law, the Planning Board shall hold a public hearing within sixty two (62) days after receipt of a complete submission. The hearing must be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before it is held. The Village Clerk shall notify the subdivider in writing of the date of the Public Hearing.

D. Review of Preliminary Plat

The subdivider or his agent shall attend the next scheduled meeting of the Planning Board after the Public Hearing to discuss the Preliminary Plat. The Planning Board shall carefully study the practicability of the proposed layout, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the following areas:

1. arrangement, location, and width of streets
2. relation of proposed street and lot layout to the topography of land
- 3 domestic water supply
4. sanitary sewage disposal
- 5 storm drainage
6. lot sizes and arrangement
7. future development of adjacent lands
8. the requirements of the Village Zoning Ordinance and any other applicable Town plans.

E. Approval

Within sixty-two (62) days after the Public Hearing, the Planning Board shall approve, approve with modifications or disapprove the application. The Planning Board shall advise the applicant in writing of its decision. Time can be extended by mutual agreement. In its written decision, the Planning Board shall, if granting preliminary approval, state the specific changes, if any, which it will require, the character and extent of any required improvements and reservations which it will require, and any special conditions applicable as a prerequisite to the approval of a final Subdivision Plat.

One copy of the Preliminary Plat shall be returned with the written decision having an attached notation stating that it has received preliminary approval, the date of the preliminary approval, and that the preliminary approval is revocable pending compliance with the final approval requirements.

If the Preliminary Plat is disapproved, the Planning Board shall clearly state the reasons for its disapproval.

SECTION 4. PRELIMINARY PLAT CONTENT AND SUPPLEMENTARY INFORMATION

A. Form

The Preliminary Plat shall be clearly and legibly drawn. The map shall be on one or more sheets twenty (20) inches by twenty (20) or forty (40) inches. All maps of subdivisions containing less than one hundred (100) acres shall be drawn at scale no smaller than one inch equals one hundred feet (1" = 100'); larger subdivisions may be drawn at a scale of one inch equals two hundred feet (1" = 200').

B. Coverage

The Preliminary Plat shall include all contiguous property under common ownership even though only a portion of the tract is to be initially developed and/or recorded.

C. Requirements for Preliminary plat Submission

1. Data and maps shall be provided, including the following information describing the existing conditions at the site, except when otherwise specified by the Planning Board:

a. Location of tract, including name of village or villages, town or towns, and Range, Township and Lots per the Holland Land Company's survey and recording information of the deed, including the liber and page numbers; and tax map parcel number(s).

b. Existing property lines, easements, streets, and rights-of-ways;

c. Existing utility lines on or adjacent to the tract, including location, size, and invert elevations;

d Existing ground elevation contours on the tract at intervals of not more than five (5) vertical feet; other conditions on the tract, including watercourses, wetlands, floodplain boundaries, wooded areas, houses, other buildings and other significant features; zoning district boundaries on and adjacent to the tract; and land title and survey (if any) by deed description and map survey.

2. The Proposed Preliminary Plat map shall include the following information, except when otherwise specified by the Planning Board:

a. Proposed streets information, including names, right-of-way and roadway widths; approximate grades and gradients.

b. Other proposed rights-of-way or easements and their location, width and purpose.

c. Locations of proposed and existing utilities.

d. Proposed lot lines, lot numbers and lot dimensions.

e. Proposed sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.

f. Proposed sites, if any, reserved for multi family dwellings, stores or shops, shopping centers, churches, industry or restaurants or other uses exclusive of single-family dwellings.

g. Minimum building setback lines as per current zoning.

h. A table of site data including number of proposed residential lots, individual lot area, areas of parks, or other specified non-residential use.

i. Zoning district area and dimensional requirements.

j. Proposed subdivision name or title under which it will eventually be recorded. Also, the scale of the plat, north arrow, date, name and address of subdivider, and
the name address, and license number of surveyor or engineer.

3. Supplementary data and maps shall be provided, further detailing the proposed improvements; including the following, except when otherwise specified by the Planning Board.

Letters of approval from the Village Engineer, County Health Department Engineer, NYS Department of Environmental Conservation for the applicable item a. Through g. below shall be prerequisites of a complete preliminary plat application. Preliminary plat approval shall not be granted prior to the applicant obtaining the prerequisites approvals.

a. Profiles along the centerline of proposed showing existing ground surface, and proposed finished street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivisions.

b. Typical cross-sections of the proposed street access, right-of-way showing grading, street, driveway sidewalks (if applicable), and utility locations.

c. Preliminary plans of water supply.

d. Preliminary plans for sanitary sewage collection and treatment or disposal.

e. Preliminary drainage plans, including proposed individual lot drainage and proposed method of collection and discharging of storm drainage.

f. If the water supply proposed involves an extension to an existing municipal sewage collection system, a letter of approval shall be provided from the governing body of the concerned water district stating that they are able and willing to provide safe and reliable water service to all lots in the proposed subdivision, that sufficient water is available for adequate fire protection, and that they approve the preliminary water system plan accompanying the application.

g. If the sewage collection system is an extension to an existing municipal sewage collection system, a letter of approval shall be provided from the governing body of the concerned sewage district stating that they are able and willing to accept the flows generated by the proposed subdivision and that they approve the preliminary sewage system plan accompanying the application. A letter from the governing body of the ultimate treatment facility stating that they have sufficient capacity to accept the expected flows shall be provided.

All plans for public improvements shall be prepared by a professional engineer or land surveyor registered to practice in the State of New York, pursuant to applicable provisions of the New York State Education Law.

4. In addition, a draft of protective covenants or restrictions whereby the subdivider proposes to regulate land use in the subdivision shall be provided. This shall include deed restrictions, homeowners associations, etc. The Planning Board may require inclusion of certain restrictions or covenants or the formulation of mandatory homeowners associations as a prerequisite to approval of the final plat. However, the Planning Board shall not be responsible for enforcing the developers restrictive covenants which are more restrictive than the existing zoning requirements.

SECTION 5. FINAL PLAT - SUBMISSION REQUIREMENTS

A. General

Within six months of the approval of the Preliminary Plat, the applicant shall submit an Application for Final Plat Approval, Subdivision Development Form NO. 3, to the Planning Board. The time allotment may be extended by mutual agreement between the subdivider and the Planning Board. The application shall include two (2) mylar copies and ten (10) paper copies of the plat and other exhibits required for approval as specified in Article II, Section 5 and Article II, Section 6 of these regulations.

Applications shall be submitted, with an application fee of \$250.00 plus \$35.00 per lot, to the Village Clerk who shall forward the application to the Chairman of the Planning Board.

B. Public Hearing

As required by Section 7-728 of the NYS Village Law, the Planning Board shall hold a public hearing within sixty two (62) days after the receipt of the plat in final form. The hearing must be advertised at least once in a paper of general circulation in the Village at least five (5) days before it is held. If the Planning Board deems the final plat to be in "substantial agreement" with the approved preliminary plat, the hearing may be waived.

The Village Clerk shall notify the subdivider in writing of the date of the Public Hearing.

C. Review Process

The subdivider or his agent shall attend the meeting of the Planning Board when his application is considered to present the final application for Plat approval.

Within sixty-two (62) days after the public hearing, or sixty-two (62) days after the final plat submission, if the hearing has been waived, the Planning Board must, by resolution, conditionally approve (with or without modification), disapprove or grant final plat approval. .

If a plat receives conditional approval, the Y applicant shall have 180 days to meet the conditions of the approval by the Planning Board. Once the conditions are met, the plat must be signed by an official of the Planning Board before it may be filed. If a plat is disapproved, the

Planning Board shall clearly state the reasons for its disapproval.

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or imply the acceptance by the village of any street, park, playground, open space, water facilities, sewage facilities, drainage facilities, or other areas and improvements shown of the Plat. All improvements shall meet the applicable standards of the village.

D. Filing

After the satisfactory completion of the foregoing procedures and of the requirements outlined elsewhere herein and the notation to that effect upon the plat, it shall be deemed to have final approval and within thirty (30) days thereafter the developer must file the plat with the county Clerk. Otherwise, such approval will expire as provided in Section 7-728 of NYS Village Law.

SECTION 6. FINAL PLAT CONTENT AND SUPPLEMENTARY INFORMATION AND BONDING

A. Form

The final subdivision plat shall be clearly and legibly drawn in ink on mylar or tracing cloth on sheets either 20 inches by 20 inches or 20 inches by 40 inches. The scale shall be 100 feet to the inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Board.

B. Content

The final plat, which must be prepared and certified by a professional engineer or land surveyor, shall show, in addition to information approved on the preliminary plat (as required by Article II, Section 4), the following:

1. Primary control points, approved by the Village Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

2. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of lots; with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.

3. Purpose for which lots are dedicated or reserved. Location and description of monuments (shown thus "X") and lot corner markers (shown thus "O").

5. Adjoining properties shall be clearly indicated and shall include owner's name and recording data of relevant deeds.

6. Certification of title showing the state of title of the parcel proposed to be subdivided and that the applicant has authority to act in the capacity of subdivider.

7. Water supply and sewage disposal facilities, together with locations and other necessary details with certification of approval by the Cattaraugus County Health Department. Where any water or sewer line, water plant or sewage treatment plant is to be installed by the subdivider and/or municipality outside existing districts, the establishment or enlargement of a water district and/or a sewer district may be required at the expense of the subdivider. The formation of private utility companies, if any, shall be in accordance with the Transportation Corporations Law in New York State.

8. Offers of cession by owner dedicating streets, rights-of-way and any sites proposed for public uses; and final agreements covering the improvement and maintenance of unceded public spaces and areas designated for common use and/or ownership and the conditions and time limits, if any, applying to site reservations.

9. Title or name under which subdivision will be filed, scale, north point and date.

C. Supplementary Information

The final submission shall include the following data and supplementary information:

1. Assurance from each public utility company whose facilities are proposed to be installed, in writing, addressed to the Planning Board, stating that such public utility company has made or shall make the installations necessary for the furnishing of its services in accordance with the approved construction detail sheet. This letter shall specify the time when service will be available. Locations of such public utilities are subject to the review and approval of the Planning Board.

2. Other Data: such as other certificates, affidavits, endorsements, protective covenants, homeowners association application and report filed with NYS Attorney General's office or other agreements as may be required by the Planning Board or the Town attorney in the enforcement of these regulations.

3. Performance Bond: Pursuant to Section 7-728 of NYS Village Law, the Planning Board shall require all necessary and appropriate improvements including but not limited to roads, sewers, water and drainage controls to be made to the standards and requirements of the appropriate Village Officials or Departments. If improvements are not complete prior to final plat approval a performance bond sufficient to cover the full cost of the improvements, as estimated by the Village, shall be provided by the applicant prior to obtaining signature on the final plat. In such case, final plat approval shall be granted conditional to the posting of the bond.

Terms of the bond shall be determined by the Planning Board at the preliminary plat public hearing. Term of the bond shall run for no longer than three years, However, it may be extended by the planning board with consent of the applicant(s)

Such performance bond shall be issued by a bonding or surety company acceptable by the Village Board and shall also be approved in terms of form, sufficiency and manner of execution.

In the event that any required improvements have not been installed within the term of the bond, the Village Board may thereupon declare the bond to be in default and collect the sum remaining payable and install such improvements as covered.

ARTICLE III - DESIGN STANDARDS

SECTION 1. LOTS

A. Design Requirements

1. Land subject to flooding shall not be platted for residential occupancy nor for such other uses as may increase danger to life or property or aggravate the flood hazard in accordance with Flood Insurance Requirements adopted by the Village in the form of Local Law No. 1-1994.
2. All lots shall conform to the area and dimensional requirements of the current zoning ordinance.
3. Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
4. Corner lots for residential use shall have sufficient width to permit appropriate building setback from and orientation to both streets.
5. The subdividing of the land shall be such as to provide each lot with adequate frontage for access to an existing or proposed public street. "Panhandle" or "flag" lots should be avoided except where a design benefit will result from not extending a road to serve these lots. No more than 25% of lots in a subdivision should be "panhandle lots".
6. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
7. Side lot lines shall be substantially at right angles or radial to street lines.
8. When a parcel is subdivided into building lots greater than two times larger than the minimum required by the Zoning Ordinance, for the purpose of developing residences, a note shall be placed on the plat that these lots shall not be further subdivided.
9. When large contiguous acreage is to be reserved from a proposed subdivision the roads and building lots shall be arranged so as to allow the opening of future streets and logical resubdivision of the out parcel(s).
10. Lot arrangement shall be such that there will be no foreseeable difficulties in securing building permits to build on all lots in compliance with the zoning Ordinance, or in providing access to buildings on such lots from an existing or approved street.
11. Land-locked lots shall not be created.
12. Common driveways shall only be utilized to overcome topographic constraints. Use of common driveways shall not be utilized in lieu of frontage. No more than two

(2) lots shall share one common driveway. Each lot sharing a common driveway shall have adequate frontage to create and maintain separate driveways.

SECTION 2. STREETS

A. Design Requirements

1. Streets shall be laid out in order to provide through circulation, having two points of access. Excessively long cul-de-sacs and dead-end streets shall be avoided. Dead-end streets shall be no longer than 1,000 or serve more than 12 residences.

2. Streets shall provide for the continuation or approximate projection of existing principal streets from adjacent areas.

3. Where appropriate, rights-of-ways shall be provided to the property line of adjoining large or landlocked parcels. Where rights-of-way are provided for the continuation of proposed streets into the adjacent undeveloped property, the streets must dead-ended temporarily.

4. Streets to be dedicated to the village shall comply in all respects with the village of Ellicottville "Streets and Roads Specifications" or their latest revisions and shall be approved by the Village Engineer.

SECTION 3. STORMWATER MANAGEMENT

A. Detention

1. The design shall assure that the runoff after development does not exceed that existing at the time of the plan submission.

2. Calculations demonstrating that this condition is met for both a 10 and 25 year frequency storm shall be submitted with the plan for the review of the Town Engineer.

B. Siltation and Erosion Control

1. Provisions shall be made for siltation and erosion control, both during and after construction. A siltation and erosion control plan for use during construction shall be shown on the Construction Drawings for the development.

2. Vegetation shall be established on all disturbed surfaces as soon as possible upon completion of the work.

3. Siltation control measures shall be maintained in continuous use until adequate vegetation is established.

ARTICLE IV - REQUIRED IMPROVEMENTS

SECTION 1. MONUMENTS AND LOT CORNER MARKERS

A. Requirements

1. Permanent monuments shall be set at block corners and at intervals of

approximately 500 feet, and their location shall be shown on the Subdivision Plat. Iron pipes shall not be considered permanent for the purposes of these regulations.

2. Lot corner markers shall be located in the ground at final grade at all lot corners. Such markers shall be steel rods 3' 0" long and at least 1/2" in diameter.

SECTION 2. UTILITY IMPROVEMENTS

A. Schedule of Required Improvements

1. Utility and street improvements shall be provided in each new subdivision in accordance with the standards and requirements described below:

a. Water supply system as per plans approved by the Cattaraugus County Health Department and in accordance with the village of Ellicottville's regulations for public water facility improvements. Public water systems shall provide fire protection capacity and facilities and shall be approved by the Town Engineer.

b. Sewage disposal system as per plans approved by Cattaraugus County Health Department and in accordance with the village of Ellicottville's regulations for public sanitary sewer systems. Such systems shall be approved by the Village Engineer.

c. Grading and centerline gradients per plans and profiles approved by the Highway Superintendent and the Town Engineer.

d. Storm drainage facilities designed by a licensed professional engineer or land surveyor and approved by the Village Engineer.

e. Provision for installation of public utilities, including telephone, cable television, gas and electric in full accordance with New York State Law, local ordinances or law and all other pertinent laws, rules and regulations.

f. No such improvements shall be accepted until the subdivider furnishes to the village Engineer a certification signed by licensed professional engineer that the improvements have been constructed according to the approved plans and specifications.

SECTION 3. PARKS, PLAYGROUNDS OR OPEN SPACE

A. General Requirements

1. The Planning Board may require that land be reserved for park, playground, open space or other recreational purposes in a location where the Planning Board deems appropriate. For a major subdivision, each reservation shall be of an area equal to 10 percent of the total land within the subdivision, but in no case shall a reservation be less than one acre. The area to be preserved shall possess the suitable topography, general character, and adequate road access necessary for its recreational purposes.

2. Where the Planning Board requires land to be set aside for parks, playgrounds or other recreational purposes, the Board may require that the site be graded, loamed and seeded.

3. When areas for park, playground, recreational purposes or open space have been required on the subdivision plat, the approval of said subdivision plat shall not constitute and acceptance by the Village of such an area.

ARTICLE V - FEES

SECTION 1. GENERAL REQUIREMENTS

At the time of submitting an application for review, the subdivider shall pay to the Planning Board the appropriate fee, as per Article V, Section 2. No portion of any application fee shall be returned to the subdivider except in the case where an application is withdrawn before initial study by the Planning Board. However, in the event that an application is disapproved, the subdivider will be excepted from the payment of an application fee on the refiling of the same or an amended plat containing the same number or fewer lots, providing the refiling is done within a period of one year from the date of disapproval.

SECTION 2. SUBDIVISION FEES

A. Application Fees

1. Application fees are to cover filing, public hearing, administrative, review and overhead costs; as well as costs related to the review and preparation of Environmental Assessment Forms (EAF) and State Environmental Quality Review notices and determinations. Application fees shall be paid to the Supervisor's office at time of submittal.

2. Fees are as follows:

<u>Letter of Intent</u>	<u>Sketch Plan</u>	<u>Preliminary Plat</u>	<u>Final Plat</u>
Minor Subdivision:	\$20/lot	\$20/lot	\$20/lot
Major Subdivision:	\$50	\$100+\$75/lot	\$250+\$35/lot

SECTION 3. NYS ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) FEES

Pursuant to Section 617.17 of Part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8 - 0109.7 of the New York State Environmental Conservation Law (ECL), the Planning Board, acting as lead agency, shall charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If applicant prepares the EIS, the Planning Board shall charge applicant for the actual cost of the review. If applicant does not choose to prepare EIS, Planning Board shall charge applicant for the actual cost of preparing EIS.

ARTICLE VI. - ENFORCEMENT

SECTION 1. RECORDING

The subdivider shall have sole responsibility for the filing and recording of any plat. Pursuant to Section 7-728 of NYS Village Law, no subdivision map or plat of any land which is subject to control under the provision of these regulations shall be filed or recorded in the office of the County Clerk of the County of Cattaraugus, State of New York, unless it shall have been approved by the village of Ellicottville Planning Board and in testimony of that fact

bears the signature of the Chairman of the Planning Board. In the event any such unapproved plat is recorded, it shall be considered invalid and the Planning Board shall institute proceedings to have the plat stricken from the records of the County of Cattaraugus, State of New York.

SECTION 2. PENALTIES

A violation of these regulations is an offense, punishable by a fine not exceeding \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, generally, all such violations shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations, except that the penalties set forth herein shall apply. Each week's continued violation shall constitute a separate additional violation.

The description of any lot, parcel or tract by metes and bounds in the deed or instrument of transfer shall not serve to exempt the seller from the provisions of these regulations.

The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Village Law of the State of New York or any other law including, without limitation, the right to compel compliance with or to restrain by injunction the violation of such regulations.

ARTICLE VII - SEPARABILITY

If any section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these regulations.

ARTICLE VIII - EFFECTIVE DATE

These regulations shall take effect immediately. Pursuant to Section 7-728 of NYS Village, the Village Board also hereby authorizes the Planning Board to review and approve pursuant to these regulations, plat development of plats already filed in the Cattaraugus County

Clerk' office in which such plat is partially or wholly undeveloped. The term "undeveloped" shall mean those plats where twenty percent or more of the lots within the plat are unimproved.

As of 6/96

VILLAGE OF ELLICOTTVILLE
PROCEDURES FOR SUBDIVISION REVIEW
OFFICIAL POLICY

GENERAL

The subdivision procedures differentiate between a minor and a major subdivision. A minor subdivision is defined as any land division for development purposes into no more than 5 parcels, each having frontage on an existing public road. The procedures for minor subdivision approval are relatively simple, requiring a Letter of Intent and survey showing proposed lots. Minor Subdivisions will not be further addressed in this document. This official policy statement shall address the general procedure to be followed for a major subdivision.

While preparing its own subdivision regulations the Village of Ellicottville uses a version of the Town of Ellicottville's Subdivision Regulations adapted to meet the requirements of the NYS Village Law Section 7-728 effective July 1, 1993.

PLANNING BOARD SCHEDULE

The Planning Board of the Village of Ellicottville holds a regularly scheduled meeting on the second Tuesday of each month. These meetings are held at the Town Hall located at One West Washington Street in the Village of Ellicottville. An agenda is prepared for each meeting. In order for an item to be included on the agenda complete application materials must be received at the office of the Village Zoning Enforcement officer at least 14 calendar days preceding the meeting. If an item does not appear on the agenda it will not be considered until the following month's meeting.

All submissions to the Planning Board shall be addressed to or submitted to the Village Zoning Enforcement officer at the Town Hall. The mailing address is:

Village Zoning Enforcement Officer

Village of Ellicottville

P.O. Box 478

Ellicottville, New York 14731

In addition to the application fees it has been a policy of the Village of Ellicottville to charge back to the applicant all outside professional review and/or inspection costs related to a

development. These include the village Engineer and Village Attorneys fees resulting from review or development materials.

SKETCH PLAN

The developer or his agent shall make an initial presentation to the Planning Board to discuss the proposal prior to making a formal application for Preliminary Plat Approval. This step has been referred to as the sketch plan review.

Subdivision Development Form No. 1 shall be completed and submitted to the Planning Board along with a conceptual plan of the proposed development in order to receive initial comments. There is an application fee of \$50 for sketch plan review. The sketch plan review is an informal discussion between the developer and the Planning Board. It is an attempt to identify potential problems and to discuss the options available to satisfy Town requirements while still presenting a viable development plan to the Developer. The sketch plan review will facilitate a better preliminary plan and reduce wasted time and effort. This meeting should conclude with a summary of the Board's concerns and conditions that have to be sufficiently answered before Preliminary Plat approval can be granted. No formal approval is granted at this stage, only direction to move to the preliminary plat phase.

The conceptual plan shall be drawn to scale, shall indicate proposed and existing property lines and in the case of town houses, the location of the units themselves. The plan shall include sufficient contours and topographic features to allow the Planning Board to evaluate the lay of the land and the associated impacts. The plan should also reflect the proposed means for water supply and sewage disposal. This does not mean that detailed engineering plans are required. The plan is to be conceptual in nature only.

A State Environmental Quality Review (SEQR) Environmental Assessment Form (EAF) - Part 1 shall be submitted with the Sketch Plan. In cases where the development is thought to be an unlisted action and a FULL EAF shall be submitted. NOTE: Preliminary Plat Application is not complete until a Determination of Significance is made. Approval can not be granted until SEQR is complete either a Negative Declaration issued or Findings Statement adopted.

PRELIMINARY PLAT APPLICATION

The Subdivision Regulations for the village of Ellicottville detail the submission requirements for preliminary plat application in Article II Sections 3 and 4. It is not intended to reproduce a detailed list of the requirements here. Please refer to the Subdivision Regulations. Generally speaking the submission shall include:

1. Application for Preliminary Plat Approval - Subdivision Development Form No. 2.
2. Preliminary Plat Application Fee of \$100 plus \$75 per lot.
3. A Preliminary Plat meeting the requirements of the Subdivision Regulations. The map should show all proposed easements to be dedicated with proposed public utilities. Another important item is off-street parking in the case of multi-unit residential developments.

4. Preliminary plans of all sanitary sewers. These plans must be in sufficient detail that a preliminary determination of the suitability of the proposal can be made. A written conceptual approval of the sewer plan from the Cattaraugus County Health Department and the Village Engineer. The Developer shall supply plans to the Village of Ellicottville Sewer Superintendent for his comments prior to the Village Engineer granting conceptual approval.

5. Preliminary plans of all proposed water lines and accessories, similar detail to above. A letter of conceptual approval from the Cattaraugus County Health Department and the Village Engineer shall be submitted.

6. Preliminary plans of all proposed roadways including plan and profile. In the case of a development where the developer intends to dedicate the road the plans shall include all horizontal and vertical curve data. In either case the plans shall reflect the plan for stormwater runoff control. It will be required that the developer submit a letter of conceptual approval from the Streets Superintendent and the Village Engineer with his application if it is a proposed public road. All roads to be dedicated must comply with the adopted standard Street specifications which is available from the Village Clerk at a cost of \$5.

7. A draft of any proposed Restrictive Covenants or other such restrictions to be placed on the deeds. This shall include any proposed by a Home Owners Associations.

The Planning Board will consider a complete application at their next regularly scheduled meeting. The Developer or a representative must attend. The Planning Board must conduct a public hearing prior to ruling on a Preliminary Plat. The developer may request the Public Hearing before the Planning Board at the Sketch Plan meeting or at a later meeting. Public hearings will be scheduled only by resolution of the Planning Board. The Developer should be sure that he can obtain all required conceptual approvals prior to the requested Public Hearing date.

Once the developer obtains preliminary approval, he has six months to meet all conditions of the approval and to obtain all final plan approvals as stipulated below. He must then make application for Final Plat Review.

FINAL PLAT APPLICATION

The Subdivision Regulations list the submission requirements for Final Plat application in Sections 5 and 6. It is not intended to reproduce a complete list here; please refer to the regulations. Generally speaking the submission shall include the following:

1. Application for Final Plat Review - Subdivision Development Form NO. 3.
2. Final Plat application fee of \$250 plus \$35 per lot. All required signatures shall be obtained on the form prior to submission.
3. A Final Plat meeting the requirements of the Subdivision Regulations. The map must show all easements to be dedicated for public utilities. Sufficient metes and bounds data should show on the plat regarding the easements to accurately locate them. The Village Attorney will adjudge the adequacy of the description. The Plat shall also show the proposed location of all public utilities (this refers to water, sewer, drainage, roads, cable and telephone)
4. Deeds conveying any easements to the village or appropriate district. As stated in 3. above, all easements must be located by survey. The easements shall be shown on the Cover Map as required above and the deeds shall refer to the Cover Map.

5. Copies of the any Restrictive Covenants or other such restrictions including Homeowners Associations or community Associations.

If complete application has been received at least 14 calendar days prior to a meeting the Planning Board will consider the submission at that month's regularly scheduled meeting. The developer or his representative must attend. The Subdivision Regulations require that a Public Hearing be held prior to granting Final Plat Approval. If there are no major variations from the preliminary approval, and there has been no public controversy surrounding the project, the Planning Board may waive the second Public Hearing.

Once the developer has obtained Final Plat Approval he is responsible to obtain signatures on two mylar copies for filing. In addition to the original to be filed in the County Clerk's Office, the developer must provide one reproducible mylar and one paper print containing all required signatures to the Village for its records. The following signatures must be obtained on Application Form NO. 3 prior to filing:

1. Superintendent of Public Works
2. Village Engineer
3. County Health Department

Village ofEllicottville.....

Local Law No..... 3..... of the year 2007

A local law amending Section 3B of the Zoning Local Law, Land Use Table to permit by Special Use Permit only in the VC-1 District certain apartment or condominium dwelling units and first floor commercial condominium units and also adding subsection 7A of Zoning Local Law Section 5 (Special Use Permits)

Be it enacted by theBoard of Trustees.....of the Village ofEllicottville.....as follows:

LOCAL LAW NO.3 OF THE YEAR 2007

SECTION 1. Purpose. In accordance with Section 21(1) of the January 10, 2005 Zoning Local Law & Subdivision Regulations Local law of the Village of Ellicottville (the "Zoning Code"), Alexis-August LLC ("A-A") has submitted a petition to amend the Land Use Table in Section 3B of the Zoning Code, as hereinafter described. A-A submitted the petition to amend in connection with A-A's proposal to construct upper floor condominium dwellings in the Ellicottville Inn at 8-10 Washington Street. Construction of such upper floor dwellings in the Ellicottville Inn and elsewhere within the VC-1 District, subject to the numerous conditions hereinafter described, will be consistent with the Village Comprehensive Plan as set forth in A-A's petition and accompanying submissions and the record before the Village Board of Trustees, and will otherwise benefit the Village of Ellicottville. It is therefore in the best interest of the Village to adopt the proposed change.

SECTION 2. SEORA Determination. The Village Board of Trustees determined as lead agency pursuant to the State Environmental Quality Review Action (SEQRA) that passage of this Local Law will not have a significant effect on the environment and thereby issued a negative declaration on August 13, 2007.

SECTION 3. Section 3B of the Zoning Code, Land Use Table, is hereby amended to include the following uses, permitted by Special Use Permit only, in the VC-1 District.

Apartment or condominium dwelling units of no less than 450 square feet, not to exceed a total of twelve (12) units, on upper floors of structures when such upper floors and structures were in existence on the effective date of this amendment.

First floor commercial condominium units in the VC-1 District shall be permissible by special use permit in buildings in existence on the effective date of this amendment in conjunction with upper floor condominium dwelling units in such buildings, provided that such

commercial condominium units shall be limited to first floor commercial spaces in existence on July 1, 2007 which are operated as separate commercial enterprises. In no event, however, shall the aggregate number of commercial condominium units exceed the number of separate commercial enterprises in existence on July 1, 2007 or four (4) units, whichever is less, provided further that commercial space may be allocated among such commercial condominium units as appropriate in accordance with all applicable state and local building code requirements.

SECTION 4. A new subsection 7A of Zoning Code Section 5 (“Special Use Permits”) is hereby adopted as follows:

7A. Upper Floor Dwellings in VC-1 District

In review of applications for Special Use (Conditional Use) permits for establishment of upper floor dwellings and commercial condominium units in VC-1 District, the Village Planning Board shall additionally consider the following restrictions and conditions:

(1) There shall be no increase in the elevation of buildings in the VC-1 District in connection with the development of upper floor dwellings.

(2) The first floor of existing buildings in the VC-1 District in which upper floor dwellings will be located shall remain commercial/retail and shall not be converted to residential uses provided, however, that the first floor of such buildings may also provide lobby space as is reasonably necessary to provide resident access to upper floor dwellings.

(3) All special use permit applications for upper floor dwellings and first floor commercial condominium units in the VC-1 District shall be subject to Architectural Design Review as specified in the Village of Ellicottville Zoning Law.

(4) Adequate parking for upper floor dwellings and first floor commercial condominium units in the VC-1 District shall be provided in accordance with the requirements and specifications of the Village of Ellicottville Zoning Law provided, however, that there shall be no diminishment of current green space on any property proposed for such upper floor dwelling uses or first floor commercial condominium units.

(5) The basements of buildings in the VC-1 District in which upper floor dwellings or commercial condominium units will be located may be used for commercial and/or residential storage purposes as appropriate.

(6) Rental of upper floor dwellings in the VC-1 District for periods of less than 30 days shall be prohibited.

SECTION 5. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect within such part or parts.

SECTION 6. Repeal. All Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION 7. This Local Law shall take effect immediately upon filing in the Office of the New York Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

ellicottville8\local law 3..2007

Village of.....Ellicottville.....

Local Law No.3.....**of the year 2009**

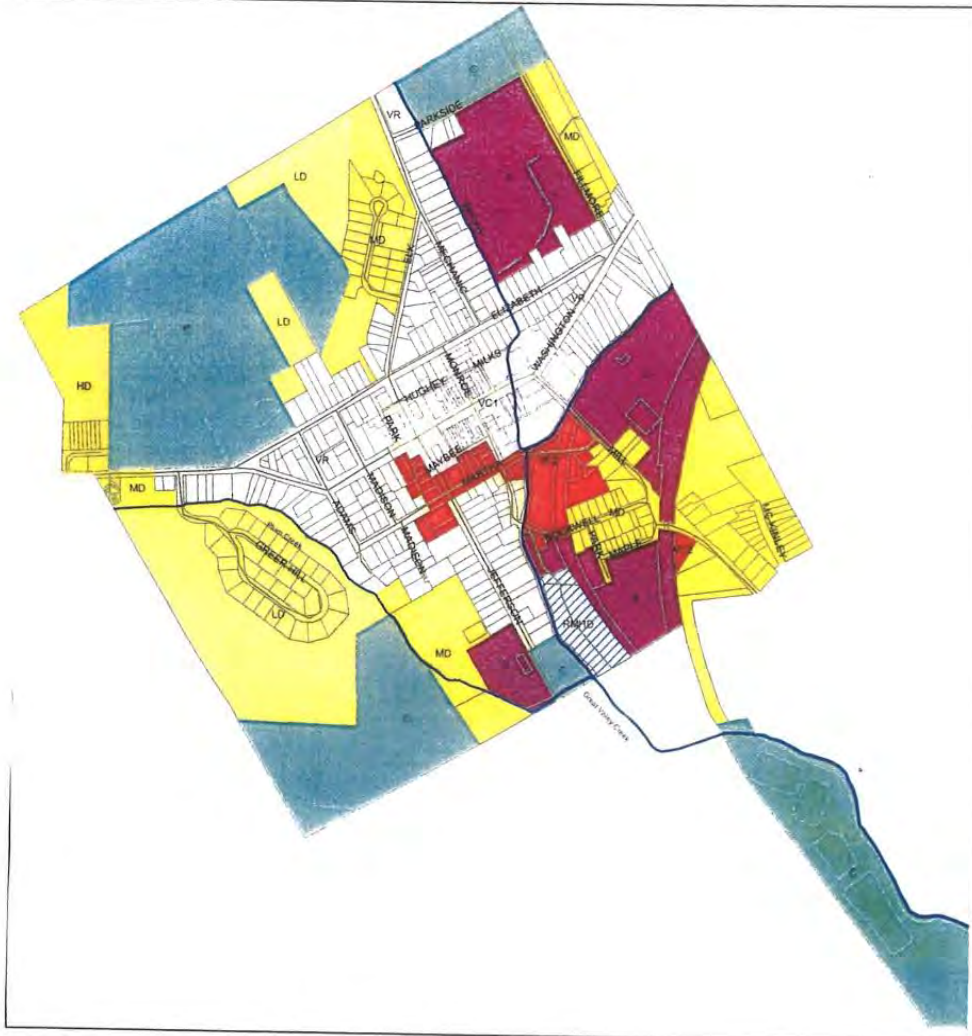
A local law amending the Zoning. Local Law of 2005 to provide for a comprehensive Zoning Plan of the Village of Ellicottville and Adopting an Official. Zoning Map for the Village of Ellicottville

Be it enacted by theBoard of Trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

See attached

Village of Ellicottville Zoning Map August 10, 2009



Legend

- Creeks
- Streets
- Revised Parcels

Zoning Districts Classification

- Conservation
- High Density Residential
- Industrial
- Low Density Residential
- Medium Density Residential
- Residential Mobile Home District
- Village Commercial 1
- Village Commercial 2
- Village Residential

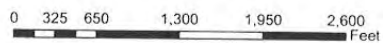
Note: This Zoning Map does not show the boundaries of the 100-year Flood Plain (Special Flood Hazard Area - SFHA) or the Floodway areas. Flooding can occur from the following sources: Great Valley Creek, Plum Creek, and Elk Creek.

The SFHA and Floodway boundaries are overlays to the existing zoning map. There are additional restrictions to development within these areas. Please refer to the following documents for official boundaries of the SFHA and Floodway:

Flood Insurance Rate Map
Village of Ellicottville, NY
Community-Panel No. 360070-0001 C
May 2, 1994

Flood Insurance Study
Village of Ellicottville
May 2, 1994

Map Prepared By:



Village of.....Ellicottville.....
Local Law No.....1.....of the year 2011

A local law amending Local Law No. 3 of 2009 - Zoning Local Law

Be it enacted by theBoard of Trustees.....of the

Village of.....Ellicottville.....as follows:

LOCAL LAW NO. 1 OF THE YEAR 2011

A local law amending Local Law No. 3 of 2009 -- Zoning Local Law.

SECTION 1. SEQR Determination. The Village Board of Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on 2011.

SECTION 2. Application. This local law shall apply to all areas of the Village of Ellicottville.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect within such part or parts.

SECTION 4. Amendments to the Zoning Law. The following amendments to Local Law No. 3 of the year 2009 of the Village of Ellicottville are hereby enacted:

A. The following definitions shall be added to Section 2 - Definitions, paragraph 2:

ACCESSORY APARTMENT SQUARE FOOTAGE: The total square footage of all floors within an accessory apartment measured from the inside walls that are defined by the New York State Building Code as habitable space for residential purposes with ceiling height of not less than 7 feet for habitable rooms and a ceiling height of not less than 7 feet for hallways, corridors, bathrooms, toilet rooms and laundry rooms, all measured from the finished floor to the lowest projection from the ceiling.

ACCESSORY BUILDING SQUARE FOOTAGE: The aggregate of the areas of all enclosed and roofed spaces of the accessory building exclusive of terraces and uncovered steps. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level. Additional floors (i.e. additional stories) shall be measured the same way except when the floor and/or areas of a floor used as residential living space shall be measured according to New York State Building Code standards (also see "**Building Livable Square Footage**" definition).

BUILDING AREA: (See “**Floor Area**” definition).

BUILDING GROSS SQUARE FOOTAGE: The total square footage of all floors of a building, exclusive of uncovered porches, terraces and steps, included within the outside faces of the exterior walls (or exterior walls and fire walls), including floor penetration for circulation and shaft areas that connect one floor to another.

BUILDING LIVABLE SQUARE FOOTAGE: The total square footage of all floors within a building measured from the inside walls that are defined by the New York State Building Code as habitable space for residential purposes with ceiling height of not less than 7 feet for habitable rooms and a ceiling height of not less than 7 feet for hallways, corridors, bathrooms, toilet rooms and laundry rooms, all measured from the finished floor to the lowest projection from the ceiling.

BUILDING NET SQUARE FOOTAGE: The total usable square footage of a facility that is measured from the inside wall surfaces, including non-assignable spaces such as mechanical rooms, toilets, corridors, etc.

B. The following paragraph number 5 is hereby added to Section 3A - Districts and Regulations, General Requirements:

5. Demolition of Buildings

All damaged buildings or structures must be repaired within a period of fifteen (15) months from the date the damage occurred. All buildings or structures that are beyond repairable condition must be razed within thirty (30) days from when the damage occurred. See Section 16-9 and Section 11 for applicable regulations and additional information concerning demolitions,

C. Section 3A Zoning Districts, paragraph 2, Village Residential District (VR), subparagraph C. Lot and Site Regulations, subdivision 5) Minimum Building Size is hereby amended to read as follows:

Minimum Building Size: Minimum building size or footprint of a principal structure shall be 1,000 square feet.

D. Section 3A Zoning Districts, paragraph 2, Village Residential District (VR), subparagraph H, Accessory Building is hereby amended to read as follows:

No accessory building shall be greater than 75 percent of the total square footage of the principal building and 75 percent of the height of the principal building, and shall comply with the front, rear and side setback requirements set forth for this district. Additional requirements for accessory buildings/structures are as follows:

- 1) When a principal building is either one story and/or less than 1,000 square feet in total floor area, an owner of the structure may building an accessory building up to one and a half stories and a total square footage of 100 percent of the principal building on the property.
- 2.) The maximum square footage of any accessory building/structure shall be 1,650 square feet for all principal buildings over 2,200 square feet and shall be measured according to appropriate calculations as defined by the New York State Building Code and Section 2 of this Zoning Ordinance.

E.The Use-Description in Section 3B - Schedule of Requirements – Land Use Tables as follows:

Retail commercial establishments limited to the following and similar uses: antique store, art gallery, art supply store, bakery, book store, camera store, clothing NP NP store, candy store, tobacco and cigarette store, florist, food store, gift shop, liquor store, office supply store, pharmacy, sporting goods store, variety store, personal services (see definition), establishments such as medical office, real estate, other business offices and/or related use

is hereby amended to exclude liquor store.

F. The Section 3B - Schedule of Requirements – Land Use Tables for Gasoline Service Station is hereby amended to read as follows:

USE DESCRIPTION	C	VR	LD	MD	HD	VC-1	VC-2	I	RMHD	USE
Gasoline service station	NP	NP	NP	NP	NP	S	NP	NP	NP	

G. Section 7 - Non-Conforming Buildings, Structures and Uses, paragraph 6, Restoration, Reconstruction, and/or Rehabilitation is hereby amended to read as follows:

A nonconformng building or structure damaged by fire, flood or other casualty to the extent of more than fifty (50) percent of its market value (market value shall be determined by dividing the assessed value by the equalization rate) shall only be repaired, rebuilt, restored, reconstructed or rehabilitated in conformity with the regulations of this zoning ordinance. However, if such repair, rebuild, restoration, reconstruction or rehabilitation commences

within six (6) months of a fire, flood or other casualty and such repair and restoration of the building or structure is completed within fifteen (15) months of the partial destruction, such non conforming building or structure may be restored to the original non-conforming condition. All damaged buildings or structures must be repaired within a period of fifteen (15) months from the date the damage occurred. All buildings or structures that are beyond repairable condition must be razed within thirty (30) days from when the damage occurred. Any repair and restoration that commences after fifteen (15) months from the date of destruction shall only be repaired, reconstructed or restored in conformance with the requirements and regulations of these zoning ordinances,

H. The introductory clause to Section 10 - Architectural and Landscape Review, paragraph 4, subparagraph A is hereby amended to read "Rear/Side Decks which meet the following criteria" and subparagraph 2) of subparagraph A is hereby amended to read as follows:

2.) The replacement of an existing rear/side deck that remains in the original footprint

I Section 10 - Architectural and Landscape Review, paragraph 4, subparagraph B 1) is hereby amended to read as follows:

1) New porches under or equal to 300 square feet.

J. Section 10 - Architectural and Landscape Review, paragraph 4, subparagraph E 4) is hereby amended to read as follows:

4) Does not exceed 1,000 square feet.

Subparagraph 6) shall be added to said subparagraph E to read as follows:

6) Contains no habitable space as defined by the New York State Building Code and Section 2 of this Zoning Local Law.

K. Section 10 - Architectural and Landscape Review, paragraph 5, subparagraph C 3) is hereby amended to read:

3) Exceeds 1,000 square feet in size and/or does not adhere to zoning district setback requirements.

Subparagraph 4) is hereby added to said subparagraph C to read as follows:

4) Includes an apartment or apartments

L. Section 10 - Architectural and Landscape Review, paragraph 5, subparagraph F 1) is hereby amended to read as follows:

1) New porches that exceed 300 square feet.

M. Section 10 – Architectural and Landscape Review, paragraph 5, subparagraph H 3) is hereby amended to read as follows:

3) Are located on the front of a structure or property.

N. The fourth sentence in the second paragraph of paragraph 9, Architectural Design Guidelines in Section 10 – Architectural and Landscape Review shall be amended to read as follows:

Exterior materials consist of horizontally coursed wood such as clapboards and shingles, brick, or natural stone.

O. Section 10 - Architectural and Landscape Review, paragraph 9, Architectural Design Guideline, subparagraph B, Prohibited Siding Materials, subparagraph 4) shall be amended to read as follows:

4) Simulated stone or brick, cultured stone or brick, synthetic stone products, pre-cast stone or block embedded with stone fragments, natural stone on buildings built prior to 1950;

P. Section 10 - Architectural and Landscape Review, paragraph 9, subparagraph C, Design Ornamentation is hereby amended by deleting subparagraph 2) Half timber stucco, and subparagraph 3) Match stick wood or other inlays.

Q. Section 11 - Historic Preservation, paragraph 2, Definitions is hereby amended by adding the following definition:

FOUR CORNERS - The public square laid out by Joseph Ellicott that is located at the intersection of Washington and Jefferson Streets, with each quadrant of the square originally designated as a public use. Buildings that occupy the square include the Town Hall, the Town Museum, the School House (1887 Building) and Saint John's Episcopal Church.

R. Section 11 – Historic Preservation, paragraph 5, Standards for Review, subparagraph E, Demolition is hereby amended by adding the following subparagraphs 1) and 2) and renumbering the existing subparagraphs 1), 2), 3), and 4) as subparagraphs 3), 4), 5), and 6) respectively:

- 1) No building(s) and/or structure(s) that are in fair, normal or excellent structural condition and/or appearance within the Historic District Overlay Zone shall be demolished for the purposes of developing a new building and/or structure.
- 2) A building or structure damaged by fire, flood or other casualty to the extent of less than fifty (50) percent of its market value (market value shall be determined by dividing the assessed value by the equalization rate) shall only be repaired, rebuilt, restored, reconstructed or rehabilitated to the original condition of the building and/or structure, and in conformity with the regulations of this zoning ordinance.

A building and/or structure damaged by fire, flood or other casualty to the extent of more than fifty (50) percent of its market value may be repaired, rebuilt, restored, reconstructed or rehabilitated to the original condition of the building and/or structure, and in conformity with the regulations of this zoning ordinance. The exterior of the building must be replaced

in-kind to match the original building façade. In the event the building and/or structure is damaged more than fifty (50) percent of the market value, demolition may be permitted in accordance with provisions of this Section and with other regulations of this zoning ordinance.

All damaged buildings or structures must be repaired within a period of fifteen (15) months from the date the damage occurred. In the event of a building and/or structure that is damaged by fire, flood or other casualty to the extent or more than fifty (50) percent of its market value in which a demolition is proposed, the building must be demolished within three (3) months of the issuance of a demolition permit

S. Section - Section 13 - Off Street Parking and Private Roadways, paragraph 2, Parking Lot Characteristics, subparagraph I, Special Parking Regulations is hereby amended by adding subparagraph 6) as follows:

6) A driveway permit shall be required for all new driveways and the replacement of existing driveways that either:

- * are replaced with new material(s)
- * are located on previously open space;
- * presently present a flooding issue with neighboring property,
- * and are located within a setback area as defined by the respective zoning district regulations.

T. The Zoning Map is hereby amended to rezone 11 Parkside Drive, 13 Parkside Drive, 15 Parkside Drive and that portion of 41 Mechanic Street on the east side of Elk Creek adjacent to 11 Parkside Drive from Village Residential (VR) District to Medium Density (MD) District. Also the Zoning Map is hereby amended to rezone 11-13 Elizabeth Street from Industrial District (I) to Medium Density (MD) District.

SECTION 5. Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.

Village of.....Ellicottville.....

Local Law No.2.....**of the year 2011**

A local law amending Local Law No. 2 of the year 2005 - Subdivision Regulations and Procedures for Subdivision Review,

Be it enacted by the.....Board of Trustees.....**of the**

Village of.....Ellicottville.....**as follows:**

SECTION 1 Article III - Design Standards, Section 1, Lots, Paragraph A. Design Requirements, Subparagraph 1 of Local Law No. 2 of the year 2005 is hereby amended to read as follows:

1. Subdivision of lands shall be subject to the provisions of Local Law No. 1 of 1994 entitled Flood Damage Prevention as incorporated into Section 17 - Flood Damage Prevention of Local Law No. 3 of 2009 - Zoning Local Law, and subdivision approval shall not be granted without compliance with the provisions of said Flood Damage Prevention Law,

SECTION 2. This local law shall take effect immediately.

Village ofEllicottville

Local Law No. 2 of the year 2012

A local law amending Local Law No. 3 of 2009 - Zoning Local Law as previously amended by Local Law No. 1 of the Year 2011.

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

LOCAL LAW NO. 2 OF THE YEAR 2012

A local law amending Local Law No. 3 of 2009 – Zoning Local Law as previously amended by Local Law No. 1 of the Year 2011.

SECTION 1. SEQR Determination. The Village Board of Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on February 13 , 2012.

SECTION 2. Application. This local law shall apply to all areas of the Village of Ellicottville.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect within such part or parts.

SECTION 4. Amendments to the Zoning Law. The following amendments to Local Law No. 3 of the year 2009 of the Village of Ellicottville as amended by Local Law No. 1 of the Year 2011 are hereby enacted:

- A. The definition of ACCESSORY USE in Section 2 - Definitions, paragraph 2 is hereby amended to read as follows:

ACCESSORY USE: A use that (1) is subordinate in area, extent, and purpose to the principal use and clearly incidental to and customarily found in connection with the principal building; (2) contributes to the comfort, convenience, or necessity of the principal use; and (3) is located on the same lot as the principal use or on a contiguous lot under the same ownership.

- B. The definition of GUEST HOUSE in Section 2 – Definitions, paragraph 2 is hereby deleted.
- C. Section 3A - DISTRICTS AND REGULATIONS, ZONING DISTRICTS is hereby amended by adding paragraph 12. Village Commercial District – 3 (VC-3) as follows:

12. Village Commercial District - 3 (VC-3)

A.Purpose

To allow for the reuse of a former industrial building located at 11-13 Elizabeth Street (Tax ID 55.027-2-6.1) for less intensive retail service, commercial, recreational, residential, light industrial and institutional purposes with customary accessory uses to enhance and foster the continuation of the visual character, scale, and vitality of the Village, to provide for those trades and service uses that may be compatible in scale or use with Village infrastructure and municipal services, and to encourage the preservation of existing structures within the District.

This Village Commercial District - 3 (VC-3) is distinguished from the Village Commercial District - One (VC-1) and the Village Commercial District - Two (VC-2) and in that the focus of this district is not on the immediate area of the Village central business district or the fringe area that transitions towards the residential districts of the Village, but a former industrial area within the Medium Density and Village Residential Districts, that provides for the opportunity to reuse an existing building and provide an area for businesses not traditionally located in the other commercial districts of the Village. Provisions of these Codes will continue to encourage and support any future low intensity retail, commercial, recreation, residential, institutional, light industrial and support services within the building.

Legal Description of Village Commercial District - 3 (VC-3)

All that tract or parcel of land situate in the Village of Ellicottville, County of Cattaraugus and State of New York and being a part of Lots 93 & 94, Town 4 and Range 6 of the Holland Land Company's Survey and being further bounded and described as follows:

Beginning at a point located 329.75' southwesterly from the southwesterly bounds of Fillmore Drive as measured parallel with Elizabeth Street and 330.31' northwesterly from the northwesterly bounds of Elizabeth Street as measured parallel with Fillmore Drive; thence southwesterly, parallel with Elizabeth Street, a distance of 124.00' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 57.31' to a point; thence southwesterly, parallel with Elizabeth Street, a distance of 132.00'to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 83.25' to a point; thence southwesterly, parallel with Elizabeth Street, a distance of 330'to a

point on the centerline of Elk Creek; thence northwesterly, along the centerline of Elk Creek, a distance of 692'E to a point; thence northeasterly, parallel with Elizabeth Street, a distance of 566'+ to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 463.40' to a point; thence northeasterly, parallel with Elizabeth Street, a distance of 329.75' to a point on the southwesterly bounds of Fillmore Drive; thence southeasterly, along the southwesterly bounds of Fillmore Drive, a distance of 50.00'to a point; thence southwesterly, parallel with Elizabeth Street, a distance of 329.75' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 36.60' to the point and place of beginning. Containing 8.8 acres of land.

B. Special (Conditional) Uses

Uses shall be limited to only those uses shown as Special (Conditional) Uses in this district zone. All other uses are Not Permitted. The following uses are Special (Conditional) Uses:

-Low Intensity Retail uses such as antique stores, art galleries, bakeries, bookstores, florists, hunting/fishing stores, office supply stores, nurseries, catering businesses and wellness/organic food stores.

-Professional Offices such as medical, dental, business and other professions such as attorney, engineer, surveyor, etc.

-Apartments that are a minimum of 550 square feet.

-Construction related Retail Establishments such as hardware store, lumber supply store, home improvement showrooms, HVAC/electrical/plumber suppliers, and building/construction supplies. Lumber may be stored outside with appropriate screening

-Light Industrial/Manufacturing (with no emissions) uses such as the fabrication of wood products, silk screening, assembly of household goods, printing/publishing, home/garden/farm supplies, and craftsman/artisan-related businesses.

-Indoor Recreational uses such as bowling alleys, arcades, youth

centers, health spas, athletic clubs, performing arts centers, skating rinks, gymnasiums, and tennis courts.

-Other Uses including youth centers, daycare/childcare centers, college satellite campuses, indoor self storage, and sit down/ take-out restaurants with bar (beer and wine).

C. Prohibited Uses

Any use not specifically designated in Section 3A-12.B as a Special (Conditional) Use is a prohibited use.

D. Lot and Site Regulations

Projects shall be subject to the New York State Building Code and the following:

- 1) Buffers: A fifty (50) foot buffer shall be required from parking lots and road to residential zones.
- 2) Usable Open Space: At least 20 % of the total site area shall be devoted to usable open space.
- 3) Vehicular Access: Vehicular access to the site shall only be permitted from Fillmore Drive. Access for pedestrian and non-motorized transportation modes shall be allowed at additional streets that bound the property in accordance with Village regulations.

E. Storage Within Enclosed Building(s)

All storage shall be within the existing building,

F. Loading Areas

Off-street loading and trash storage area shall be located in appropriate locations. Vehicular access across sidewalks is prohibited in this zone.

G. Uses to be Within Enclosed Building

All uses except outdoor dining and storage of lumber/ shall be conducted wholly within a completely enclosed building except that the Planning Board may permit outdoor uses which it determines are in the best interest of this district.

H. Off-Street Parking

A total of 3.5 off-street parking spaces per 1,000 square feet shall be required, with dimensions as provided in Section 13.

I. Apartments/Lockout Rooms

Apartments/lockout rooms available for nightly, weekly and/or longer period rental are permitted in this zone through Special (Conditional) Use permit review and approval by the Village Planning Board. An apartment shall have a minimum of 550 square feet.

J. Architectural Design Review

All exterior remodeling and modifications of existing structures shall be subject to architectural control and review in accordance with the provision of Section 10 of this Local Law.

K. Site Plan Review

Existing structures proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of this Local Law.

L. Drive-Through (Drive-Thru) Establishments

Any drive-through restaurant establishment or commercial business which provides the sale of goods or delivery of services directly to patrons while seated in motor vehicles located on the premises in this district is prohibited.

D. The Use - Description in Section 3B - Schedule of Requirements – Land Use Tables is amended as follows:

1) The Use - Description Accessory building and uses is hereby amended to exclude the words "building and" so that it reads Accessory uses.

2) The USE – DESCRIPTION Accessory building is hereby added and shall be a Permitted Use in the Conservation District (C), Village Residential District (VR), Residential Development District – Low Density (LD), Residential Development District - Medium Density (MD), High Density Residential District (HD), and Industrial Zone (I) and a Special (Conditional) Use Permit (S) in Village Commercial District - Two (VC-2) and Residential Mobile Home District (RMHD) and Not Permitted in Village Commercial District - One (VC 1).

3) The Use - The Use – Description Guest house is hereby deleted from Section 3B.

4) The Use – Description Home occupations shall be Not Permitted in the Village Commercial District - One (VC-1) and shall remain Special (Conditional) Use Permit (S) in the Conservation District (C), Village Residential District (VR), Residential Development District - Low Density (LD), Residential Development District - Medium Density (MD), High Density

Residential District (HD), Village Commercial District – Two (VC-2), and Residential Mobile Home District (RMHD) and remain Not Permitted in the Industrial Zone (I).

5) The Use – Description Home Retail & Service Trade shall be Not Permitted in the Conservation District (C), Village Residential District (VR), Residential Development District - Low Density (LD), Residential Development District - Medium Density (MD), Village Commercial District - One (VC-1), and Residential Mobile Home District (RMHD) and shall remain Special (Conditional) Use Permit (S) in the High Density Residential District (HD), Permitted Use in Village Commercial District - Two (VC-2) and Not Permitted in the Industrial Zone (I).

6) The following Use – Description:

Retail commercial establishments limited to the following and similar uses: antique store, art gallery, art supply store, bakery, book store, camera store, clothing store, candy store, tobacco and cigarette store, florist, food store, gift shop, office supply store, pharmacy, sporting goods store, variety store, personal services (see definition), establishments such as medical office, real estate, other business offices and/or related use

is hereby amended to include financial institution, tailoring & shoe repair, liquor store and be further amended to be Not Permitted in the Industrial Zone (I) and remain Not Permitted in the Conservation District (C), Village Residential District (VR), Residential Development District – Low Density (LD), Residential Development District – Medium Density (MD), and Residential Mobile Home District (RMHD) and remain a Permitted Use in the High Density Residential District (HD), Village Commercial District - One (VC-1) and Village Commercial District - Two (VC-2).

7) The following Use – Description:

Retail commercial establishments limited to the following and similar uses: plant nursery stock production and sales; and service commercial establishments limited to the following and similar uses: auto rental customer outlet, business office, financial institutions, handicraft production, personal services (see definition) and department store

is hereby amended to delete auto rental customer outlet, business office, financial institutions, handicraft production, personal service (see definition), and department store, and is further amended to include antique store, industrial business office, mortuary and animal hospital.

8) The following Use – Description:

Service commercial establishments limited to the following and similar uses: catering service, mortuary, animal hospital, tailoring and shoe repair, radio or television broadcast facility

is hereby deleted from Section 3B.

9) The following Use - Description:

Service commercial establishments limited to the following and similar uses: automobile repairing and car washing, bulk dry cleaning and laundry, transportation services, trucking services, product assembly, auto rental, or storage lot, wholesale business

is hereby amended to delete automobile repairing and, transportation services, trucking services, and auto rental.

10) The following Use – Description:

Restaurants, including restaurants with outdoor dining, bars, taverns, fraternal organization

is hereby amended to read as follows:

Restaurants (including catering and outdoor dining), bars, taverns, fraternal organization

and is further amended to be Not Permitted in the Industrial Zone (I), and shall be Not permitted in the Conservation District (C), Village Residential District (VR), Residential Development District - Low Density (LD), Residential Development District – Medium Density (MD), and Residential Mobile Home District (RMHD) and Special (Conditional) Use Permit (S) in the High Density Residential District (HD), Village Commercial District – One (VC-1) and Village Commercial District – Two (VC-2).

11) The following Use – Description:

Bar, tavern, liquor store, fraternal organization

is hereby deleted from Section 3B.

12) The following Use – Description:

Hotel, motel, inn, with 16 or more rooms available for rent

shall be amended to be Not Permitted in the Industrial Zone (I) and shall remain Not Permitted in Conservation District (C), Village Residential District (VR), Residential Development District - Low Density (LD), Residential Development District – Medium Density (MD), and Residential Mobile Home District (RMHD) and shall remain Special (Conditional) Use Permit (S) in the High Density Residential District (HD), Village Commercial District - One (VC-1) and Village Commercial District - Two (VC-2).

13) The following Use - Description:

Hotel, motel, inn, with fewer than 16 rooms available for rent

shall be amended to be Not Permitted in the Industrial Zone (I) and shall remain Not Permitted in Conservation District (C), Village Residential District (VR), Residential Development District - Low Density (LD), Residential Development District – Medium Density (MD), and Residential Mobile Home District (RMHD) and Special (Conditional) Use Permit (S) in the High Density Residential District (HD), Village Commercial District - One (VC-1) and Village Commercial District – Two (VC-2).

E. Section 16 – Miscellaneous Requirements, paragraph 9. Demolition of Buildings and Structures is hereby amended by adding the following subsection G as follows:

G. Demolition in Village Residential (VR) District

- 1) No building(s) and/or structure(s) that are in fair, normal or excellent structural condition and/or appearance within the Village Residential (VR) District shall be demolished for the purposes of developing a new building and/or structure.
- 2) A building or structure damaged by fire, flood or other casualty to the extent of less than fifty (50) percent of its market value

(market value shall be determined by dividing the assessed value by the equalization rate) shall only be repaired, rebuilt, restored, reconstructed or rehabilitated to the original condition of the building and/or structure, and in conformity with the regulations of this zoning ordinance.

A building and/or structure damaged by fire, flood or other casualty to the extent of more than fifty (50) percent of its market value may be repaired, rebuilt, restored, reconstructed or rehabilitated to the original condition of the building and/or structure, and in conformity with the relations of this zoning ordinance. The exterior of the building must be replaced in-kind to match the original building facade. In the event the building and/or structure is damaged more than fifty (50) percent of the market value, demolition may be permitted in accordance with provisions of this Section and with other regulations of this zoning ordinance.

All damaged buildings or structures must be repaired within a period of fifteen (15) months from the date the damage occurred. In the event of a building and/or structure that is damaged by fire, flood or other casualty to the extent of more than fifty (50) percent of its market value in which a demolition is proposed, the building must be demolished within three (3) months of the issuance of a demolition permit.

Demolition may be permitted only after the developer of the site has submitted and obtained approval for his/her plans for new development, including Planning Board approval for new construction, including an acceptable timetable and guaranties which may include performance bonds for demolition and completion of the project. In no case shall the time between demolition and the commencement of new construction exceed six months. No structure may be demolished unless the Planning Board finds that:

- a) Preservation of the structure is not warranted under general standards set forth in this section; or
- b) The structure is deteriorating and that the owner has demonstrated that he/she cannot economically afford to preserve the structure; and has offered to sell the parcel upon which the structure is located and has been unable to find a purchaser at the fair market value who would agree to preserve the structure on the parcel. If the Planning Board finds that the structure should be preserved it may, notwithstanding the demonstration made by the owner, withhold approval of demolition for a period not exceeding one year from the date of the application for a demolition permit. If, during that period, the owner, the Planning Board or other interested parties are able to obtain sufficient financial assistance to preserve the structure or a purchaser at the fair market

value who will agree to preserve the structure on the parcel, the Planning Board shall deny a permit to demolish the structure. For purposes of this subsection, "economically afford" means, in the case of a single-family or two-family owner-occupied house, an inability to preserve the structure without financial hardship; in the case of rental or commercial property, an inability to earn a reasonable return on the property if the structure is preserved; in the case of property owned and used by a nonprofit organization, an inability to preserve the structure without financial hardship. Preservation of a structure includes such additions or other alterations as are permissible in the District.

- 4) Moving of structures or buildings may be permitted as an alternative to demolition.
- 5) Issuance of permit for demolition of architecturally significant structures requires the following:
 - a) The Applicant shall provide, with the application, a detailed site reuse plan.
 - b) A thirty (30) day waiting period between the time a demolition application is submitted and a permit is issued.
 - c) Review by the Planning Board and issuance of a Certificate of Approval.
 - d) Signs to be posted for a period of no less than fifteen (15) days on all buildings targeted for demolition.

Paragraph 9. Demolition of Buildings and Structures is hereby further amended by relettering the current subparagraph G. Permit Time Limit to be subparagraph H. Permit Time Limit, and subsequent subparagraphs to be relettered I., J., K., L., and M.

F. The Zoning Map is hereby amended to rezone the following portion of 9 E. Washington Street as Village Commercial District - One (VC-1):

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Ellicottville, County of Cattaraugus and State of New York, being part of Lot No. 1, Township 4, and Range 6 of the Holland Land Company's Survey, bounded and described as follows:

COMMENCING at a point in the southerly line of Washington Street (66 feet wide), distant easterly 302.50 feet, more or less, as measured along the southerly line of Washington Street, from the point of intersection of said southerly line of Washington Street with the easterly line of Mill Street (50 feet wide), said point of commencement also being, and intending to be, the northeast corner of lands conveyed to Gregory J. Zaepfel by deed recorded on October 8, 2010

as Instrument No. 147968-001;

THENCE southerly, at an exterior angle of 77° 00'00", more or less, with the said southerly line of Washington Street, and along the easterly line of lands of Gregory J. Zaepfel as conveyed by the aforesaid deed, a distance of 108.50 feet, more or less, to the southeast corner of said lands of Gregory J. Zaepfel and being the TRUE POINT AND PLACE OF BEGINNING;

THENCE continuing southerly, along the extension southerly of the said easterly line of lands of Gregory J. Zaepfel, a distance of 181.50 feet, more or less, to the center line of Great Valley Creek;

THENCE easterly, along the center line of Great Valley Creek to a point in a line drawn parallel with and 62 feet easterly therefrom as measured on a line drawn parallel to East Washington Street;

THENCE northerly, along the aforesaid parallel line, a distance of 181.50 feet, more or less;

THENCE westerly and parallel to East Washington Street, a distance of 62.00 feet to the TRUE POINT AND PLACE OF BEGINNING.

BEING AND INTENDING TO BE, the southerly portion of those lands conveyed to Phillip J. DiFrancesco and Patricia A. DiFrancesco, husband and wife, by Deed recorded on October 19, 2009 as Instrument No. 129428-001 which lie south of a line drawn parallel to the southerly line of East Washington Street and 108.50 feet southerly therefrom as measured along the westerly line of said DiFrancesco's lands.

G. The Zoning Map is hereby amended to rezone the following portion of 11-13 Elizabeth Street as Village Commercial District – 3 (VC-3):

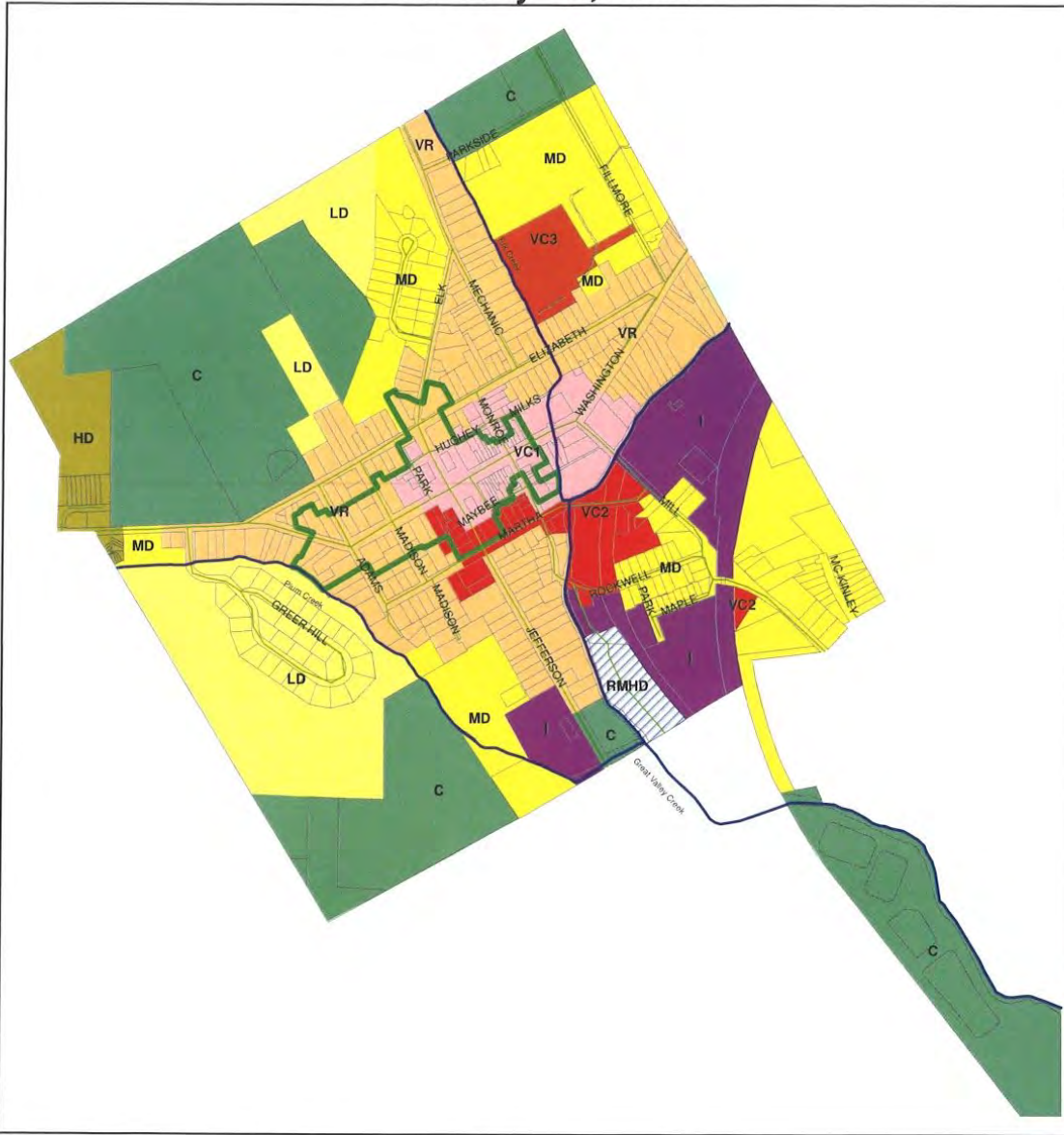
All that tract or parcel of land situate in the Village of Ellicottville, County of Cattaraugus and State of New York and being a part of Lots 93 & 94, Town 4 and Range 6 of the Holland Land Company's Survey and being further bounded and described as follows:

Beginning at a point located 329.75' southwesterly from the southwesterly bounds of Fillmore Drive as measured parallel with Elizabeth Street and 330.31' northwesterly from the northwesterly bounds of Elizabeth Street as measured parallel with Fillmore Drive; thence southwesterly, parallel with Elizabeth Street, a distance of 124.00' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 57.31' to a point; thence southwesterly, parallel with Elizabeth Street, a distance of 132.00' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 83.25' to a point; thence southwesterly, parallel with Elizabeth

Street, a distance of 330' to a point on the centerline of Elk Creek; thence northwesterly, along the centerline of Elk Creek, a distance of 692' to a point; thence northeasterly, parallel with Elizabeth Street, a distance of 566' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 463.40' to a point; thence northeasterly, parallel with Elizabeth Street, a distance of 329.75' to a point on the southwesterly bounds of Fillmore Drive; thence southeasterly, along the southwesterly bounds of Fillmore Drive, a distance of 50.00' to a point; thence southwesterly, parallel with Elizabeth Street, a distance of 329.75' to a point; thence southeasterly, parallel with Fillmore Drive, a distance of 36.60' to the point and place of beginning. Containing 8.83 acres of land.

SECTION 5. Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.

Village of Ellicottville Zoning Map February 13, 2012



Legend

- Creeks
- Streets
- Parcels
- Historic District Boundary

Zoning Districts

Classification

- Conservation
- High Density Residential

Note: This Zoning Map does not show the boundaries of the 100-year Flood Plain (Special Flood Hazard Area - SFHA) or the Floodway areas. Flooding can occur from the following sources: Great Valley Creek, Plum Creek, and Elk Creek.

The SFHA and Floodway boundaries are overlays to the existing zoning map. There are additional restrictions to development within these areas. Please refer to the following documents for official boundaries of the SFHA and Floodway:



Village of Ellicottville
Local Law No. 2 **of the year 2014**

A local law amending Local Law No. 3 of 2009 – Zoning Local Law amended by Local Law No. 1 of the Year 2011 and Local Law No. 2 of the Year 2012.

Be it enacted by the Board of Trustees..... **of the**
Village of Ellicottville **as follows:**

LOCAL LAW NO. 2 OF THE YEAR 2014

A local law amending Local Law No. 3 of 2009 – Zoning Local Law as previously amended by Local Law No. 1 of the Year 2011 and Local Law No. 2 of the Year 2012.

SECTION 1. SEQR Determination. The Village Board of Trustees of the Village of Ellicottville determined, as lead agency pursuant to the State Environmental Quality Review Act (SEQR), that passage of this local law will not have a significant effect on the environment and thereby issued a negative declaration on April 14, 2014.

SECTION 2. Application. This local law shall apply to the areas of the Village of Ellicottville set forth herein.

SECTION 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law which can be given effect within such part or parts.

SECTION 4. Amendments to the Zoning Law. The following amendments to Local Law No. 3 of the year 2009 of the Village of Ellicottville as amended by Local Law No. 1 of the Year 2011 and Local Law No. 2 of the Year 2012 are hereby enacted:

A. Section 3A - DISTRICTS AND REGULATIONS, ZONING DISTRICTS is hereby amended by adding paragraph 13. Village Commercial District - 3A (VC-3A) as follows:

13. Village Commercial District - 3A (VC-3A)

A. Purpose

To allow for the reuse of a former industrial/manufacturing building located at 16 Martha Street (Tax ID 55.036-2-36) for residential apartments as well as less intensive retail service uses to enhance and foster the continuation of the visual character, scale, and vitality of the Village, to provide for those trades and service

uses that may be compatible in scale or use with Village infrastructure and municipal services, and to encourage the preservation of existing structures within the District

This Village Commercial District - 3A (VC-3A) is distinguished from the Village Commercial District - One (VC-1) and the Village Commercial District - Two (VC 2) in that the focus of this district is not on the immediate area of the Village central business district, but a former manufacturing area within the Village Commercial 2 District that provides the opportunity to reuse an existing building and provide an area for residences and businesses that normally could not be coexistent in the VC-2 District. Provisions of these Codes will continue to encourage and support any future residential and low intensity retail/office within the building.

Legal Description of Village Commercial District – 3A (VC-3A)

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town and Village of Ellicottville, County of Cattaraugus and State of New York, being part of Lot 32, Township 4, Range 6 of the Holland Land Company's survey, bounded and described as follows:

Beginning at a point in the Centerline of Martha Street at its intersection with the West Bounds of Formerly Baltimore and Ohio Railroads, said point being the POINT OF BEGINNING;

thence $87^{\circ}36'21''W$, a distance of 169.48 feet; thence $583^{\circ}24'50''W$, a distance of 2.58 feet; thence $S04^{\circ}13'58''E$, a distance of 223.97 feet; thence $N85^{\circ}46'02''E$, a distance of 59.18 feet; thence $S03^{\circ}37'36''E$, a distance of 176.79 feet; thence $N86^{\circ}22'24''E$, a distance of 66.98 feet to the point of curve of a non tangent curve to the right, of which the radius point lies $N85^{\circ}31'28''E$, a radial distance of 1,612.39 feet; thence northerly along the arc, through a central angle of $14^{\circ}12'51''$, a distance of 400.01 feet to the POINT OF BEGINNING.

Containing 1.04 acres, more or less

B. Special (Conditional) Uses

Uses shall be limited to only those uses shown as Special (Conditional) Uses in this district zone and within an existing building. All other uses are Not Permitted.

The following uses are Special (Conditional) Uses:

- Apartments that are a minimum of 550 square feet, including apartments/lockout rooms available for nightly, weekly and/or longer period rental.
- Low Intensity Retail uses such as antique stores, art galleries, bakeries, bookstores, florists, hunting/fishing stores, office supply stores, catering businesses and wellness/organic food stores.
- Professional Offices such as medical, dental, and other licensed professions such

as attorney, engineer, and surveyor.

C. Prohibited Uses

Any use not specifically designated in Section 13 B, as a Special (Conditional) Use is a prohibited use.

D. Lot and Site Regulations

Projects shall be subject to the New York State Building Code and the following:

- 1) Buffers: All buffers will adhere to the VC-2 zoning district and shall be required from parking lots and roads to residential zones.
- 2) Usable Open Space: At least 20 % of the total site area shall be devoted to usable open space.
- 3) Vehicular Access: Access for pedestrian and non-motorized transportation modes shall be in accordance with Village regulations.

E. Storage Within Enclosed Building(s)

All storage shall be within the existing building.

F. Loading Areas

Off-street loading and trash storage area shall be located in appropriately screened locations. Vehicular access across sidewalks is prohibited in this zone.

G. Uses to be Within Enclosed Building

All uses shall be conducted wholly within a completely enclosed building except that the Planning Board may permit outdoor uses which it determines are in the best interest of this district.

H. Off-Street Parking

Parking requirements shall be in accordance with Section 13 of these Codes.

I. Architectural Design Review

All exterior remodeling and modifications of existing structures shall be subject to architectural control and review in accordance with the provision of Section 10 of

these Codes.

J. Site Plan Review

Existing structures and parking lots proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes.

B. The Zoning Map is hereby amended to set forth Village Commercial District – 3A (VC 3A) as heretofore described and to rezone the following portion of 16 Martha Street as Residential Development District - Medium Density (MD):

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town and Village of Ellicottville, County of Cattaraugus and State of New York, being part of Lot 32, Township 4, Range 6 of the Holland Land Company's survey, bounded and described as follows:

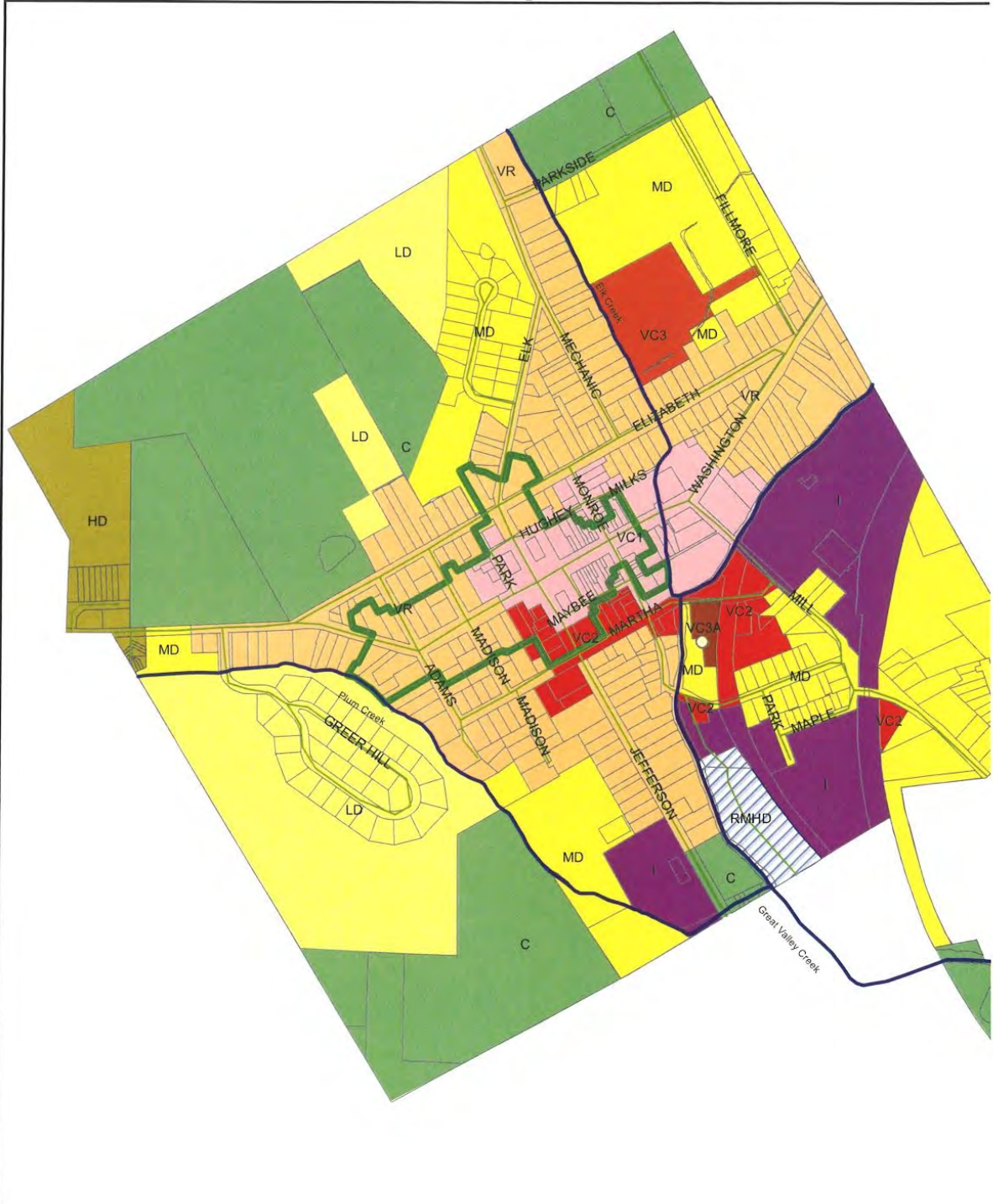
Commencing at a point in the Centerline of Martha Street at it's intersection with the West Bounds of Formerly Baltimore and Ohio Railroads; thence S87°36'21"W along the Centerline of Martha Street, a distance of 169.48 feet; thence 583°24'50"W, a distance of 2.58 feet to the POINT OF BEGINNING; thence S04°13'58"E, a distance of 223.97 feet; thence N85°46'02"E, a distance of 59.18 feet; thence S03°37'36"E, a distance of 176.79 feet; thence N86°22'24"E, a distance of 66.98 feet to the point of curve of a non tangent curve to the left, of which the radius point lies N85°31'28"E, a radial distance of 1,612.39 feet; thence southerly along the arc, through a central angle of 08°03'29", a distance of 226.76 feet to the point of curve of a non tangent curve to the right, of which the radius point lies N08°05'20"W, a radial distance of 241.16 feet; thence westerly along the arc, through a central angle of 28°54'16", a distance of 121.66 feet; thence N68°59'10"W, a distance of 124.63 feet; thence N00°40'11"E, a distance of 552.38 feet; thence N83°24'50"E, a distance of 42.72 feet to the POINT OF BEGINNING.

Containing 1.76 acres, more or less.

SECTION 5. Effective Date. This local law shall take effect upon filing in the office of the Secretary of State.

Village of Ellicottville Zoning Map

April 14, 2014



Village of Ellicottville
Local Law No. 2 of the year 2018

A local law Amending Local Law # 1 of the year 1964 as amended from Time to Time

Be it enacted by the Village Board of the
Village of Ellicottville..... as follows:

LOCAL LAW NO. 2-2018
A LOCAL LAW AMENDING LOCAL LAW ENTITLED “ZONING
LOCAL LAW”, AS AMENDED

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board (“Board”) of the Village of Ellicottville, New York (“Village”) as follows:

Article 1. *Statement of Purpose.* The Board finds that it is in the best interests of the Village and its residents to amend certain sections of the Village's Zoning Local Law.

Article II. *County Referral* Pursuant to the provisions of Gen. Mun. Law § 239-m, the Cattaraugus County Planning Board has recommended and approved the amendment of the Village of Ellicottville Zoning Law as set forth here.

Article III. *State Environmental Quality Review.* The Board has complied with all applicable provisions of the State Environmental Quality Review Act (SEQRA) prior to its adoption.

Article IV. *Zoning Law Amendment.* The Village of Ellicottville Zoning Law, adopted on October 27, 2009 and effective December 1, 2009, is amended as follows:

SECTION 2 – DEFINITIONS

3-D VIRTUAL DESIGNED PRODUCTS: High tech electronic /software environment for design. In such environments production is simply coding/algorithms and 3D printing.

FLOOR AREA RATIO (FAR): The total floor area of the principal building on a lot divided by the total area of the lot. FAR is a measure often used to determine the intensity of the land use for a zoning district.

SECTION 3A – DISTRICTS & REGULATIONS

6. Accessory Building Square Footage and Height Requirements

With the exception of the Village Residential District and Residential Development District Medium Density (See Section 3A-2.H and 3A-4.I. for specific requirements in these districts), no accessory buildings allowed in other zoning districts under this Section shall exceed 60 percent of the principal structure's square footage.

H. Accessory Building

The total of all accessory buildings on a residential property shall not be greater than 70 percent of the total square footage of the principal building and 75 percent of the height of the principal building, and shall comply with the front, rear and side setback requirements set forth for this district. There shall be no more than two (2) accessory buildings on a residential property. Additional requirements for accessory buildings/structures are as follows:

I. Accessory Building

No accessory building shall be greater than 70 percent of the total square footage of the principal building and 75 percent of the height of the principal building, and shall comply with the front, rear and side setback requirements set forth for this district. The maximum square footage of any accessory building/structure shall be 1,650 square feet for all principal buildings over 2,200 square feet and shall be measured according to appropriate calculations as defined by the New York State Building Code and Section 2 of this Zoning Ordinance.

6. Floor Area Ratio: Not applicable.

7. Open Space: With the exception of properties that are located within the Village Historic Overlay District, at least 20% of the total site area shall be devoted to usable open space.

14. Four Corners District Overlay Zone (FC)

A. Policy and Purpose

As the cornerstone for the historic layout of the Village of Ellicottville, the Four Corners public square contains green space and historic buildings that represents the beginnings of the Village. This area is a point of considerable

importance to the overall character of the community and therefore the Village wishes to protect the existing buildings and green space while also guiding any future redevelopment and new uses that may potentially occur in these buildings.

B. Four Corners Zone

A geographically definable area within the Village of Ellicottville so designated pursuant to this Code. The Four Corners Zone is illustrated on the Zoning Map adopted as an element of these Codes.

C. Four Corners Zone Location and Boundaries

The Ellicottville Four Corners Zone is located at the core of the incorporated Village of Ellicottville in the Historic District Overlay Zone. It is located at the intersection of Washington and Jefferson Streets in the public square laid out by Joseph Ellicott, with each quadrant of the square originally designated as a public use. Buildings that occupy the square include the Town Hall, the Town Museum the School House (1887 Building) and Saint John's Episcopal Church.

D. Uses Subject to Design Review

All uses within the Four Corners Zone, Permitted and Special (Conditional), are subject to design review by the Historic District Commission (HDC) or, in the absence of, the Village Planning Board for compliance with the Historic Preservation standards (Section 11) adopted by the Village of Ellicottville as an element of this Code. Those guidelines are incorporated into this Code by reference, but may be revised and amended from time to time by resolution of the Village Board of Trustees. Review by the Historic District Commission (Planning Board), in addition to matters of design compliance, may include functional review of uses within the Four Corners District subject to the provisions of Site Plan Review, Permitted or Special Use (Conditional Use) Permit Review or other provisions of this Code.

E. Special Use (Conditional Use) Review

Special Uses (Conditional Uses) within the Four Corners Zone are subject to review by the Historic District Commission (Planning Board), with the right of appeal to the Zoning Board of Appeals (ZBA). The standards for review are set forth in this Code (Section 11) but additional review standards may be adopted by resolution of the Village Board of Trustees, provided that resolution is consistent with the provisions of this Code.

F. Permitted Use Review

All uses that are designated permitted uses within the Four Corners District Overlay Zone (as listed under the Village Commercial One District) shall be considered special use (conditional use) subject to Section 5 of this Code and shall require review by the Historic District Commission (Planning Board). The standards of review are set forth in this Code (Section 11) but additional review standards may be adopted by resolution of the Village Board of Trustees, provided that resolution is consistent with the provisions of this Code.

Permitted uses are broken down by each quadrant:

1. Village/Town Hall Quad: apartments, condominiums, light retail and civic uses
2. Museum/Post Office Quad: light retail and civic uses
3. 1887 Building Quad: condominiums
4. Church Quad: civic, light retail and single family dwelling

G. Other Review

Design or other use proposals within a subdivision may be subject to extensive design regulation covenants within the subdivision covenants, conditions and restrictions. The Village does not attempt to enforce those private covenants, but strongly advises property owners to investigate those covenants prior to incurring the expense of designing a structure.

H. Architectural Design Review

All exterior remodeling and modifications of existing structures shall be subject to architectural control and review in accordance with the provision of Section 10 and 11 of these Codes.

I. Site Plan Review

All structures proposed for substantial improvement (see Definitions) shall be subject to Site Plan Review as specified by Section 6 of these Codes,

J. State Environmental Quality Review Act (SEQRA)

Must be complied with when a state or local agency has discretionary authority over an action, such as the issuance of a certificate of appropriateness (certificate

of approval). When historic resources could be affected by an action governed by SEQRA, the thresholds for classification and examining the action may be stricter. An “unlisted action” which occurs within or substantially contiguous to a registered property or a property which has been nominated for the National Register or State List, will be considered a “Type I” action under SEQRA. Type I actions are more likely to require the preparation of an environmental impact statement (EIS), as well as undergo coordinated review. For example, a local government that has site plan review authority over a property that is listed or “substantially contiguous” to a property listed on the State or National Register of Historic Places may also consider the environmental impact upon the listed property.

SECTION 3B - SCHEDULE OF REQUIREMENTS - LAND USE TABLES

USE - DESCRIPTION	C	VR	LD	MD	HD	VC-1	VC-2	I	RMHD
3-D Virtual Designed Products	NP	NP	NP	NP	NP	S	S	P	NP

SECTION 16 - MISCELLANEOUS

14. Outdoor Lighting Requirements

A. Intent and Purpose

The Village of Ellicottville is located in a rural area, where one aesthetic characteristic is the ability to see a dark, star-filled night sky. This is a natural resource that should be preserved for the enjoyment of both residents and visitors to the Village. It is the primary purpose of this section of this Law to enact requirements that will help to preserve the night sky.

Additional purposes of this section are:

- 1) to permit reasonable uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment and commerce; and
- 2) to minimize glare, obtrusive light and artificial sky glow by limiting outdoor lighting that is misdirected, excessive or unnecessary; and
- 3) to promote illumination levels that are appropriate for the type of activity that will occur on a site; and
- 4) to reduce over-lighting of an area by encouraging the reasonable uniformity of illumination levels; and
- 5) to conserve energy resources to the greatest extent possible.

B. Applicability

These outdoor lighting standards shall apply to all development that requires discretionary approval from the Village, including Master Planned Developments, Special Use Permits, and Site Plan Review. However, the following types of lighting and activities shall be exempt from these regulations:

- 1) Lighting required by the FAA and other regulatory agencies for health and safety purposes.
- 2) Holiday lighting
- 3) Temporary lighting for theatrical, television and performance areas,
- 4) Flag up-lighting, provided any such flag is not used for commercial advertising purposes, and has a fixture as close to the pole as possible and has a light source that emits a narrow beam of light. The light source must be recessed within a fixture with an opaque shield so that, as designed and installed, the light fixture projects all its light above the horizontal plane and is aimed directly at the flag. The light source must not be visible across the property line;
- 5) All temporary emergency lighting needed by fire, ambulance, or police departments, or other emergency services;
- 6) Municipal street lighting;

C. Standards

1) General Standards

The following standards shall apply to all exterior lights within the Village:

- a) Exterior lighting and fixtures for building illumination shall blend with the architectural design
- b) Electrical service to outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on utility poles.
- c) All outdoor lighting shall be located to minimize glare and light trespass onto adjacent and neighboring properties. Only the amount of illumination needed to do the job shall be used.
- d) To the maximum extent feasible, cut-off style fixtures meeting IESNA standards shall be installed.
- e) To the maximum extent feasible, security lighting should meet IESNA cut-off requirements. If non-cut-off fixtures are used, the Planning Board may require that they be motion sensor lights that turn on only when intruders are detected.
- f) Swivel-mounted luminaires are prohibited.
- g) Lighting for internal pedestrian walkways (not including sidewalks on public roads that are illuminated by street lights) and park areas, if any, shall be at a pedestrian scale. Bollard lighting may be appropriate.

- h) To control light trespass onto adjacent properties, the maximum illumination, when measured at a point five feet within the adjacent property line at a height of five feet and facing the light fixture(s), shall be no greater than 0.1 foot-candles.

2) Building Façades

- a) Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the building façade. Lighting fixtures shall not be directed toward adjacent streets or roads.
- b) To the extent practicable, lighting fixtures shall be directed downward (i.e. below the horizontal) rather than upward.
- c) Lighting under canopies, including gasoline station canopies

Light fixtures mounted under roof overhangs and canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (soffit) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85% from vertical.

4) Signs

- a) Ground signs are encouraged to be illuminated only with down-shielded lights installed above the sign.
- b) Lighting for signs shall be kept to the minimum needed to read the signs
- c) Internally illuminated (back illuminated) signs are prohibited.

5) Permitted Lighting

The following lighting fixtures are permitted by the Village:

(5) Prohibited lighting.

The following types of lighting are prohibited:

- a) Uplighting, except as specifically permitted herein;
- b) Searchlights, including those that are transportable, except those used for governmental or emergency purposes;
- c) Swivel-mounted luminaires are prohibited.
- d) Strobe lights, laser lights or revolving lighting, including those that are transportable;
- e) Exterior neon lights, except lawfully preexisting neon signs;
- f) Blinking, pulsating, tracing, or flashing lights, unless otherwise permitted

herein, including those that are transportable;

g) Utility-pole-mounted lights, as defined herein, unless the pole is existing and is not located within the street right-of-way;

h) Lighting which is used to outline a building, structure or window, and

i) Any light fixture that may be construed as or confused with a traffic signal or traffic control device.

Article V. Effective Date. This local law shall become effective immediately.

Village of Ellicottville

Local Law No. 5 of the year 2018

A local law Amending Local Law No. 2-2014 entitled "Zoning Local Law," as amended from Time to Time

Be it enacted by the Village Board of the Village of Ellicottville..... as follows:

LOCAL LAW NO. 5 -2018

A LOCAL LAW AMENDING LOCAL LAW NO.2 -2014 ENTITLED "ZONING LOCAL LAW", AS AMENDED FROM TIME TO TIME

Pursuant to Mun. Home Rule Law § 10:

BE IT ENACTED by the Village Board ("Board") of the Village of Ellicottville, New York ("Village") as follows:

Section 1: TITLE

This Local Law shall be known as Local Law No. 5 -2018, a local Law Amending Local Law No. 2 - 2014 entitled "Zoning Local Law", as amended from time to time.

Section 2: PURPOSE

This Board finds that it is in the best interests of the Village and its residents to amend the Zoning Local Law to further accommodate short term rentals within the Village.

Section 3: AMEND LOCAL LAW NO. 2-2014 AS AMENDED FROM TIME TO TIME.

- 1. PURPOSE: The purpose of this section is to balance the economic opportunities of property owners created by short term rentals with the need to maintain the residential character of the Village. Further, this section serves to promote a level playing field for individual and corporate property owners and to protect the rights and safety of owners, renters and neighbors of these properties,
- 2. DEFINITIONS: (add to Section 2(2) of Zoning Local Law):

Application: application submitted annually by an Operator for permission to rent a Property less than 30 days, subject to approval by the Code Enforcement Officer upon satisfactory completion of all requirements

Short Term Rental: a Rental Property rented for less than thirty (30) days.

Long Term Rental: a Rental Property rented for 30 consecutive days or more.

Operator: owner, landlord, or other manager, responsible for renting a Property
Rental Property: an apartment, condominium, townhouse, free standing home, or other residential unit available for rent.

Platform: any rental advertisement or facilitating entity of Property rentals (newspaper, flyers, television or radio, AirBnB, VRBO, HomeAway, etc.)

License/Licensing Fees: numbered document issues to an Operator upon submission and approval of its Application, which is subject to a Licensing Fee.

Occupancy: number of guests permitted to stay over-night in a Rental Property, as set forth in the Application.

3. REGULATIONS: To be a compliant Short Term Rental, an Operator must:

- (a) submit a Short-Term Rental Application (found online or at the Village Clerk's Office) annually, and associated licensing fee as shown on Application, for approval by the Code Enforcement Officer. Upon arrival, the CEO will issue the Operator a License. Licensing Fees are subject to change, from time to time, with Board approval.
- (b) (b) conspicuously post the License number on any Platform and within ten (10) feet of the main interior entrance of the Rental Property.
- (c) (c) conspicuously post a local emergency contact number (same as provided in the Application) and general emergency contact information (i.e.: 911, local police department) within ten (10) feet of the main interior entrance the Rental Property,
- (d) (d) comply with local maintenance laws (i.e. garbage, lawn cutting, property maintenance, noise)
- (e) (e) not allow over occupancy of the Rental Property, as indicated in the Application.

ENFORCEMENT: Penalties for non-compliance with the above regulations are shown in the Application and are subject to change, from time to time, with Board approval. Any violations of this law must be presented to the Village Clerk or Code Enforcement Officer, in writing, and signed by the complainant.

Section 4: EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York State Secretary of State.

Village of Ellicottville

Local Law No. 1 **of the year 2019**

A local law of the year 2019 Amending Local Law # 5 of the year 2018 entitled "zoning Local Law" as amended from Time to time.

Be it enacted by the Village of Ellicottville **of the**
Village of Ellicottville **as follows:**

**AMENDMENTS TO
2012 ZONING LOCAL LAW, as amended May 14, 2018
for Short Term Rentals**

Adopted July 15, 2019

SECTION 2 - DEFINITIONS

LOCKOUT ROOM: An area of a dwelling not to exceed one room with separate exterior access and toilet facilities, but not kitchen. Such a room may be rented independently of the main dwelling but shall not be sold independently. Only two lockout rooms are permitted for each dwelling. For density purposes, the lockout is counted as an additional bedroom of the dwelling it is a part of, and not counted as an independent unit.

APPLICATION (for short-term rental): See "Short-term rental application"

LICENSE/LICENSING FEES; numbered document issued to an operation upon submission and approval if its application, which is subject to a Licensing Fee.

LONG-TERM RENTAL; a rental property rented for 30 consecutive days or more.

OCCUPANCY (Short-term): number of guest permitted to stay over-night in a rental property, as set for in the Short-term Rental Application.

OPERATOR: owner, landlord, or other manager, responsible for renting a rental property.

PLATFORM: any rental advertisement or facilitating entity for property rentals (newspaper, flyers, television or radio, Airbnb, VRBO, HomeAway, etc.).

RENTAL PROPERTY: an apartment condominium, townhouse, free standing home, lockout room or other residential units available for rent.

SHORT-TERM RENTAL: The rental of a room, apartment, or house or lockout room for a time period of less than 30 days.

SHORT-TERM RENTAL APPLICATION: application submitted annually by an Operator for permission to rent a property less than 30 days, subject to approval by Code Enforcement Officer upon satisfactory completion of all requirements.

SECTION 3A - DISTRICTS & REGULATIONS

6. High Density Residential District - HD

E. Apartments/Lockout Rooms

Apartments/lockout rooms available for short-term rental and/or longer period rental are permitted in this zone with a license from the Village Code Enforcement Officer (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units). An apartment shall have a minimum of 550 square feet.

7. Village Commercial District - One (VC-1)

J. Apartments/Lockout Rooms

Apartments/lockout rooms available for short-term rental and/or longer period rental are permitted in this zone with a license from the Village Code Enforcement Officer (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units). An apartment shall have a minimum of 550 square feet.

8. Village Commercial District - Two (VC-2)

I. Apartments/Lockout Rooms

Apartments/lockout rooms available for short-term rental and/or longer period rental are permitted in this zone with a license from the Village Code Enforcement Officer (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units). An apartment shall have a minimum of 550 square feet.

12. Village Commercial District - 3 (VC-3)

I. Apartments/Lockout Rooms

Apartments/lockout rooms available for short-term rental and/or longer period rental are permitted in this zone with a license from the Village Code Enforcement Officer (See Land Use Tables Multi-dwelling structure, apartments, rental of dwellings and lockout units). An apartment shall have a minimum of 450 square feet.

SECTION 3B - SCHEDULE OF REQUIREMENTS – LAND USE TABLES

USE – DESCRIPTION	C	VR	LD	MD	HD	VC-1	VC-2	I	RMHD
Short-term Rental – Rental of dwellings for periods less than 30 days	P	NP	P	P	P	P	P	NP	P

SECTION 5 SPECIAL USE PERMITS

11. Transferability

... Home occupations and rental of property for periods less than thirty (30) days shall not be transferred to one owner to another.

SECTION 12 - SIGN REGULATIONS

5. Signs Not Requiring Permits

C. Non-illuminated real estate signs not exceeding six (6) square feet in area which advertise the sale or lease of the premises upon which such signs are located.

L. Short-term rental properties located in residential districts (C, LD, MD, HD, VC-1, and VC 2) shall not display a sign that exceed the following standards:

- 1) there shall be only one "for rent" sign per short-term rental property.
- 2) signs advertising availability of short-term rents shall be no larger than 12'x18".
- 3) the location of signs advertising availability of short-term rents shall be limited to a single window or door.
- 4) signs advertising availability of short-term rents shall not be placed in the yard, on public right-of-way, or on trees, poles or other structures.
- 5) signs advertising availability of short-term rents shall not be flashing or internally lit.
- 6) signs advertising availability of short-term rents shall have the appearance as being professionally made.

SECTION 13-OFF STREET PARKING AND PRIVATE ROADWAYS

6. Multi-family Parking Requirement Table

Short-term rental properties shall provide on-site parking designed and constructed in accordance with this section.

SECTION-16 - MISCELLANEOUS 15.

15. Short-Term Rental

A. Purpose

The purpose of this section is to maintain the residential character of the Village.

B. Regulations:

Short-term rentals are only allowed as a permitted use in the districts indicated in the

Land Use Tables (Section 3B). Short-term rentals may not be established or occupied without first having obtained a license from the Village Code Enforcement Officer. Prior to issuance or renewal of a license, the Code Enforcement Office must determine that all the regulations in this sub-section are met for all short-term rental properties. Failure to continually meet the regulations in this sub-section will be cause for the Code Enforcement Officer to revoke a license, or deny renewal.

- 1) Submit a Short-Term Rental Application annually, and associated licensing fee as shown on Application, for approval by the Code Enforcement Officer. Upon receipt of a complete application, within 5 working days, the CEO will review and issue the Operator a License. Licensing Fees are subject to change, from time to time, with Village Board approval.
- 2) Conspicuously post the License number on any platform and within ten (10) feet of the main interior entrance of the Rental Property.
- 3) Conspicuously post a local emergency contact number (same as provided in the Application) and general emergency contact information (i.e.: 911, local police department) within ten (10) feet of the main interior entrance of the short-term rental property.
- 4) The operator of a licensed short-term rental property shall comply with local maintenance laws (i.e. parking, garbage, lawn cutting, property maintenance, noise) applicable to the property.
- 5) The operator of a licensed short-term rental property shall not allow occupancy of the short-term rental property exceeding the occupancy indicated in the license.
- 6) Parking:
 - a) All Vehicles to be Parked on Site: The motor vehicles of all occupants of the short-term rental property shall be parked only on the site of the short-term rental property as approved on the license. No motor vehicles shall be parked on the lawn or landscaped areas of a short-term rental property, or in the public street or right of way adjacent to the short-term rental property.
 - b) Large Vehicles Not Allowed: No privately owned, non-governmental vehicle with a passenger capacity of twelve (12) persons or more shall be used to transport persons to or from a short-term rental property or parked upon the premises of a single-family accommodation.
 - c) No mobile homes or trailers are allowed to be parked on a short-term rental property and utilized by renters.
- 7) Trash. Dispose of Trash On Pick-up Day Only. The storage and disposal of all trash and garbage from a short-term rental property shall comply with the requirements of Local Laws No. 2 and No. 3 of 1991 regarding Solid Waste and Recycling of the Ellicottville Village Code. Trash cannot be placed at the curb

more than 24 hours prior to pick up. Emptied garbage cans and receptacles must be removed from curb within 24 hours of collection.

8) Noise – No occupant of a short-term rental property shall: (i) make, cause or control unreasonable noise upon the short-term rental property which is audible upon a private premises that such occupant has not right to occupy, or which is in violation of the “disorderly conduct” provisions of the Ellicottville Village Code, or (ii) violate Local Law No. 6 of 2006 “Noise Ordinance” of the Village Code.

9) Homeowner To Provide Village With Local Contact Information: At the time of application and the issuance of the license the licensee shall provide to the Village the name, address and telephone number of a local contact person who is authorized by the licensee to receive communications from the Village concerning the short-term rental property. The local contact person may be a management company, rental agent or other person employed or engaged by the licensee to manage, rent or supervise the short-term rental property. The local contact person must be available for contact at all times and shall maintain a residence or permanent place of business within 25 miles of the licensed property. The designated local contact person may be changed by the licensee from time to time throughout the annual term of the license. To effect such change, the licensee shall notify the Village Clerk and Village Code Enforcement Officer of the change in writing and shall, at the time, provide the Village with the name, address and telephone number of the licensee’s replacement contact person. Any replacement contact person shall meet the requirements of this paragraph.

10) Single-Family residence - Special Conditions. Short-term rental of a single family residence is permitted once the property owner obtains a short-term rental license. In addition, single-family residences that are rented short-term are subject to additional conditions to help maintain the residential character of the neighborhood. These “Special Conditions of License” shall be attached to the license and must be conspicuously posted within the residence.

11) Signage for rental properties shall meet all the applicable requirements of Section 12-Sign Regulations of this Local Law.

C. Pre-existing Short-term Rentals

Pre-existing short-term rental properties that were issued licenses prior to July 10, 2017 shall automatically receive a license and be allowed to remain available for one-year. After one-year from the adoption of this zoning amendment, the pre existing short-term rental properties must meet all the regulations in Section 16 15.B. as necessary to have the operators short-term rental license renewed.

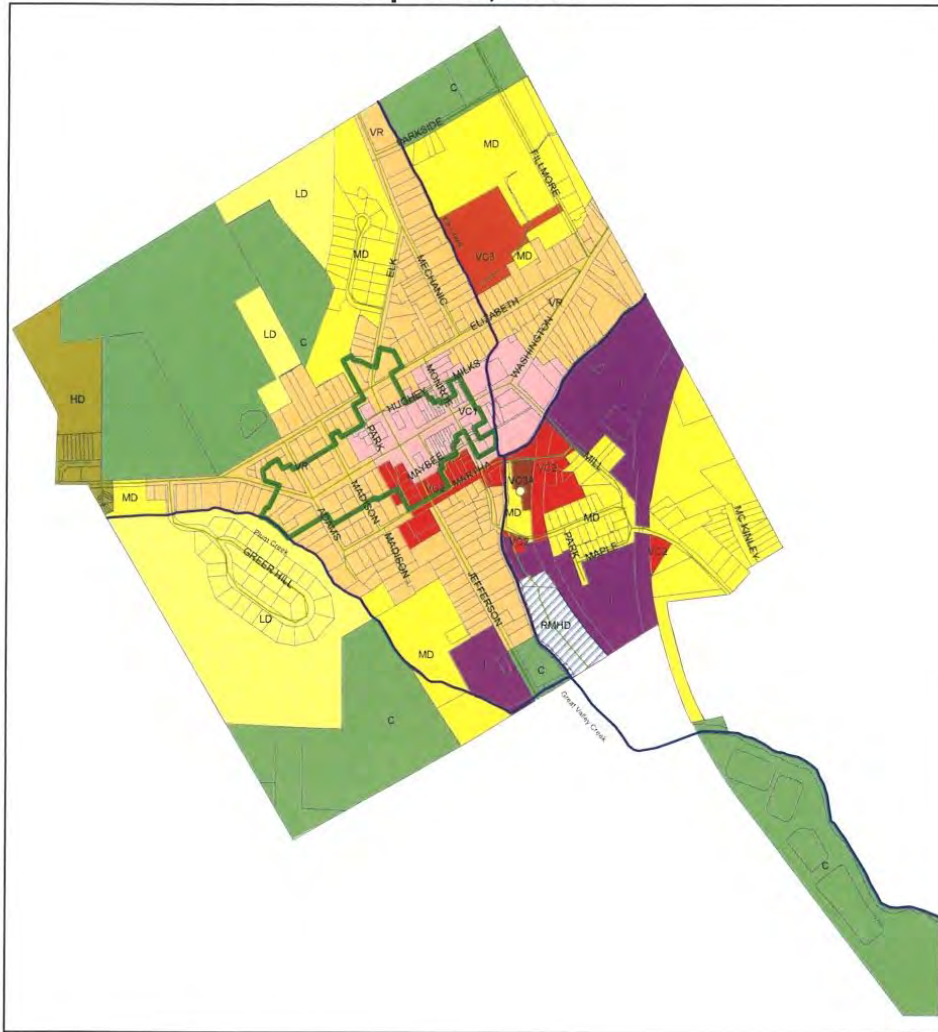
D. Enforcement and Penalties

Penalties for the non-compliance with the above regulations shall be listed in the Application

and are subject to change, from time to time, with Village Board approval. Any violations of this law must be presented to the Village Clerk or Code Enforcement Officer, in writing, and signed by the complainant. Penalties for non-compliance at a licensed short-term rental property shall be as follows:

- Short-term rental of a property without a license: First instance shall receive a warning from the Code Enforcement Officer, then a \$1,000.00 fine per Instance.
- No local contact or change without notice of rental management contact - \$250 fine per instance.
- Over occupancy and parking violations - \$1000.00/ per instance.
- Garbage non-compliance - \$200 fine for first instance - \$400 fine for the second instance and \$600 fine for each instance thereafter.
- Advertising non-compliance: First instance shall receive a warning from the Code Enforcement Officer, then if no license is listed in the advertisement there shall be a \$500 fine per instance.
- Verified neighborhood complaint: there shall be a \$500 fine per instance and loss of license after a third incident of a verified neighborhood complaint.

Village of Ellicottville Zoning Map April 14, 2014



Legend

- Creeks
- Streets
- Parcels
- Historic District Boundary

Zoning Districts 2014

Classifications

- C
- HD
- I
- LD
- MD
- RMHD
- VC1
- VC2
- VC3
- VC3A
- VR

Note: This Zoning Map does not show the boundaries of the 100-year Flood Plain (Special Flood Hazard Area - SFHA) or the Floodway areas. Flooding can occur from the following sources: Great Valley Creek, Plum Creek, and Elk Creek.

The SFHA and Floodway boundaries are overlaid to the existing zoning map. There are additional restrictions to development within these areas. Please refer to the following documents for official boundaries of the SFHA and Floodway:

Flood Insurance Rate Map
Village of Ellicottville, NY
Community-Panel No. 360070-0001 C
May 2, 1994

Flood Insurance Study
Village of Ellicottville
May 2, 1994

Map Prepared By:



Village of Ellicottville Local Law No 2 of the year 2021

A local lawadopting a temporary moratorium on accepting, processing, and issuing of permits for secondary or accessory dwelling units or lockout rooms in the Village of Ellicottville, New York.

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

LOCAL LAW NO. #2 OF THE YEAR 2021

Be it enacted by the Village of Ellicottville NY as follows:

Section 1. This Local Law shall be known as the "Temporary Moratorium on Approvals, Construction, and Establishment of Accessory Dwelling Unitsin the Village of Ellicottville New York"

Section 2. Legislative Intent

The Village of Ellicottville New York has seen a proliferation of applications seeking to establish secondary dwelling units in the Village. The applications have been found by the Village Board to threaten the character of the Village, and the Village has determined a need to set clearer land use regulations concerning the siting of the same to prevent the accessory dwelling units from posing an adverse impact on the character of the Village, and/or a deleterious effect on neighboring properties. The Village is seeking to stay the establishment of secondary residential uses on land within the Village until the Village can complete assessing through its on-going comprehensive planning process regulations it has, and hereby determines, are necessary to prevent the establishment of secondary dwelling units from having a deleterious effect on neighboring, or nearby properties.

Section 3. Prohibited Acts

- a. For a period of six months from the filing of this Local Law with the Secretary of State the Village Clerk shall accept no applications for the establishment of accessory dwelling structures, or lockout rooms on properties within the Village; and
- b. For a period of six months from the filing of this Local Law with the Secretary of State the Zoning Board of Appeals for the Village of Ellicottville shall hear no requests for variances concerning the establishment of secondary dwelling units, or the establishment of lockout rooms in the Village; and
- c. For a period of six months from the filing of this Local Law with the Secretary of State the Planning Board for the Village of Ellicottville shall grant no approvals concerning the establishment of secondary dwelling units, or the establishment of lockout rooms in the Village; and
- d. For a period of six months from the filing of this Local Law with the Secretary of State neither the Planning Board for the Village of Ellicottville, nor the Village Clerk shall approve, or issue any Special Use Permits for the establishment of secondary dwelling units, or the establishment of lockout rooms in the Village; and
- e. For a period of six months from the filing of this Local Law with the Secretary of State the Village shall issue no building permits authorizing the commencement of construction activities to establish secondary dwelling units, or lockout rooms, unless said applications had received final site plan approval from the Planning Board for the Village on or before April 17, 2021.

Section 4. Severability

If any word , phrase , or part of this local law shall be declared unconstitutional, the same shall be severed from the remainder of this local law, and said remainder shall continue in full force and effect.

Section 5. Period of Moratorium, and Extensions

This moratorium concerning the accepting of applications, processing of applications, granting of variances, issuance of Site Plan Approvals, issuance of Special Use Permits, and issuance of building permits shall be in effect for a period of six months. The initial six month period may be extended for an additional three month period by the Village Board of Trustees only if they by resolution determine said additional three month period is deemed necessary to complete the adoption of additional land use regulations deemed necessary to protect the public health, welfare, or safety of the community.

Section 7. Effective Date

The Local Law, and the temporary moratorium created by it, law shall become effective immediately upon filing of this Local Law with the Secretary of State.

Local Law Filing

.....

Village of Ellicottville

Local Law No 3..... **of the year 2021.**

A local law Restricting, Permitting, and Regulating the sale of food and alcohol for service of customers on sidewalks and public right of ways in the Village of Ellicottville, New York

Be it enacted by the..... **BOARD OF TRUSTEES**..... **of the**

Village of.....**ELLCOTTVILLE**..... **. as follows:**

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

Section 1. Findings

The Board of Trustees of the Village of Ellicottville finds that it is necessary to regulate the sale of food and alcohol on public right of ways to strike an appropriate balance between the safe use and enjoyment of Village Streets, Sidewalks and Neighborhoods, and the enjoyment of the Village of Ellicottville as a regional destination for the enjoyment of culture, cuisine, fine crafted beverages, recreation, and the outdoors

Section 2. Prohibited and Permittable Activities

It shall be unlawful for any person to sell and service customers food items and alcohol at tables or chairs in Village of Ellicottville without first obtaining a Café Permit from the Village, and without complying with the regulations set forth herein. Any person or corporation may operate a sidewalk cafe (hereinafter called cafe) within the Village of Ellicottville on the Village sidewalk immediately adjacent to the applicant's place of business upon obtaining a permit from the Village, and while complying with the regulations set forth below.

Section 3. Definition of a Sidewalk Cafe

A Sidewalk Cafe is an area located on the Village sidewalk established in accordance with the requirements of this enactment for service of customers purchasing meals at tables located within the sidewalk cafe. Alcohol may be served but is limited to waited table service.

Section 4. Permit criterion.

An applicant, upon presentation to the Village Code Enforcement Officer of an application for a permit to install a cafe and upon payment of any fee established by the Village Board and upon compliance with the rules and regulations which may be established shall be authorized to operate a sidewalk cafe. The sidewalk cafe permit will be issued upon compliance with the following application standards:

1. Applicant shall obtain the approval of the Code Enforcement Office. Applicant shall submit one copy of plans to the Code Enforcement Office, approval of which shall be conditional upon the following:
 - a. The cafe will allow the maintenance of at least 18 inches of hard surfaced sidewalk between the cafe and any planting strip or tree grate, bench, pole, post sign, flowerbed, news rack, curb or other obstacle in the public right of way; umbrellas located within the sidewalk cafe need to have seven (7) feet of vertical clearance from the ground;
 - b. The cafe will not interfere with ingress or egress points, including pedestrian entrances and fire escapes, and will maintain a minimum of three feet of sidewalk clearance at all times;
 - c. No permanent structure will be erected;
 - d. A form of temporary enclosure to separate the seating area from the open portion of sidewalk will be installed during the time the cafe is open for business; In order to keep a uniform look to the village, 40" tall black retractable belt barriers should be used.
 - e. Any temporary enclosure or structure within the public right-of-way will be removed between November 1 and March 31;
 - f. No signs will be hung or attached to any portion of the cafe; with the exception of seating instruction signs and signs in regard to operational procedures of the sidewalk cafe; and clearly post a copy of valid permit viewable from cafe side, to include verbiage about alcohol not allowed beyond café area.
 - g. The facility can be located anywhere in the Village where operation of a restaurant is otherwise permitted.
2. The applicant must execute an agreement to repair, at the expense of the applicant, any damage caused to the sidewalk in the operation of the cafe.
3. The applicant shall execute a hold harmless agreement indemnifying the Village against loss, including costs and expenses resulting from injury to person or property as a direct result of operation of the cafe.
4. The applicant shall provide proof of liability insurance naming the Village as an additional insured and agreeing to be primary in coverage with minimum coverage of \$1,000,000.00 per occurrence.
5. If applicable, applicant shall provide proof of dram shop, liquor legal liability insurance.
6. If different than applicant, applicant shall provide consent of the owner(s) of the building to be used as a sidewalk cafe.

7. If alcoholic beverages are to be served at the sidewalk cafe, a notarized affidavit and copy of NYS Liquor License permitting the sale of alcoholic beverages within the sidewalk cafe must be presented.

Section 5. Café Permit Regulations.

A cafe shall:

1. Comply with plans submitted and approved.
2. Not serve or permit consumption of alcoholic beverages on or at any sidewalk cafe after 11:00 PM or before 8:00AM. Serving and consumption of alcohol must be compliant with hours established by New York State Liquor Authority.
3. Remove from the sidewalk all furniture and other materials used in operation of the cafe by no later than 30 minutes after closing and in no event later than 11:30PM.
4. Not permit any music to be played outdoors that conflicts with the Chamber of Commerce music or, after 10:00PM.
5. Obtain specific approval of the Village Board if other than waited service of customers at tables is intended.
6. Occupancy will be determined by the Code Enforcement Officer in accordance with current restaurant codes.
7. Permit shall not be transferable to another business or location.
8. Permit is valid from April 1 to October 31, excluding Saturday and Sunday of Fall Festival weekend, and no other time unless expressly authorized by subsequent Resolution of the Village Board of Trustees.

Promulgation of rules pertaining to sidewalk cafes.

The Village Board is hereby empowered to adopt by resolution rules, regulations, permit fees and specification pertaining to sidewalk cafes. Such rules are hereby incorporated by reference, and compliance with this article shall require compliance with such rules, regulations, permit fees and specifications. Failure to comply with the rules and regulations may result in loss of permit.

Permit Fees.

Unless hereafter changed by resolution of the Village Board, the annual permit fee for operation of a sidewalk cafe shall be \$150.

Section 6. Notice of Violation; Revocation of permit.

Upon finding by the Fire Chief, Officer in charge of the Police Department, DPW Superintendent or Code Enforcement Officer that an applicant has violated any provision of these regulations, he/she may give notice to the applicant to correct operations violations. Upon failure to correct, the Village Board may direct the Village Clerk to revoke the applicant's permit. The operator of the sidewalk cafe may

request a hearing before the Village Board or its designee within five (5) days of receipt of the notice of revocation. Any such hearing shall be held after reasonable notice by the Village Board to the operator of the violations, and the operator shall have the right to be represented by counsel, present evidence on his or her behalf and confront evidence against him.

Permit may be revoked by Code Enforcement Officer if there is determined to be an exceedance of any Village Noise Ordinance. Permit may be revoked by Code Enforcement Officer pending an Administrative Determination.

Section 7. Survival of Provisions.

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid; such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, and paragraph. Word, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

Section 8. COSTSENFORCEMENT AND PENALTIES.

A. The provisions of this local law shall be enforceable by any peace officer, any police officer, or any agent duly authorized by resolution of the Board of Trustees.

B. A person convicted of violating any provision of this local law shall be guilty of a violation which is punishable as follows:

- (1) For a first conviction, by a fine of \$200.00, or imprisonment for 15 days or both.
- (2) For a second conviction, within one year, by a fine of \$400.00, or imprisonment for 15 days or both.
- (3) For a third conviction within one year, by a fine of \$600.00, or imprisonment for 15 days or both.

Section 9. Effective Date.

These permit/regulations were adopted as amended at the monthly meet of the Board of Trustees held at the Town Hall on Tuesday July 20th, 2021.

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Sidewalk Cafes: Local Law 6-2021 - Restricting, Permitting, and Regulating the sale of food and alcohol for service of customers on sidewalks.		
Project Location (describe, and attach a general location map): Village-wide. Village of Ellicottville - Cattaraugus County, NY		
Brief Description of Proposed Action (include purpose or need): The Village intends to institute a permit process and rules for the establishment of sidewalk cafes on public sidewalks in the Village of Ellicottville, New York. See attached draft Local Law No. 6 of 2021.		
Name of Applicant/Sponsor: Ellicottville Village Board		Telephone: 716-699-4636
		E-Mail: John Burrell mayorevl@gmail.com
Address: Village Hall, 1 West Washington St. PO Box 475		
City/PO: Ellicottville	State: NY	Zip Code: 14731
Project Contact (if not same as sponsor; give name and title/role): Gary Palumbo, Village Planner		Telephone: 716-801-3016
		E-Mail: gary.palumbo@evlengineering.com
Address: Village Hall, 1 West Washington St. PO Box 475		
City/PO: Ellicottville	State: NY	Zip Code: 14731
Property Owner (if not same as sponsor): n.a. (village-wide)		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Village Board	July 20, 2021
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Cattaraugus Co. Planning (239 Referral)	t.b.d.
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> • If Yes, complete sections C, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
C.2. Adopted land use plans.	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): Remediation Sites:905023, Remediation Sites:C905034	

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s):	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
Village-wide - where allowed by existing zoning

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Ellicottville Central

b. What police or other public protection forces serve the project site?
Ellicottville Town PD.

c. Which fire protection and emergency medical services serve the project site?
Ellicottville Fire, Ellicottville/Great Valley Ambulance.

d. What parks serve the project site?
Ellicottville Village Park

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? _____ acres
 b. Total acreage to be physically disturbed? _____ acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? _____
 iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: _____ months
 ii. If Yes:
 • Total number of phases anticipated _____
 • Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
 • Anticipated completion date of final phase _____ month _____ year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
<i>ii.</i> Name: Ellicottville Historic District, Ellicottville Town Hall, Jefferson Street Cemetery	
<i>iii.</i> Brief description of attributes on which listing is based: _____	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	
If Yes:	
<i>i.</i> Describe possible resource(s): _____	
<i>ii.</i> Basis for identification: _____	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Identify resource: _____	
<i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____	
<i>iii.</i> Distance between project and resource: _____ miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes:	
<i>i.</i> Identify the name of the river and its designation: _____	
<i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Village of Ellicottville, Mayor John Burrell Date _____

Signature _____ Title Mayor

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

	Agency Use Only [If applicable]
Project :	Sidewalk Cafe local law 6-2021
Date :	July 20, 2021

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “Yes” to a numbered question, please complete all the questions that follow in that section.
- If you answer “No” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land			
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO

YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO

YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

1. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. NO YES
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)
If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding
 The proposed action may result in development on lands subject to flooding. NO YES
 (See Part 1. E.2)
If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
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6. Impacts on Air

The proposed action may include a state regulated air emission source.
(See Part 1. D.2.f., D.2.h, D.2.g)

NO YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflouorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.)

NO YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: <u>architectural design review is required for most new development involving accessory dwelling units.</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. NO YES

(See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) NO YES

If "Yes", answer questions a - c. If "No", go to Section 13.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation
 The proposed action may result in a change to existing transportation systems. NO YES
 (See Part 1. D.2.j)
If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy
 The proposed action may cause an increase in the use of any form of energy. NO YES
 (See Part 1. D.2.k)
If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____ _____			

15. Impact on Noise, Odor, and Light
 The proposed action may result in an increase in noise, odors, or outdoor lighting. NO YES
 (See Part 1. D.2.m., n., and o.)
If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.)

NO

YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

During review of this Action, potential environmental impacts associated with the adoption of a local law restricting, permitting, and regulating the sale of food and alcohol for service of customers on sidewalks and public right of ways were evaluated by the Village of Ellicottville through use of the Full Environmental Assessment Form - Parts 1 and 2, in order to identify and assess potential adverse environmental impacts compared to the criteria for determining significance identified in §617.7.

As indicated below, the Village has determined that the Action (adoption and implementation of Local Law 6-2021 to establish permit procedures and regulations for sidewalk cafes) will not have a significant adverse impact on the environment and that, as a result, the Action does not require the preparation of an Environmental Impact Statement. Adoption of the permit regulation by itself is not an approval of future permanent commercial.

Reasons for this Determination of Significance / Negative Declaration:

Land, Surface Water: Activities permitted under Local Law 6-2021 will only occur in existing built areas. No new construction is associated with the Action.

Floodplain: All activities have to meet applicable requirements of the local floodplain law, if necessary.

Plants and Animals and Agriculture: Permits will not result in new construction activities or loss of habitat.

Aesthetic and Historic: Cafes are temporary. However, any permanent improvements are subject to Architectural Design Review and Historic Preservation review.

Light: The Village Zoning includes existing standards and procedures for review of exterior lighting.

Community Plans and Community Character: Permits will not result in new construction.

The Village of Ellicottville, therefore, concludes that this Action (Local Law 6-2021 for Sidewalk Cafes) will not adversely affect the natural resources of the Village, and/or the health, safety and welfare of the public and is consistent with social and economic considerations. In reaching this decision, the Village of Ellicottville carefully considered all "criteria" for Determination of Significance listed in the SEQR Regulations (6 NYCRR 617.7). As a result, the Project does not require the preparation of an Environmental Impact Statement.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information
Local Law 6-2021 - Restricting, permitting, and regulating the sale of food and alcohol for service of customers on sidewalks and public right of ways

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Local Law 6-2021 Restricting, permitting, and regulating the sale of food and alcohol for service of customers on sidewalks

Name of Lead Agency: Ellicottville Village Board

Name of Responsible Officer in Lead Agency: John Burrell

Title of Responsible Officer: Mayor

Signature of Responsible Officer in Lead Agency: _____ Date: July 20, 2021

Signature of Preparer (if different from Responsible Officer) _____ Date: July 20, 2021

For Further Information:

Contact Person: Gary Palumbo

Address: PO Box 475 Ellicottville, NY 14731

Telephone Number: 716-801-3016

E-mail: gary.palumbo@evlengineering.com

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

PRINT FULL FORM

Local Law Filing

Village ofEllicottville

Local Law No 4 of the year 2021.

A local law Amending Village Zoning Laws pertaining to the siting of Secondary Dwelling Units and Lockout Rooms in the Village of Ellicottville, NY.

Be it enacted by the BOARD OF TRUSTEEof the

Village of ELLICOTTVILLE, NY. as follows:

BE IT ENACTED by the Village Board of Trustees of the Village of Ellicottville, New York ("Village"), pursuant to Mun. Home Rule Law § 10as follows:

Section 1:Title

This Local Law shall be known as Local Law No. 4 -2021, Amending Local Law No. 1 - 1991 entitled "Zoning Local Law", as amended and revised from time to time thereafter.

Section 2: Findings and Intent

The Board of Trustees of the Village of Ellicottville finds that:

(a)The Village of Ellicottville, NY (the "Village") exists as a regional destination which balances a quaint attractive community for its residents, with outdoor activities and restaurants, that draw from various regions beyond Chautauqua County, and New York State; and

(b)During 2021 the Village saw a proliferation of permit requests seeking to add additional dwelling units, and lockout rooms, on already developed parcels both within the residential communities, and on the borders of the residential communities; and

(c) Secondary dwelling units, and Lockout Rooms, if not carefully sited pose potential noise and parking nuisance issues to the neighboring parcels, and further

threaten the character of the properties in the Village with excessive lot coverage, and excessive intensity of use; and

(d) Representatives of the Village, and Village Boards, and staff to the Village (hereinafter collectively referred to as the "Working Group") have through a series of work sessions reviewed the Village zoning laws pertaining to Lockout Rooms, and Secondary Dwelling Units and has recommended a comprehensive series of changes to the Village zoning laws to further regulate the siting of Lockout Rooms, and Secondary Dwelling Units, within the Village, in a manner which balances the need for more affordable residential housing for the people who work in the Village, against the need to protect the character of the Village from potential nuisance impacts, and aesthetic impacts; and

(e) The Planning Board of the Village has reviewed the proposed zoning amendments submitted by the Working Group concerning Secondary Dwelling Units, and Lockout Rooms at a public session, and has recommended the adoption of the proposed amendments set forth below; and

(f) The Village has posted the proposed amendments on their published webpage to facilitate public comments, and has also set and noticed a Public Hearing to consider public comments on the proposed amendments; and

(g) Now after careful consideration of the needs of the Village the Village Board of Trustees hereby determines and finds it is reasonable and prudent to enact the following amendments and changes to the various sections of the Village's Zoning Local Law to protect the character of the Village, reduce potential nuisance impacts threatened by increasing intensity of use of the Village, while at the same time allowing for the development of some additional Secondary Dwelling Units, and Lockout Rooms.

Section 3. Amendments and Additions To Zoning Local Law.

Based upon the foregoing the Village Board of Trustees hereby adopts the following Amendments to Local Law No. 1-1991 as amended from time to time after

1991. The new text added to the Local Zoning Law is set forth in bold, and deleted text struck out. Italics are used to provide context and to indicate the Article and/or Section of code being amended. Only the relevant portions of zoning sections subject to amendment are set forth below:

Proposed Amendments to Article 1: General Provisions and Procedures

1.9. More Than One Principal Use per Lot

- A. Other than a single family dwelling, more than one structure containing a principal permitted or special permitted use may be allowed on a single lot, provided that the yard and other requirements of this zoning ordinance shall be met for each structure, as if they were located on individual lots.

Where a secondary dwelling unit (accessory apartment) or a lockout unit is located within an accessory building, that secondary dwelling unit shall not be the sole use or sole occupancy in the accessory building; a stand-alone guest house shall not be permitted in the VR, LD, MD, or HD Districts.

Where otherwise allowed in this zoning ordinance, one principal building may contain more than one allowable use, such as offices and retail uses.

Proposed Amendments to Article 2: Definitions:

ACCESSORY APARTMENT: A secondary dwelling unit established in conjunction with and clearly subordinate in size and subordinate in use to the principal dwelling unit, whether a part of the same structure as the principal dwelling unit or in a detached accessory structure (such as a garage or barn) where the secondary dwelling unit remains subordinate in size and subordinate in use to the accessory use of the garage or barn.

ACCESSORY BUILDING – non-residential: A building upon the same lot as the principal building and which is (1) clearly incidental to in use, and is customarily found in connection with such principal building, use and (2) is operated and maintained for the benefit of convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use, and does not include habitable space.

ACCESSORY BUILDING - residential: A building upon the same lot as the principal building and which is (1) clearly incidental to in size and use, in connection with such principal building, and (2) is operated and maintained for the benefit of convenience of the owners or occupants of the lot with the principal use and a portion of which is used as habitable space. The residential portion of a residential accessory building not being the sole use of that structure.

BASEMENT (CELLAR): -A story that is not above grade plane.

CRAWL SPACE: An underfloor space that is not a basement, which is less than five (5) feet between the floor and the floor next above and is not to be used as habitable space.

DWELLING UNIT (DWELLING): A building or portion thereof that provides complete housekeeping facilities for one family or household. Each dwelling unit shall have its own living, sleeping, eating, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel, bed and breakfast or other such use of a transient nature, unless it has a lawful license for short-term rental.

GUEST HOUSE: A secondary stand-alone dwelling subordinate in size and subordinate in use located on a property that already has a principal dwelling unit. A guest house is not permitted in the VR, LD, MD, or HD Districts.

LOT COVERAGE: The percentage of the horizontal (footprint) area that is covered by all principal and accessory buildings and structures (including garages and barns), and other impervious areas for parking, sidewalks, paths, patios, decks and driveways. The area of a driveway and sidewalk(s) located within the required front yard (setback) is not included in the lot coverage calculation. Horizontal areas are measured to the outside of the wall.

OPEN SPACE: (See “usable Open Space”)

SECONDARY DWELLING UNIT: One additional dwelling unit established in conjunction with and clearly subordinate in size and use to the principal dwelling unit located within the same structure as the principal dwelling unit, or in a detached accessory structure (such as a garage or barn) where the secondary dwelling unit remains subordinate in size and subordinate in use to the accessory use of the garage or barn. See Also “Accessory Apartment ”

OPEN SPACE: Landscaped or naturally vegetated area, including required yards, that is free of buildings, structures, and other substantial improvements.

Proposed Amendments to Article 3A: General Requirements:

3A.6. Accessory Building Square Footage and Height Requirements

With the exception of the Village Residential District and Residential Development District – Medium Density (See Section 3A-2.H and 3A-4.I. for specific requirements in these districts), no accessory buildings allowed in other zoning districts under this Section shall exceed 60 percent of the principal structure's square footage. (*adopted May 2018*).

3A.7. Accessory Buildings and Accessory Apartments

A. Purpose and Intent.

Where permitted in Article 3B of this Zoning Law, an Accessory Apartment shall conform to all the requirements of this section, and any other applicable regulations of this Law. Accessory apartments shall be allowed by Special Use Permit. In order to protect the residential character of the district, accessory apartments shall be subordinate in size and ancillary in use to the principal primary dwelling unit on the property where they are located. Accessory apartments should be designed as to not change the character of the property, or immediate neighborhood.

Special Use Permits approved for accessory apartments are limited to establishing the physical dwelling unit, and do not authorize the use of the accessory apartment for short-term rental. Short-term rental for periods less than 30 days shall only be allowed under a lawful license from the Code Enforcement Officer as issued in conformance with Section 16.15 of this Zoning Law.

In order to protect the health, safety, and welfare of the residents of the Village of Ellicottville, accessory apartments shall only be constructed and occupied in such a manner so as to not create any dangerous, injurious, noxious, or otherwise objectionable effect to the community or immediate neighbors. In this regard, accessory apartments shall conform to the standards in this Section. Failure to continue to conform to these standards may result in the revocation of the Special Use Permit.

B. Dimensional Standards for Accessory Buildings and Accessory Apartments.

- 1) Accessory apartments located within the principal structure lot shall meet the following standards:
 - a) Setbacks: Additions and footprint changes to accommodate an accessory apartment located within the principal structure on a property shall meet all the setbacks and dimensional requirements for principal buildings in the underlying district.
 - b) Minimum Apartment Size: The minimum size of an accessory apartment located within the principal structure shall be 550 square feet.
 - c) Maximum Apartment Size: In order to remain subordinate in size and character, accessory apartments located within the principal structure shall be less than 40% the total area of the principal structure. An accessory apartment may only exceed 40% of the area of the principal structure when it is necessary to meet the 550-foot minimum square footage requirement.
- 2) Accessory apartments located in accessory buildings shall meet the following standards:
 - a) Lot Size: As required for any structure in the underlying district.
 - b) Side Yard: The minimum side yard for an accessory building that contains an accessory apartment shall be the same as for a principal structure or principal use located in the underlying district.

- c) **is not Rear Yard**: The minimum depth of the rear yard for an accessory building that contains an accessory apartment shall be the same as for a principal structure or principal use located in the underlying district or ten (10) feet, whichever is greater.
 - d) **Front Yard**: The minimum depth of the front yard for an accessory building that contains an accessory apartment shall be the same as for a principal structure or principal use located in the underlying district, or ten feet behind the front façade of the principal structure, whichever is the greater distance from the right-of-way.
 - e) **Minimum Apartment Size**: The minimum size of an accessory apartment located within an accessory structure shall be 550 square feet, exclusive of the garage portion of the structure.
 - f) **Maximum Building Size**: The maximum square footage of all accessory buildings (cumulatively), inclusive of accessory apartments and garage shall be limited to 60 percent of the total square footage of the principal building, or 1,320 s.f., whichever is greater. There shall be no more than two (2) accessory buildings (>144 s.f.) on a residential property.
 - g) **Maximum Height**: The maximum height of an accessory structure having an accessory apartment shall be no greater than 70 percent of the height of the principal building.
 - h) **Decks/Balconies**: Accessory structures shall not have a second-story deck or balcony. Where exterior stairs are necessary to provide access to second-story, landings shall be limited to a maximum (including railings) of 30 square feet with no single dimension greater than six feet. No deck, stairs or landing, shall be located closer than 10 feet from any property line.
- C. **Pre-existing Structures**: Where a secondary dwelling unit (accessory apartment) or a lockout unit is located within a pre-existing accessory building that does not meet the setbacks established in this section for accessory buildings with accessory apartments, the following standards shall apply:
- a) That accessory structure shall be separated from adjoining residential property(ies) by a light-tight fence of natural materials.
 - b) That non-conforming building shall not be expanded in footprint or height in order to add an accessory apartment.
 - c) Accessory Buildings on residential properties shall not be modified or constructed to have a basement (a story below grade plane). A crawl space considered a basement and is allowed.

- D. A maximum total of two (2) dwelling units (a principal dwelling plus one secondary dwelling unit (accessory apartment) or one lockout unit) shall be allowed on any single property in the VR, LD, MD, HD, VC-1, and VC-2 Districts.
- E. Where a secondary dwelling unit (accessory apartment) or a lockout unit is located within an accessory building, that secondary dwelling unit shall not be the sole use or sole occupancy in the accessory building; a stand-alone guest house shall not be permitted.
- F. Demolition of existing accessory buildings shall meet the applicable standards in Section 16-9. And new structures shall meet all current applicable dimensional and use standards.

Proposed Amendments to Article 3A: Districts and Regulations:

3A.1. *Conservation District (C)*

3A.1.D. Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 25 percent of the lot outside street rights-of-way. The remaining 75 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.2. *Village Residential (VR)*

3A.2.C.6) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 60 percent of the lot outside street rights-of-way. The remaining 40 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.3.G. Apartments/Lockout Rooms

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

3A.3 *Residential Development District - Low Density (LD)*

3A.3.C.6) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 40 percent of the lot outside street rights-of-way. The remaining 60 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.3.E. Apartments/Lockout Rooms

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

3A.4. *Residential Development District - Medium Density (MD)*

3A.4.C.6) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 40 percent of the lot outside street rights-of-way. The remaining 60 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.4.E Apartments/Lockout Units

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

3A.6. *High Density Residential District - (HD)*

3A.6.C.7) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 40 percent of the lot outside street rights-of-way. The remaining 60 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.6.E Apartments/Lockout Room

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

3A.7. *Village Commercial District - One (VC-1)*

3A.7.J Apartments/Lockout Rooms

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

- 3A.7.D.6) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 80 percent of the lot outside street rights-of-way. With the exception of properties that are located within the Village Historic Overlay District, the remaining 20 percent of the lot shall be in open space, landscaped or natural vegetation. There shall be no open space requirement for non-residential properties within the Historic district.

3A.8. *Village Commercial District - Two (VC-2)*

- 3A.8.D.6) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 80 percent of the lot outside street rights-of-way. The remaining 20 percent of the lot shall be in open space, landscaped or natural vegetation.

See Section 3A.7 General Requirements. Accessory Buildings and Accessory Apartments

3A.9. *Industrial Zone (I)*

- 3A.9.C.7) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 70 percent of the lot outside street rights-of-way. The remaining 30 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.12 *Village Commercial District - Three (VC-3)*

- 3A.12.D.4) Lot Coverage. Maximum lot coverage of all principal and accessory buildings and structures, parking, and driveways shall be 80 percent of the lot outside street rights-of-way. The remaining 20 percent of the lot shall be in open space, landscaped or natural vegetation.

3A.12.I. Apartments/Lockout Rooms
See Section 3A.7 General Requirements. Accessory Buildings and Accessory
Apartments

Proposed Amendments to Article 3B: Schedule of Requirements – Land Use Tables:

<u>USE – DESCRIPTION</u>	<u>C</u>	<u>VR</u>	<u>LD</u>	<u>MD</u>	<u>HD</u>	<u>VC-1</u>	<u>VC-2</u>	<u>I</u>
<u>RMHD</u>								
<u>Accessory Apartment</u>	<u>NP</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>NP</u>	<u>NP</u>

Proposed Amendments to Article 5: Special Use Permits:

5.7.A *Upper Floor Dwellings in VC-1 District*

- 5.7.A.(6) Rental of upper floor dwellings in the VC-1 District for periods of less than 30 days may be allowed under a lawful license from the Code Enforcement Officer as issued in conformance with Section 16.15 of this Zoning Law.

Proposed Amendments to Article 7: Non-Conforming Buildings, Structures and Uses:

7.7 A non-conforming use shall not be changed or extended within a building or upon the same lot nor shall the nonconforming building or structure be expanded, except as provided by the procedures of Section 19.4.A. (Use Variances)-of this Local Law.

The extension of a currently lawful use to any portion of a non-conforming building, which building existed prior to the enactment of this zoning ordinance shall not be deemed the extension of a non-conforming use.

SECTION 4. EFFECTIVE DATE.

The Provisions of this Local Law shall become effective upon its filing with New York State Secretary of State

Village of Ellicottville Local Law No 1 of the year 2022

A local law requiring prior written notice filed with the Village Clerk of the Village of Ellicottville, NY as a condition precedent to prosecution of causes of actions seeking monetary damages against the Village for conditions in public right-of ways, or certain public infrastructure.

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

LOCAL LAW NO. #1 OF THE YEAR 2022

Be it enacted by the Village of Ellicottville NY as follows:

Section 1. This Local Law shall be known as the “Prior Written Notice as Condition Precedent to Prosecution and Maintenance of Claims for Damages arising from Condition of Public Right-of-Way or Infrastructure”

Section 2. Legislative Intent

The Village of Ellicottville New York (the Village)recognizes the public benefit in repairing dangerous conditions in public right-of -ways, in a reasonable time, and also having reasonable time to make any necessary repairs or alterations to conditions before incurring liability arising from said conditions. This Local Law is intended to encourage bringing conditions to the attention of the Village so that they may be made aware of the need to commence necessary steps which will improve public safety in the right-of-way, and also protect the Village against Liability where they do not have reasonable notice of the need for any repairs, or other actions necessary to improve conditions in the public right-of-ways. Accordingly, the Village hereby adopts the

Section 6. Effective Date

The Local Law, and the temporary moratorium created by it, law shall become effective immediately upon filing of this Local Law with the Secretary of State.

Local Law No. 2 of the year 2022

Village of Ellicottville, County of Cattaraugus, State of New York

A local law authorizing a property tax levy in excess of the limit established in General Municipal Law S3-c for Fiscal Year 2022

Section 1. Legislative Intent

It is the intent of this local law to allow the Village of Ellicottville, NY to adopt a budget for the fiscal year commencing June 1, 2022 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law S 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law S3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override

The Board of Trustees of the Village of Ellicottville, County of Cattaraugus, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2022 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law S3-c.

Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

Local Law Filing

Village of.....Ellicottville.....

Local Law No......3**of the year 2022.**

A local law to Implement and Enforce the Uniform Building Code, Fire Code and Energy Code

Be it enacted by the **BOARD OF TRUSTEES** **of the**

Village of**ELLICOTTVILLE** **as follows:**

Local Law # 3 of 2022.

Be it enacted by the Village Board of the Village of Ellicottville, in the County Of Cattaraugus, as follows;

SECTION 1.PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Village. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code, other state law, or other sections of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

SECTION 2.DEFINITIONS

In this local law, the following terms shall have the meanings shown in this section:

"Assembly Area" shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for ted to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

"Building Permit" shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "Building Permit" shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

"Certificate of Compliance" shall mean a document issued by the **Village** Of Ellicottville

stating that work was done in compliance with approved construction documents and the Codes.

"Certificate of Occupancy" shall mean a document issued by the **Village** Of Ellicottville certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the

Village of Ellicottville and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

"Code Enforcement Officer" shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this local law.

"Code Enforcement Personnel" shall include the Code Enforcement Officer and all Inspectors.

"Codes" shall mean the Uniform Code and Energy Code.

"Energy Code " shall mean the New York State Energy Conservation Construction Code Adopted Pursuant to Article 11 of the Energy Law.

"FCNYS" shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

"Fire Safety and Property Maintenance Inspection" shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated there in by reference.

"Hazardous Production Materials" shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard System For Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

"Inspector" shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this local law.

"Mobile Food Preparation Vehicles" shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

"Operating Permit" shall mean a permit issued pursuant to section 10 of this local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

"Order to Remedy" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this local law.

"Permit Holder" shall mean the Person whom Building Permit Has been issued.

"Person" shall include an individual, corporation, Limited Liability Company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kinder description.

"PMCNYS" shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

"RCNYS" shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

"Repair" shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance of auto-correct damage.

"Stop Work Order" shall mean an order issued pursuant to section this local law.

"Sugarhouse" shall mean building used, in whole or part, of the collection, storage, reprocessing of maple sap into maple syrup and/or maple sugar.

"Temporary Certificate of Occupancy" shall mean a certificate issued pursuant to subdivision (d) of section of this local law.

"Village" shall mean the Village Of Ellicottville, NY.

"Uniform Code" shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

(a) The Office of Code Enforcement Officer is herein recognized and maintained. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

(3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of section 17 (Violations) of this local law;

(7) to maintain records;

(8) to collect fees asset by the **Village Board** this **Village**;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this **Village's** attorney, to pursue such legal actions and proceeding s as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by the **Village Board**. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and regulations promulgated there under.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by **Village Board** to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) One or more Inspector may be appointed **Village Board** to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated the reunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the **Village Board** of this **Village**.

SECTION 4.BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from The **Village**.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one-story detached structures associated with one-or two family dwellings or multiple single family dwellings (townhouses), which are used for tool storage sheds ,playhouses, or similar uses, provided the gross floor area doesn't exceed 144 square feet;

(2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(3) installation of window awnings supported by an exterior wall of a one-or two family dwelling or multiple single-family dwellings (townhouses);

(4) installation of partitions or movable cases less than 5'-9" in height;

(5) painting, wallpapering, tiling, carpeting, or other similar finish work;

(6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(7) replacement of any equipment provided there placement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or

(8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(c) Exemption not deemed authorization to perform non-compliant work. The Exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work;(ii) how that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the mear (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative location of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, flood ways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with

Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in anyway, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number,

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in

paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permits Issued.

(f) Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code And Energy Code.

(9) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such changes shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits Shall Expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

(j) Revocation or suspension of Building Permits. If the Code Enforcement Officer Determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code

or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS.

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) Elements of work to be inspected. The Following Elements The Construction Process shall be inspected, where applicable:

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

(3) preparation for concrete slab;

(4) framing;

(5) structural, electrical, plumbing, mechanical, fire protection, and other similar service systems of the building;

(6) fire resistant construction;

(7) fire resistant penetrations;

(8) solid fuel burning heating appliances, chimneys, flues, or gas vents;

(9) inspections required to demonstrate Energy Code compliance, including but not limited to

insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;

(10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and

(11) a final inspection after all work authorized by the Building Permit has been completed.

(c) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer Or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific

code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(e) Fee. The fees specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS.

(a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any

applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit Has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, observed on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail/certified mail.

The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 17 (Violations) of this local law or under any other applicable local

law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub classification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable that the structure, building or portion thereof that was converted from one use or occupancy classification or

Sub classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as maybe designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided the Code Enforcement Officer Prior To the issuance of Certificate of Occupancy or Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections,
- (2) flood hazard certifications,
- (3) a written statement of the results of tests performed to show compliance with Energy Code, and
- (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

(c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate Of Compliance shall contain the following information:

- (1) the Building Permit Number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name if any), address and tax map number of the property;
- (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;

- (7) the occupant load of the assembly areas the structure, if any;
- (8) any special conditions imposed in connection with the issuance of the Building Permit; and
- (9) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance And the date of issuance.

(d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement

Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate Of Occupancy was issued in error or on the basis of incorrect information, and if there levant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time of submission of application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

SECTIONS 8 .NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER

Unsafe buildings, structures, and equipment and conditions of imminent danger in this **Village** shall be identified and addressed in accordance with this local law that provides for the administration and enforcement of the New York State Uniform Fire Prevention (specifically Section 107 "Unsafe Structures and Equipment") and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below: (1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or

permit requirements of the chapter or section title the FCNY as follows:

- (i) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;
- (ii) Chapter 24, "Flammable Finishes." Operation utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
- (iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
- (iv) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one family dwelling;
- (v) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
- (vi) Chapter 32, "High-Piled Combustible Storage." High piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
- (vii) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
- (viii) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling; (ix) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;
- (x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
- (xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
- (xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly are as educational occupancies; and
- (xii) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation

vehicle in accordance with the permitting requirement established by **Village Zoning Law** as now in effect or as hereafter amended from time to time.

(3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(4) buildings containing one or more assembly areas;

(5) outdoor events where the planned attendance exceeds 1,000 persons;

(6) facilities that store, handle or use hazardous production materials;

(7) parking garages as defined in subdivision(a)of section 13 of this local law;

(8) buildings whose use or occupancy classification may pose substantial potential hazard to public safety, as determined by resolution adopted by the **Village Board** of this **Village** and

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the **Village Board** of this **Village**.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If The Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) This Subdivision Is Intentionally Omitted.

(d) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote

inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, there mote inspection can be performed to the same level and quality as an in-person inspection and there mote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code And the code enforcement program. Should a remote inspection not afford the **Village** sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provisions that have not been met.

(e) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.

(f) Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

(1) **not to exceed 180** days for tents, special event structures, and other membrane uctures;

(2) **not to exceed 60** days for alternative activities at sugarhouse;

(3) **not to exceed three(3)**years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and

(4) **not to exceed one(1)**year for all other activities, structures, and operations identified in subdivision(a)of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

(9) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which Operating Permit was issued does not comply with any applicable provision the Uniform Code, such Operating Permit shall be revoked or suspended.

(h) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid at the time submission of application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11, FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- (1) at least once every **twelve(12)** months for buildings which contain an assembly area;
- (2) at least once every **twelve(12)** months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
- (3) at least once every **thirty six (36)** months for multiple dwellings and all non residential occupancies,

(b) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in person inspection shall be performed.

(c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at anytime upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code Exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that

conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting and inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(d) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

Notwithstanding any other provision to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

(1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);

(2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(3) such inspections are performed no less frequently than once a year;

(4) a true and complete copy of the report of each such inspection provided to the Code Enforcement Officer; and

(5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 17 (Violations) of this local law.]

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time each inspection is performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) if a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise the manner described in section 17 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. CONDITION ASSESSMENTS OF PARKING GARAGES.

(a) Definitions. For The Purposes Of This Section:

(1) the term "condition assessment" means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

(2) the term "deterioration" means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element building component;

(3) the term "parking garage" means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

(i) buildings in which the only level used for parking or storage of motor vehicle is on grade;

(ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(iii) at own house unit with attached parking exclusively for such unit;

(4) the term "professional engineer" means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term "responsible professional engineer" means the professional engineer who performs a

condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term "responsible professional engineer" shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment

(6) the term "unsafe condition" includes the conditions identified as "unsafe" in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

(7) the term "unsafe structure" means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments-general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision(d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each Condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared and provided to the **Village**, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, the prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and August 28, 2018, the prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to April 30, 2023.

(d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three(3)years.

(e) Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the **Village** becomes aware of any new or increased deterioration which, in the judgment of the **Village**, indicates that additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (C) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the **Village** Be Appropriate.

(f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the **Village** within ninety (90) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall

include:

(1) an evaluation and description of the extent to deterioration and conditions that cause deterioration that could result in an unsafe condition unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended time frame for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

(g) Review Condition Assessment Reports. The **Village** shall take such enforcement action or actions in response to the information in such condition assessment report as may be

necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the **Village** Shall, be Order to Remedy or such other means of enforcement as the **Villages** May deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the **Villages** To take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(h) The **Village** shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the **Village** with a written statement attesting to the fact that he or she has been engaged, the **Village** shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports available to such professional engineer. The **Village** shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the **Village**:

(1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the **Village** by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of condition assessment.

SECTION 14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

(a) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this **Village** as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where

applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

(1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

(2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table Found In Chapter 3 of the RCNYS; and

(3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

(i) the accompanying Flood Insurance Rate Map(FIRM);

(ii)Flood Boundary and Flood way Map(FBFM); and

(iii) related supporting data along with any revisions thereto.

(b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

SECTION 15.RECORDKEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits Issued;

- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this local law.

(b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances there to, shall be retained for at least the minimum time period as required by State law and regulation.

SECTION 16. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to **Village Board** of this **Village** a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this **Village**, on a form prescribed by the Secretary of State, a report of the activities of this **Village** relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this **Village** is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code And/or /Energy Code as may be requested by the Department of State.

SECTION 17: VIOLATIONS

(a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or

premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following

"The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty(30)days after the date of this Order to Remedy."

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to Page cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other