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# VILLAGE OF WAMPSVILLE ZONING LAW

## CHAPTER 1 GENERAL PROVISIONS

### § 1.1 SHORT TITLE

This chapter shall be known and may be cited as the “Zoning Law of the Village of Wampsville.”

### § 1.2 DEFINITIONS

#### A. GENERALLY

Except as otherwise indicated in this section, the words used in this Chapter shall have the meaning commonly attributed to them. Doubts as to the precise meaning to any works used in this Chapter shall be clarified by the Zoning Board of Appeals under its power of interpretation.

#### B. RULES OF INTERPRETATION

For the purpose of this Chapter, certain terms or words herein shall be interpreted or defined as follows:

- Words used in the present tense include the future tense.
- The singular includes the plural.
- The word “person” includes a corporation as well as an individual.
- The word “shall” is always mandatory.
- The word “used” or “occupied” as applied to any land or building shall be constructed to include the words “intended, arranged, or designed to be used or occupied.”

#### C. SPECIFIC TERMS

As used in this Chapter, unless the context or subject matters otherwise requires:

1. “**Accessory Structure**” means a structure used or occupied as an adjunct of, or in conjunction with, the principal use or occupancy of the premises, or the building or buildings thereon, and which is located on the premises or adjacent.
2. “**Accessory Use**” means a use which is incidental or subordinate to and used in

connection with the principal use on the same lot with such principal use. Some examples include uses such as management offices for business, institutional or industrial establishments, incidental machines, or equipment repair for retail businesses.

3. **“Adult Business”** means any use or business that:

- a. Is any use of, structure or location which, by the provisions of the Penal Law, is required to restrict access thereto by minors.
- b. Is an establishment, location, building, or structure which features topless dancers, nude dancers or strippers, male or female.
- c. Is a location, building, or structure used for presenting, lending, or selling motion picture films, videocassettes, cable television, or any other such visual media or used for presenting, lending, or selling books, magazines, publications, photographs, or any other written materials distinguished or characterized by an emphasis of matter depicting, describing or relating to specified sexual activities.

4. **“Agricultural Businesses”** means businesses designed principally for the servicing of the needs of farm operating such as farm implement stores, feed stores.

5. **“Alley”** means a narrow service way providing a secondary means of access to abutting properties.

6. **“Alteration of a Building”** means any modifications, change, rearrangement, or addition to a building, other than repairs or any modification in building equipment.

7. **“Animals”**: These definitions recognize and address three basic categories of animals relevant to control within the scope and purpose of the definitions; domestic, farm, and exotic or wild animals.

- A. Domestic Animals-those species that have historically been bred to live with people and are commonly trained and associated with people’s homes or places of work as pets or as (non-farm) working companions; examples are dogs and cats. Other animals that have a historical presence as pets are some non-domesticated species that are maintained within glass tanks, cages, or similar display containers and include tropical fish, birds, small reptiles (turtles, frogs, lizards), and small rodents (hamsters, gerbils, mice, rats). This list is not exhaustive.
- B. Farm Animals-those species that have historically and commonly been associated with agricultural use as the production product (food, hides, fur, etc.), or as work animals directly related to the agricultural process (hauling, plowing, etc.). Typical farm animals include horses, cows, chickens, sheep, pigs. Some species of fish are also raised in aquatic farms such as salmon, catfish, and trout. Agricultural use may be devoted solely to animal breeding for sale and end-use by others such as horses that are used for recreational purposes (racing, riding, or show). This list is not exhaustive.

- C. Exotic (wild) Animals-those species that are indigenous or non- indigenous wild animals captured or bred in captivity and typically are not acclimated through selective breeding to regular human contact though individual animals of many species have been domesticated for such human purposes and education (zoo, teaching facilities), entertainment (theater, circus shows) or even as pets, they are not considered to be domestic or farm animals. Examples include large animals: monkeys, apes, lions, tigers, wolves, alligators, and boa constrictors. Small animals include falcons, hawk, squirrels, and raccoons. Some animals such as ferrets may require special licensing from New York State to be sold or maintained as pets. Due to the size, characteristics, or nature of some of these animals, they remain potentially harmful to humans and require special care and monitoring even when domesticated

8. “**Animal Boarding/ Breeding Facility**”: means a primary or accessory use where domestic or farm animals are harbored overnight for compensation and are provided with basic supervision and care (food, sleeping, and waste disposal areas). Common examples of this use include dog breeders and private or public horse stables. This land use may include facilities and are for grooming, training, riding, or shows.

9. “**Animal Care Treatment Facility**”: means a primary or accessory use where domestic (IE: dog and cat however this list is not exhaustive.) animals are temporarily present for nonmedical care (IE: grooming) or training programs, such as dog obedience: companion, seeing-eye, or rescue instruction, or competitive skills activities (hunting, retrieving, racing). This land use may include the sale of retail products and/or areas for shows. The definition excludes facilities for the boarding or breeding of animals.

10. “**Animal Harboring**” means the keeping of four (4) or more cats; or any number of horses, cattle, pigeons, fowl, rabbits, sheep, goats, pigs, or other customary farm animals; or beehives; or animals customarily kept in zoos; or the keeping of any animals for sale or hire, except for the sale of animals in commercial pet shops.

11. “**Animal Hospital**” means an establishment for the temporary occupation by sick or injured animals for the purpose of medical treatment.

12. “**Animated Sign**” means a sign or any portion thereof having movement by mechanical or natural means, including by way of illustration and not limitation, rotating signs, wind signs, and signs where movement is simulated by illumination devices. This term shall include the use of blinding, flashing, and general intermittent light, as opposed to the light of constant intensity. All-time and/or temperature devices as defined herein shall not be considered animated, whether or not they contain or are incorporated into a sign.

13. “**Apartment**” means a dwelling unit in a multiple dwelling or mixed occupancy building.

14. “**Apartment Building**” means a building arranged, constructed, or designed to be occupied by three (3) or more families living independently of each other, with ownership vested in other than the occupants thereof.

15. “**Area Regulations**” mean those regulations which refer to dimensional or numerical requirements in the Zoning Law, such as, but not limited to lot size, coverage, percentage of impervious material, building height and number of parking spaces, density, and supplemental regulations which refer to dimensional or numerical requirements.

16. “**Area of a Sign**” means the entire area within a single continuous perimeter enclosing the extreme limits or writing, representation, emblem, or any figure of a similar character, as included within the definition of a sign, together with any frame or other material or color-forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is situated.

17. **Assisted Living Facility** -See Nursing/Convalescent/ assisted living facility.

18. **Auto Body Repair** -see motor vehicle rental sales and service.

19. **Bank/ Credit Union**: see retail use.

20. “**Basement**” Also known as cellar means that space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

21. “**Bed and Breakfast Residence**” means a type of home occupation in an owner-occupied, single-family residence offering overnight lodging for quests or tourists and may include dining facilities limited only to the overnight guests.

22. “**Boarding House**” means any building containing primarily boarding units, with or without meals as a condition of occupancy. A rooming house furnished shall be deemed a boarding house.

23. **Buffer**: See perimeter landscape strip.

24. “**Buildable Area**” means the area within a lot eligible to be built upon or occupied by structures and/or land use activities that are bounded and established by the required front, side, and/or rear building lines set forth in the zone district requirements or supplemental regulations.

25. “**Building**” means a type of structure wholly or partially enclosed within exterior walls and a roof to be used for sheltering people, animals, property, business, or other activities. Structures divided with interior walls extending from the foundation through to the roof shall generally be considered separate buildings. Common examples include **houses, garages**, factories, barns, and mobile homes. Fences, signs, and temporary structures, such as tents, are not buildings.

26. “**Building Height**” means the vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of

the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof.

27. “**Building Integrated Solar Energy System**” means a Solar Energy System incorporated into and becoming part of the overall architecture, design and structure of a building in manner that the Solar Energy System is a permanent and integral part of the building structure.

28. “**Building Line**” means a line connecting points in each sideline equidistant from the street line, beyond which no portion of a building shall extend, other than steps, eaves, cornices, and similar fixtures.

29. “**Building Line Width**” means the length of the building line.

30. “**Building Product Sales. Storage and Display**” means a retail or wholesale use where lumber, construction supplies, and similar products are sold, displayed for sale, or stored. Materials may be stored and activities may be conducted in exterior open areas.

31. “**Bulk Storage**” means the commercial development of land to be used or occupied by structures, equipment, vehicles, or storage areas designed to hold and distribute large quantities of material. Examples include petroleum products, fuels, and potentially hazardous chemicals.

32. “**Business, Limited**” means a commercial activity generally conducted within an office and characterized by services of a clerical, administrative, technical, professional or general business nature, including data processing, computer programming and similar technology, but expressly excluded manufacturing, wholesaling or retail sales or merchandise kept on the premises.

33. “**Business, Retail**” means a commercial activity designed for and primarily characterized by the direct on-premise sale of goods and services to the ultimate consumer, generally involving stock in trade such as are normally associated with department stores, food markets, and similar establishments, but also including financial institutions, business and professional offices, and services, including on- premise manufacturing, processing, servicing, preparation, and wholesale business transactions customarily associated therewith, but clearly incidental thereto. This term shall not include restaurants, motor vehicle businesses, places of public assembly or medical centers.

34. “**Business Sign**” means a sign which directs attention to a business, industry, profession, commodity, service, or entertainment sold or offered upon the same premises where the sign is located.

35. “**Business, Wholesale**” means a commercial activity characterized by the sale of merchandise in bulk to retail, manufacturing, institutional or other wholesale establishments, including on-premise storage and distribution facilities.

36. “**Carport**” means a roofed structure, used for the storage of one or more automobiles.

37. **CELL TOWER:** See Utility Substation

38. “**Cellar**” means that space of a building that is partly or entirely below grade, which has more than half of its height, measured from the floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building. Also known as a basement.

39. **Cemetery:** Land improved and maintained for the interment of animal or human and may include interment structures, such as mausoleums, administrative and maintenance structures, and facilities for conducting funeral services, but excludes facilities for the cremation of human or animal remains.

40. “**Church**” means any structure used for worship or religious instruction including sound administrative rooms accessory thereto.

41. **Clinic:** See “Urgent Care Facility”

42. “**Club**” means any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which is not conducted primarily for gain, and provided no vending stands, merchandising, or commercial activities are established except as required for the membership and purposes of such a club. For the purpose of this Law, clubs shall include lodged, fraternal organizations, mutual benefit societies, and others like organizations.

43. “**Clubhouse**” means a building to house club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, café, or another public place.

44. “**Commercial Residence**” means a building containing transient and/or permanent lodging facilities for the general public and which generally contains accessory facilities such as restaurants, meeting rooms, retail business activities, and related activities designed primarily to accommodate the occupants, but open to the general public. This term shall include motels, inns, tourist courts, and similar commercially oriented transient lodging facilities.

45. “**Commercial Vehicle**” means a wheeled or tracked conveyance used in a trade or business except for agriculture.

46. **Communication Tower:** see utility substation.

47. “**Community Center**” means a building or structure for community use with no commercial activities being conducted therein.

48. “**Comprehensive Planning**” means the processes engaged in and developed by the Town to formulate and/or implement immediate and long-range objectives for the enhancement and development of the Town. These processes include the accumulated case actions, analyses,

policies, studies, reports with or without maps, and may or may not be formally adopted by the Town.

49. “**Consolidation**” means the combining of one or more parcels of land. See also subdivision.

50. “**Contractors Service Yard**” means the land or structures serving as the base of operations for building trades contractors, trucking or heavy equipment operations, or similar professions. Examples include irrigation and well-drilling services, plumbing contractors, or landscape contractors. Such uses may include related offices; storage areas for equipment, materials, and job-site trailers; and service areas for merchandise, vehicles, or equipment unrelated to the contracting business.

51. “**Conversion**” means changing the use or occupancy of a dwelling by alteration or by other reorganization so as to increase the number of families or dwelling units in a structure in accordance with the provisions of the district in which it is located.

52. “**Corner Lots**” shall have two (2) building lines as defined above. The rear line of a corner lot shall be the boundary line opposite the shortest building line. For purposes of this Chapter, each corner lot shall have one rear yard lot line, with the side yard lines and the front yard lines determined in relation thereto.

53. “**Court**” means open unoccupied space, other than a yard on the same lot with a building or group of building and which is bounded on two or more sides by such building or buildings.

54. “**Crematory**” means a building with incinerators or furnaces used to reduce human or animal remains to dust or gravel-like material. The use shall exclude space for the storage or burial of remains.

55. “**Cropland**” means land without any buildings used for the commercial production of agricultural products such as corn, wheat, vegetables ornamental plants or fruit. It may include minimal improvements and/or structures such as fences or irrigation systems.

56. **Dance Studio:** See instructional facility.

57. “**Day Care Center**” means a place for the care of four (4) or more children away from their own homes who stay for a period of three (3) or more but less than twenty-four (24) hours during any day irrespective of compensation, reward or otherwise.

58. “**Detached**”, as applied to a structure, means having open space on all four (4) sides.

59. **District Zone:** See Zone District

60. “**Dog Kennel**” means the use of land or structures for the harboring of more than three (3) dogs that are more than six (6) months old.



61. “**Domestic Animals or Pets**” means animals which normally live in the same dwelling unit as their owner and are not kept for commercial use.

62. “**Drive-in Food or Package Food Restaurant**” shall include any facilities where the primary use is the preparation and sale of food or refreshment for purchase by and for the convenience of a motor-customer for the consumption within the motor vehicle on the premises outside of a fully enclosed permanent building, or off- premises.

63. “**Drive-In Service**” means an accessory or primary land use that is a facility from which customers conduct any business, secure consumer goods or services, and such goods and services are dispensed for use or consumption either off-premises or while the customers remain in their motor vehicles. This facility may be a mechanical device, a service-type window, or a kiosk attached to or detached from a principal building. This definition includes facilities commonly referred to as: “drive-in or drive-through banks,” “drive-in restaurants and movie theaters,” ATMs (automatic teller machines),” and “drive-up kiosks.” This definition specifically excludes gasoline service stations, car washes and similar motor vehicle services where the vehicle is the object of the retail service: it also excludes designated vehicle loading areas accessory to retail or wholesale uses.

64. “**Dump**” means a lot, or land, or part thereof, used primarily for the storage or disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, or garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

65. “**Dwelling**” means a house, apartment building, or other permanent building designed and used primarily for human habitation.

66. “**Dwelling Multi-Family**” is a free-standing residential building of three (3) or more dwelling units; with common walls and floors; is constructed on one lot or adjacent lots; it may or may not have an indirect entrance from the outside to each dwelling unit; and, yard area or open space may be assigned to each dwelling unit for exclusive use or common use.

Multi-Family dwelling is further defined as:

- i. Multiplex – of three (3) or more dwelling units on one lot or adjacent lots, attached side by side, back to back, or side to back so that at least two intersecting exterior walls of each unit remain unattached, having one or more commons walls, with yard areas or private open space on at least two sides of each dwellings unit; or a
- ii. Townhouse – of three (3) or more dwelling units on one lot or adjacent lots, attached side by side so that each unit has one or two common walls and at least two (2) exterior walls, with yard area or private open space on at least two (2) sides of each dwelling unit, and on three (3) sides of the end dwelling unit.
- iii. C. Garden Apartment – a multi-family dwelling no more than two stories in height from ground level.

- iv. Mid Rise Apartment – a multi-family dwelling of from three (3) to six (6) stories in height from ground level.
- v. High Rise Apartment - a multi-family dwelling of more than six (6) stories in height from the ground.

67. “**Dwelling, One Family**” means a building containing only one dwelling unit, and occupied by one family.

68. “**Dwelling, Two-Family**” means a building containing only two (2) units, and occupied by only two (2) families.

69. “**Dwelling Unit**” means a completely self-contained residential unit, with living, sleeping, cooking, and sanitary facilities within the unit, for use by one family.

70. “**Emergency Vehicle Station**” means the use of land, structures, or facilities to store, care, and operate emergency rescue, fire, or ambulance services. It may include space for vehicles, equipment, and personnel.

71. “**Excavation/ Mining Use**” means land used for the removal and transfer of sand, gravel, rock or stone, topsoil or earth, or other minerals as defined in the Environmental Conservation Law, from their original or natural locations to a different property.

72.” **Exhibit Hall**” means a facility designed for the assembly of large numbers of people to attend meetings, lectures, conventions, or commercial product shows. It may include areas for the consumption of food, classrooms, auditoriums, and offices. It excludes facilities for and the conducting of sporting events and recreational activities.

73. “**Exhibition**” means the showing of goods or products, which are produced on-site, either singly or as components of other finished products.

74. “**Family**” means a single person; or two (2) or more persons related by blood or marriage; and maintaining a common household with not more than two (2) boarder, roomers, or lodgers; or a group of persons not necessarily related by blood or marriage, and maintaining a common household. The term “family” does not include live-in house employees.

75. “**Farm**” means any parcel of land containing at least five (5) acres or more used principally in the raising or production of agricultural products, from which \$1,000 or more of agricultural products are sold or would normally be sold during a year’s time.

76. “**Farm Stand**” means an incidental and subordinate activity of a farm, nursery or greenhouse involving a building or lot or portions of a building or lot used for the seasonal retail sale of agricultural products, and may include activities in which retail customers pick or select their own produce from the fields or growing areas. A farm stand sales area may be one or more noncontiguous spaces within a property and shall be greater than 100 square feet. A total sales area of 100 square feet or less does not constitute a farm stand.

77. **“Fence”** means a structure designed to separate one portion of land from another. For the purposes of this law, fences shall also include walls, screens or hedges and any densely planted or constructed barrier of plant material, wood, masonry, stone, wire, metal or any other manufactured material or combination of materials erected for the total or partial enclosure of areas, and shall be further defined as:

a. Security Fence – A fence which provides limited or controlled ingress and egress to a portion of the building lot or swimming pool.

b. Privacy Fence – A fence which provides personal privacy and does not necessarily limit or control ingress and egress.

c. Privacy Shield – Cannot go into side yard – is a structure, screen or portion of a fence attached to the rear wall of a building and extending perpendicular from the wall along the side building line extended. And not exceeding six (6) feet in height or sixteen (16) feet in length.

78. **“Flood Insurance Rate Map (FIRM)”** The most recent official map on which the HUD Flood Insurance Administration has delineated both the special flood hazard areas and the risk delineated both the special flood hazard areas and the risk premium zones applicable to the Village of Wampsville.

79. **“Floodway”** means land adjoining a river, stream, watercourse, bay, or lake which is likely to be flooded.

80. **“Flood-Prone Area”** means the maximum area of the floodway that, on the average, is likely to be flooded once every hundred (100) years (that is, has a one percent (1%) chance of being flooded each year).

81. **“Flood Area of Building”** means the sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding cellar, basement, and attic floor areas not devoted to any use, except for storage, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between the exterior faces of walls.

82 **“Flush mounted Solar Energy System”** means a Rooftop-Mounted Solar Energy System with Solar Panels which, unless otherwise provided, are installed flush to the surface of a roof.

83. **“Freestanding Sign”** means a sign which is supported by one or more uprights or braces in or upon the ground.

84. **“Front Yard”** means the open space extending across the entire width of the lot between the street or highway right-of-way (street line) and the building line, into which space there shall be no structures or extension of structures other than steps, eaves, cornices, and similar portions of structures.

85. **“Front Yard Depth”** means the distance in the front yard between the street line and the building line.

86. “**Front Yard Width**” means the width of the front yard measured at the street line.

87. “**Funeral Home**” means a structure used and occupies by a professional mortician licensed by New York State for burial preparation and funeral services.

88. “**Garage, Private**” means a garage used for personal property storage purposes only by the owner or tenant of the lot on which it is erected, for a purpose accessory to the use of the lot.

89. “**Garage, Public**” means any garage other than a private garage, available to the public, operated for profit, and which is used for storage, rental or washing or automobiles or other motor vehicles.

90. “**Garage Sale**” means the selling or offering for sale of used or second-hand personal property to the general public from the premises of one’s dwelling on a temporary basis. A garage sale shall also include the terms porch sale, cellar sale, yard sale, rummage sale or any other such term devised to indicate a sale conducted at one’s dwelling.

91. “**Gasoline Service Station**” means gasoline sales outlet and gasoline self-service stations.

92. “**Grade, Finished**” means a finished grade which is the completed surface of the lawns walks, roads, and other surfaces brought to grades shown on plans or designs submitted to the Commissioner of Planning and Development, or in existence at the time Certificate of Occupancy is issued.

93. “**Graphic Plan**” means a drawing(s) of a site offering a depiction of how a site exists or is proposed to be modified. The graphic plan typically accompanies the submission application or documentation for zoning approval and will be drawn to scale and include details specified by the town.

94: “**Greenhouse, Accessory**” means an accessory structure for a residential, nonresidential or commercial land use that is typically enclosed with glass, plastic, or similar materials and which may be used for personal enjoyment and/or the noncommercial production of plants.

95. “**Greenhouse, Commercial**” means a structure typically enclosed with glass, plastic or similar translucent materials within which agricultural or horticultural products are grown for retail or wholesale sale, and includes appropriate areas for parking, loading and storage, office, and customers.

96. “**Ground Mounted Solar Energy System**” means a Solar Energy System that is affixed to the ground either directly or by mounting devices and which is not attached or affixed to a building or structure.

97. **“Gross Floor Area”** means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. In addition to areas primarily used for human occupancy, the term also includes basements, elevator shafts, stairwells, and any floor space (attics, penthouses, mechanical rooms) with structural headroom of six feet, six inches, or more.

98. **“Hazardous Material Storage”** means a facility designed, constructed, and maintained to safely store and distribute materials considered hazardous in normal use. Examples include ammunition, explosives and chemical waste.

99. **“Hearing, Informational”** means an informal process that may be required by this code or maybe optional by a reviewing board; its primary purpose is to disseminate and present information to the public. The notification requirements and conduct of the meeting shall be established by the reviewing board.

100. **“Hearing, Public”** means a formal process required by NYS law and/or this code: its primary purposes are to provide information to the public and to solicit opinions and comments from the public. Notification requirements and conduct of the meeting shall be established by the reviewing board.

101. **“Heavy Equipment Sales, Service and Storage”** means a use where construction, farm, or similar large equipment and machinery may be sold, stored, displayed, or serviced. Such activities may be conducted in open areas outside of any structures.

102. **“Height of a Sign”** means the vertical distance from the uppermost point of a sign (measured from a ten- (10) foot radius of the sign structure or structural trim) to the average ground height beneath the sign and within the structure thereof

103 **“Home Occupation”** means an accessory use of a service character customarily conducted within a dwelling or accessory character by a resident thereof, which is clearly secondary to the character thereof, or have any actual external or outside evidence of such secondary use and no external evidence of stock in the trade. No external or outside evidence of such home occupation thereof shall be permitted at any place on the premises involved, except that one small professional announcement sign not exceeding two (2) square feet in area may be affixed to the Street side of the dwelling. A home occupation shall be limited to occupations which require the performance of skilled services for clients or customers and shall exclude activities which involve any outside employees, partners, associates, independent contractors or any person not physically residing on the premises.

104.. **“Hospital”** An institution operated primarily for the care and treatment of sick and injured persons as in-patients which is always staffed by one or more licensed physicians. Nursing services are continuously provided twenty-four (24) hours by graduate registered nurses.

105.. **“Hotel”** means a building or group of buildings in which there is rental sleeping rooms and which may also include dining rooms, kitchens, serving rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.

106. **“Indoor Recreation- Participant”** means a principal use of the structure for individual or small group sporting events or recreational activities, such as indoor tennis courts, bowling alleys and athletic clubs. Such facilities are designed for the direct use and participation of most of the attendees and may include minimal spectator facilities.

107. **“Indoor Recreation-Spectator”** means a principal use of the structure for individual or team sporting events or recreational activities, such as indoor soccer fields and basketball courts. Such facilities are designed for the direct use and participation of some of the attendees and include substantial spectator facilities.

108. **“Industrial Park”** means a type of planned industrial environment for a variety of light industrial and related activities in which special emphasis and attention are given to aesthetics and community compatibility. Subdivided and developed according to an enforceable Master Plan that includes detailed provisions for streets and all necessary utilities, the park provides serviced sites for a community of industrial and industry-oriented uses.

109. **“Industrial-Heavy”** Includes a wide range of assembling, fabricating, and manufacturing activities such as food processing, manufacturing, and packaging: grain storage, processing, and distribution: concrete and asphalt batch plants, manufacture of products and merchandise involving the use of chemicals, processes or materials that might constitute a potential explosive or environmental hazard: slaughter plants, packing houses, animal by-products rendering and other such animal processing activities: automobile salvage and reclamation yards and facilities; processing or production of oil, natural gas, geothermal resources or other hydrocarbons; foundries truck terminals, delivery services, moving and storage facilities, and truck maintenance.

110. **“Industrial- Light”** Includes limited manufacturing, wholesaling, warehousing, research and development, and related commercial/service activities such as beverage bottling, distribution, and warehousing, contractor’s offices and storage buildings; including general contractors, plumbers, electricians, heating. Ventilating, air conditioning contractors, masons’ painters, refrigeration contractors, roofing contractors, and other such construction occupations; distribution centers; ice production, storage, sales, and distribution; laboratories for research, testing and experimental purposes; machine shops; manufacture of computers/ computer peripherals, electrical appliances. Electronic equipment, medical instruments, and other similar products from previously manufactured components; manufacturer of precision instruments and equipment such as watches, electronic equipment, photographic equipment, optical goods, and similar products, manufacturing of articles or merchandise from previously prepared or natural materials such as cardboard, cement, cloth, cork, fiber glass, leather, paper, plastics, wood, metals, stones, and other such prepared materials, printing and publishing.

111. “**Instructional Facility**” means a principal use offering individual or small group instruction, orientation, or training in various topics for personal development, such as performing arts, martial arts, crafts, or computer usage.

112. “**Junk**” means rags, scrap paper, scrap metal, scrap machinery or parts, salvaged or used building materials, scrap glass, discarded materials or unregistered motor vehicles or vehicles uninspected or no longer in condition for use on public highways.

113. “**Junkyard**” means an activity characterized by the storage, sale recycling, or dismantling of discarded machinery, equipment, paper, rags, scrap, and similar materials which activity is the principal activity as opposed to incidental use of another type of business.

114. “**Kennel**” means a land use or structure used for the commercial harboring or care of domestic animals, (IE: dogs, cats; the list is not exhaustive)

115. “**Landscape Buffer**” means the land adjacent to the front, side, and rear lot line included within the same space for required setbacks but solely designed and used for buffering and transition between lots. It is generally intended that such space be used for planting trees, shrubs, flowers, and evergreens to provide neighborhood beautification.

116. “**Landscaping**” means the act of changing or enhancing the natural features of a plot of ground usually around a building so as to make it more attractive, as by adding lawns, trees, bushes, shrubs, etc.

117. “**Land Use**” means a type of term used in this code as a group label for terms that describe and define human activities that may occur on the land.

118. “**Laundromat; Launderette**” means business premises equipped with individual clothes washing machines for cleaning and drying clothes for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

119. “**Library**” means a public or private institution maintaining a selection of books, records, and similar media for use by the general public or membership, and may include meeting or lecture rooms, but shall exclude businesses which rent books, records, videotapes, videodiscs, athletic equipment or similar objects for compensation or profit.

120. “**Lot**” means an area of land defined by property lines shown on a deed, survey, or official tax map, and is considered as a unit, occupied or capable of being occupied by one principal building and accessory buildings or uses, or when permitted in this code by multiple buildings or uses united by a common use or interest: and including such open spaces as are required by this code, and having frontage on a public or private right-of-way or an officially approved right-of-way.

121. “**Lot Area**” means the square footage within the property line of a lot, including easements and excluding land within dedicated streets or highway boundaries.

122. “**Lot, Corner**” means a lot located at the intersection of and fronting on two or more intersecting streets and having an interior angle at the corner of the intersection of fewer than 135 degrees. The narrower ROW frontage of a corner lot shall be the front of the lot, and the lot shall have one side yard and one rear yard established in relation to that front yard.

123. “**Lot Coverage**” means the aggregate percentage of the lot area covered by buildings or structures. “Lot coverage” as it pertains to gasoline service facilities shall also include the lot area covered by canopies, rental parking areas, and pump islands and shall exclude the lot area covered by light poles, sign standards, and fences.

124. “**Lot, Flag**” means an irregularly shaped lot with at least two major portions: a non-developable narrow area abutting a right-of-way connected to the larger developable area surrounded by other lots, conforming in all other respects to the district lot and setback requirements. The undevelopable portion of the lot shall be maintained clear of all structures and have a minimum width of 30 feet.

125. “**Lot Frontage**” means the length of the front lot line measured at the street right-of-way.

126. “**Lot Nonconforming**” means a plot that does not conform to the area, yard, or bulk regulations.

127. “**Lot Width**,” means the distance between the side lot lines measured along the front building line as determined by the applicable front yard requirement prescribed by this Chapter.

128. “**Manufacturing**” means land and/or a building occupied to process or transform raw or previously processed materials into finished products or parts and the storage and distribution of those materials to other manufacturers and/or wholesale or retail businesses. Examples include furniture manufacturers, metal processing, chemical processing, or assembly plants. This use shall exclude bulk storage and distribution of petroleum, natural gas, or potentially hazardous chemicals.

129. “**Medical Office**” an office where outpatient services are provided by medical practitioners that include but are not limited to: Ambulatory surgery centers, physicians, dentists, physical or occupational therapists, laboratory tests, diagnostic imaging (x-ray, MRI, etc.).

130. “**Mining, Mineral Extraction**” means use of land for the purpose of extracting and selling stone, sand, gravel, or other minerals as defined by the Environmental Conservation Law.

131. **Mini Warehouse:** See public self-storage.

132. “**Mobile Home**” means a vehicular, portable structure built on a chassis and designed to be used without the necessity of a permanent foundation as a dwelling when connected to utilities.



133.” **Mobile Home Park**” means any lot on which two (2) or more mobile homes are located, regardless of whether or not a charge is made for such accommodations.

134. “**Motel**” means a building or group of buildings providing rental sleeping rooms which may also include dining rooms, kitchens, serving rooms, meeting rooms and other facilities and services intended primarily for the accommodation of the personal needs of the motoring public, not including any facilities for patrons’ motor vehicles, other than parking.

135.” **Motor Home**” means any self-propelled vehicle designed for or used as temporary or permanent living accommodations and containing any of the following: Sleeping accommodations, Cooking Facilities, and Toilet Facilities.

136. “**Motor Vehicle Rental**” means land and/or structures commercially used for the rental of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles or boats.

137. “**Motor Vehicle Repair Shop**” means a building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles, including what are commonly called fender shops, frame shops, and paint shops.

138. “**Motor Vehicle Sales**” means land and/or structures commercially used for the sales of motor vehicles; including cars, trucks, recreational vehicles, motorcycles, trailers, snowmobiles, or boats.

139. “**Motor Vehicle Storage**” means a facility occupying land, structures, and/or buildings for the temporary controlled storage of operable motor vehicles. The addition or removal of any vehicle shall be subject to the control of the facility management. The use may contain space for office and vehicles directly related to the operation. Examples include impound yards, towing services. Vehicle holding yards or similar facilities storing vehicles for legal or financial reasons. This use excludes routine public parking, public garages, the storage of disabled or junk motor vehicles and/or motor vehicle sales, service, or rental.

140. “**Net- Metering**” means A billing arrangement that allows solar customers to receive credit for excess electricity which is generated from the customer’s Solar Energy System and delivered back to the grid so that customers only pay for their net electricity usage for the applicable billing period.

141. “**Nightclub/ Dance Hall**” means an establishment typically open to the public that predominantly includes areas for customer dancing or similar activity from a live performance or recorded musical entertainment; it may include incidental food services and eating areas.

142. “**Nonconforming Building or Structure**” means an established building or structure lawfully existing prior to and at the time of the adoption of this Chapter which, because of its inherent nature of construction, does not conform to and with the provisions of this Chapter for the district on which it is located.

143. **“Nonconforming Use”** means a use of land lawfully existing prior to and at the time of the enactment of this Chapter, and which does not conform to the regulations of the district in which it is situated.

144. **“Nursing or Convalescent Home”** means any establishment where sick, infer or convalescent persons are housed or lodged and furnished with meals and nursing care for hire. May include Rehabilitation Center.

145. **“Office”** means a building or a portion of a building exclusively occupied to perform services as a principal accessory or incidental use of an administrative, professional or clerical nature and includes activities such as insurance, real estate, financial, legal, design, and management. It shall exclude a “medical office,” as separately defined in this code

146. **“Office Building”** means a principal structure primarily designed and/or occupied by one or more offices.

147. **“Office Park”** means a lot or related lots designed as a master-planned area for the transaction of business, for the rendering of professional services, or for other services that involve stocks of goods, ware or merchandise in limited quantities for use incidental to office use or samples purposes. This may include such uses as office building for business and professional services, including a lawyer, physician, dentist, architect, engineer, musician, teacher, or other professional people including real estate and insurance offices, banking another financial businesses, and similar purposes in connection with such use; clinics for outpatient care, as well as outpatient medical services including but not limited to, imaging and physical therapy; restaurant or cafeteria for supplying meals only to employees and guests for the principal use; and newsstand, post office, branch banking facilities and similar conveniences serving primarily employees and guests of the principal use, provided that there shall be no external evidence of such use; radio and television stations, but not including transmitting facilities or antennae.

148. **“Open Porch”** means the porch open on three (3) sides except for screening. A porch shall not be considered open if enclosed by either permanent or detachable glass or plastic sash. A structure having a driveway running into it, under it, or through it shall not be considered an open porch.

149. **“Open Space”** means land not covered by buildings, or parking lots, open storage, mining operations, or any other use that usually obscured the natural or improved landscape, except for recreational facilities.

150. **“Parcel”** means an area of land to be subdivided or consolidated.

151. **“Park Lands”** means lands either conveyed to the Village or set aside on a plat or site plan as an incident to approval by the Village of Wampsville Planning Board of a plat or site plan, pursuant to the applicable provisions of the Village Law.

152. **“Parking Space”** means a space available for the parking of one motor vehicle and having an area of not less than 200 (10’ X 20’) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto.

153. **“Parking Space, Off-Street”** means an off-street area or berth with an appropriate means of vehicular access to a street intended for the temporary storage of vehicles.

154. **“Particulate Matter”** means material, other than water, which is suspended in, or discharged into the atmosphere in a finely divided form as a liquid or solid.

155. **“Performance Standard”** means a criterion established to control noise, odor, dust, dirt, vibration, noxious gases, glare, smoke, water pollution generated by or inherent in the use of land or buildings.

156. **“Perimeter Strip”** means land adjacent to lot sidelines and rears lines designed for buffering and transition. Such a strip shall not be used for parking. It is intended that such a perimeter strip be used for planting of shrubs flowers, and evergreens to provide neighborhood beautification.

157. **“Personal Service Use”** means a commercial activity where the customer is typically present and is the direct object of the services received and characterized by the direct on-premises sale of services to the ultimate customer and includes uses commonly referred to as barbershops, beauty salons dry cleaners self-service laundries and similar activities.

158. **“Plan (Plot or Site)”** means the design of a development, including a plot of subdivision, all covenants relating to the use, location, and the bulk of buildings and other structures, the intensity of use or density of development, private streets, ways and parking facilities. The phrase “provisions of the Plan” when used in these regulations shall mean the written and graphic materials referred to in this definition.

159. **“Premises”** means land and all buildings and structures thereon.

160. **“Principal Building”** means a building in which is conducted the principal use of the lot on which it is situated. In any residence district, a dwelling shall be deemed the principal building on the lot on which it is situated.

161. **“Private Club”** means a facility under the direct supervision and control of a charitable, religious, fraternal, social service, public or similar community organization, including not-for-profit corporations, providing, and generally limited to, club membership, a place of congregation meeting for purposes of education, training, counseling, active or passive recreation or similar pursuits, including social facilities. This land use may include incidental facilities for serving food and beverages. This term shall not include schools or retail business activities.

162. **“Private Swimming Pool”** means a pool constructed on a single-family lot or within the boundaries of a multi-family project designed to be used by the homeowner or the tenants, respectively, and excluding public or club use.

163. “**Processing**” means the production of goods and products in which the finished product is not substantially changed from the raw material and shall include packaging.

164. “**Professional Offices**” means the office or place of business where professional services are offered and do not involve the sale of goods or the keeping of a stock in trade. Professional offices are limited to doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

165. “**Projecting Sign**” means a sign which is affixed to any building wall or structure and extends beyond the building wall or parts thereof more than fifteen (15) inches horizontally, and no portion of which projects above the roofline or parapet of a building.

166. “**Property Line**” means the established division line between separate parcels of property.

167. “**Proprietary Home**” means an establishment licensed by New York State which houses elderly or handicapped persons but does not provide nursing care.

168. “**Public Self-Storage Unit Facility**” means A land-use characterized by the retail rental of storage space or units for holding personal or business items with direct customer access to the storage space. Examples include: mini-warehouse, public storage, or self-storage facilities; the use excludes: temporary or portable units, such as tractor-trailers or storage trailers (with or without wheels).

169. “**Public Swimming Pool**” means a pool designed to be open to using by the public in general, with or without a fee charged.

170. “**Qualified Solar Installer**” – means a person who has skills and knowledge related to the construction and operation of Solar Energy Systems (and the components thereof) and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSEDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Village Code Enforcement Officer or such other Village officer or employee as the Village designates determines such persons have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

171. “**Rear Yard**” means the open space extending across the entire width of the lot between the rear lot boundary and a line parallel with the rear lot boundary, into which space there shall be no

structure or extension of structures other than steps, eaves, cornices, and similar portions of structures.

172. “**Rear Yard Depth**” means the distance between the rear lot boundary and a line parallel with the rear lot boundary, as defined above.

173. “**Recreation Areas**” means land or structures designed for recreation of all age groups with no commercial activities being conducted thereon.

174. “**Recycling Process**” means an activity that collects, transforms, compacts, breaks down, or otherwise converts waste, by-products of manufacturing processes, or finished products into smaller or component parts. These parts may then be disposed of in an approved waste disposal site or made available for reuse in any other process, such as manufacturing, construction, or agriculture. Examples include: glass crushing, reprocessing of road asphalt, composting, paper reprocessing, metal separation organic-waste treatments, separation or refinement of chemicals or paints, motor vehicle oil (used) retreatment.

175. “**Recycling Process Facility**” means equipment, structure, or area of land used as secondary or accessory land use in a recycling process. This facility shall be integral or directly related to the production process of any principal agricultural, commercial, or industrial land use. Examples include organic composting bins or areas, animal waste (manure) holding areas and spreading equipment, or treatment plants for manufacturing by-products or waste. A recycling facility for typical household residential uses (e.g., garden composting bins) is excluded from this definition.

176. “**Religious Institution**” means a building used by people to regularly gather, attend and/or participate in religious services, ceremonies, instruction, meetings, or similar activities and includes buildings commonly referred to as churches, synagogues, meeting houses, or temples; the user may also include attached or detached dwelling units for a caretaker and/or primary religious official and their families.

177.” **Residence**” means the same definition as “Dwelling”.

178. “**Restaurant**” means a fully enclosed building wherein food or beverage is available for consumption and shall exclude those commercial enterprises designed primarily for drive-in food services.

179. “**Retail Store**” means a business or commercial activity involving primarily the sale of merchandise or stock-in-trade to the public, which business or commercial activity shall be conducted from within a permanently situated building.

180. “**Right-of-Way**” AKA ROW means legal boundary of the edges of a public or private road, street, highway, railroad, waterway, or similar transportation corridor. Such boundaries are typically controlled and set by government agencies and/or state law. Current ROW lines may supersede an older property survey or deed description. The ROW line is the same as the street line forming the front or side property line of abutting lots.

181. “**Roof Sign**” means a sign, any portion of which is either situated above the upper edge of any building wall or parapet (except as otherwise provided in the definition of wall sign below) or erected or painted on or above the roof covering any portion of a building, including signs supported on the roof or on an independent structural frame located on the side or roof of a penthouse, roof tank, roof shed, elevator housing or other roof structure.

182. “**Rooftop-Mounted Solar Energy System**” means a Solar Energy System in which Solar Collectors/Panels are mounted on the roof of a building or structure either as a flush-mounted system or as panels fixed to frames which can be tilted to maximize solar collection. Rooftop-Mounted Solar Energy Systems shall be wholly contained within the limits of the building’s or structure’s roof surface.

183. “**School**” means an institution of learning, maintained at the public expense and administered under the supervision of the State Education Department, for the free education of children.

184. “**Service Station**” See motor vehicle repair shop.

185. **Self -Storage Facility:** see Public Self Storage Facility.

186. “**Senior Assisted-Living Facility**” means a building, portion of a building, or a group of buildings that provide dwellings in a residential environment where individual cooking facilities are limited to microwave ovens, and/or cooktops, with assistance available by way of common meals, housekeeping and personal services. Occupancy is restricted to persons 62 years of age or older or couples one of whose member is 62 years of age or older who may; have difficulties with one or more essential activities of daily living, such as feeding, bathing dressing, or mobility.

187. “**Senior Citizen Facility**” means a facility intended to provide for specialized housing for persons of 62 years of age or older including senior independent-living facilities. Senior congregate-living facilities, senior assisted-living facilities, and senior-day care facilities.

188. “**Senior Community Center**” means a building under the direct control of the Ownership/management of rented units and/or a community association of homeowners and used as a place of assembly for religious, social, recreational, or educational programs and meetings of the residents of the Senior District.

189. “**Senior Daycare Facility**” means a facility with limited operating hours where specialized caregiving and supervision are provided for three or more adults, away from their own homes for less than 24 hours per day, and who have difficulties with one or more essential activities of daily living.

190. “**Senior Housing Development**” means a building or group of buildings that contain any combination of two or more senior citizen facilities, one-family dwelling multiple-family dwelling, and senior support services; intended specifically for persons 62 years of age or older.

191. “**Senior Independent-Living Facility**” means a building or portion of a building or a group of buildings containing dwelling units with full kitchens specially designed for use and occupancy by the elderly which may have common amenities but no common dining room and whose occupancy is restricted to a person 62 years of age or older or couples one of whose member is 62 years of age or older

192. “**Setback**” means the distance between a lot line and principal, accessory, or a secondary structure as required by this Law where a public right-of-way used by the general public abuts a lot line, the setback shall be measured from the boundary line of said right-of-way closest to the interior of the lot.

193. **Shed:** See Utility Storage Unit

194. “**Shopping Center**” means a lot of plots used for two (2) or more commercial use units, attached, detached or unattached. Two (2) or more separately owned commercial units shall not be deemed a shopping center solely by virtue of the fact that they share common access to adjoining highways and/or parking facilities.

195. “**Side Yard**” means the open space extending across each side of a lot between the lot boundary and a line parallel with the lot boundary extended from the front yard to the rear yard, into which space there shall be no structures or extension of structures other than steps, eaves, cornices, and similar portions of structures.

196. “**Side Yard Width**” means the distance between the sideline of a lot and a line parallel with the lot boundary for each side yard.

197. “**Sign**” means any: (a) structure; (b) natural object or part thereof~ (c) device; or (d) an inscription, which is represented on any land or the outside of any building used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, word numerals, emblems, symbols, models, banners flags, pennants, advertisement, attention-arrested, warning or designation of any person, firm, group, organization, insignia, trademarks, devices or representations used as, or which is in the nature of, an announcement, direction organization, place, commodity, product, service, business, profession, enterprise, industry, or public performance.

198. “**Sign**” Means a use of land, structure, or material for the purpose of conveying information, as a name, direction, warning, or advertisement, that is prominently displayed for public view and that consists of letters or symbols formed, inscribed, or mounted on wood, metal, masonry or any other material including flags, banners, pennants, insignia, trademarks, devices or representations used as or which is in the nature of an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession enterprise, industry or public performance.

- a. **AWNING SIGN**-Any visual message incorporated into an awning attached to a building.

- b. **FREESTANDING SIGN**-Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs, and masonry wall-type signs.
- c. **ILLUMINATED SIGN**-Any sign illuminated by electricity, gas, or other artificial light, either from the interior or exterior of a sign, and includes reflective and phosphorescent light.
- d. **PORTABLE SIGN**-A sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, a structure, or another sign, including sidewalk signs.
- e. **PROJECTING SIGN**-A sign which is attached to the building wall or structure and which extends horizontally more than nine (9) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.
- f. **WALL SIGN**-A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall and not extending more than nine(9) inches from the face of such wall.
- g. **WINDOW SIGN**-A sign visible from a sidewalk, street, or other public places, painted or affixed on glass or other window material or located inside within four (4) feet of a window but not including graphics in connection with a customary window display of products.

199. **“Sign Surface Area”** means the entire area within a single, continuous perimeter enclosing all elements of the sign that form an integral part of the display. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display. Both faces of a double-faced sign shall be included as surface or area of such a sign.

200. **Site Plan:** See Graphic Plan, see also Site Plan Review.

201. **“Site Plan Review”** means an examination of proposed land development by the Planning Board pursuant to the guidelines and standards of this code.

202. **“Solar Access”** means a space open to the sun and clear of overhangs or shade including the orientation of streets and lots to the sun so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

203. **“Solar Collector”** means a solar photovoltaic cell, panel, or array or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

204. **“Solar Energy System”** means a complete system of Solar Collectors, Panels, controls, energy devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy including but not limited to thermal and electrical, stored and protected from dissipation and distributed. For purposes of Article VI-A, a Solar Energy System does not include any Solar Energy System of four square feet in size or less.



**205. “Solar Farms”** means a A Solar Energy System or collection of Solar Energy Systems or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, with the primary purpose of supplying electricity to a utility grid for wholesale or retail sales of electricity to the general public or utility provider.

**“Solar Panel”** means a device which converts solar energy into electricity.

**206. “Solar Skyspace”** means the space between a Solar Energy System and the sun through which solar radiation passes.

**“Solar Storage Battery”** means a device that stores energy from the sun and makes it available in an electrical form.”

**207. “Special Use”** means an accessory use to a principal use which, because of its unique characteristics, requires special consideration in each case by the Planning Board before a building permit can be issued.

**208. “Stack”** means any conduit, duct, vent, flue, or opening of any kind whatsoever arranged to conduct any products of combustion to the atmosphere.

**209. “Standard Conditions”** means a gas temperature of sixty degrees (60) Fahrenheit and a gas pressure of fourteen and seven tenths (14.7) pounds per square inch absolute.

**210. “Storage Unit, Portable”** means an incidental and temporary structure to hold or shelter materials; examples in storage trailers, box trailers, inflatable units, tents, pods.

**211. “Stack”** means any conduit, duct vent, flue or opening of any kind whatsoever arranged to conduct any products of combustion to the atmosphere.

**212. “Standard Conditions”** means a gas temperature of sixty degrees (60) Fahrenheit and a gas pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

**213. “Street”** means any public way dedicated to public vehicular travel.

**214. “Street Line”** means the outside limits of a street or highway right-of-way whether or not Set forth in a deed or shown on a map.

**215. “Structure”** means anything constructed, erected, or otherwise situated whether of a permanent or temporary nature, on the land.

**216. “Subdivision”** means the division of a parcel of land into two or more blocks, lots, or plots, with or without streets or highways, for sale, lease, any similar conveyance or future development.

**217. “Subdivision Adjustment”** means the relocation of an existing lot line(s) between two or more legally existing lots without creating new streets, curb cuts, infrastructure needs or lots; or

the elimination of a lot line consolidating two existing legal or legal nonconforming lots without creating new streets curb cuts, or infrastructure need.

218. “**Swimming Pool**” means any body of water or receptacle for water having a depth at any point greater than two (2) feet, used or intended to be used for swimming, and constructed, installed, or maintained in or above ground. A swimming pool shall be deemed a structure for all purposes under the provisions of this Law.

219. “**Temporary Residence**” means a building or structure, wither temporary or permanent, available for occupancy by transient persons. Temporary residences shall include but not be limited to hotels, motels, boarding houses, lodging houses, tourist homes, and rooming houses.

220. “**Theater**” means a building or part of a building devoted to the showing of moving pictures or live stage productions.

221. “**Theater, Outdoor Drive-In**” means an open lot or part thereof, with its appurtenant facilities devote primarily to the showing of moving pictures or theatrical productions, to patrons seated in automobiles or in outdoor seats.

222. “**Tourist Home**” means a dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

223. “**Townhouse**” means a building, consisting of a series of non-communicating one-family sections, having a common wall between each two (2) adjacent sections with each section having separate utility services and each section is located on a separate filed lot or approved as a condominium designed for individual ownership.

224. “**Trade School**” means an institution of learning maintained by private individuals, corporations, or cooperatives for the instruction of a trade, skill, or craft for a fee.

225. “**Trailer**” See mobile Home.

226. “**Trailer Court**” means two (2) or more house trailers on a parcel of land under common ownership.

227. “**Travel Trailer**” means any portable vehicle which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreation, or vacation purposes; and which may or may not include all of the accommodations and facilities included in a mobile home.

228. “**Trucking Terminal**” means land and buildings used as a relay station for the transfer of cargo from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include pickup and drop off areas, parking areas for trucks and structures, or areas for the servicing of trucks associated with the terminal.

229. **“Use”** means the purpose for which a building, structure or premises, or any part thereof, is or are occupied, or if unoccupied, the purpose for which they may be occupied.

230. **“Use- Principal”** means the major use or activity occurring on a lot and defining the overall purpose of the land and structures.

231. **“Use- Secondary”** means a minor land use within a larger principal land use or structure that does not directly relate or support the principal land use. Secondary uses are permitted when specified in the district, subject to the designated review.

232. **“Unit, Attached or Detached”** means a non-communicating separate section, of a a building having separate exterior access and arranged intended or designed for single and separate use or occupancy.

233. **“Unit, Semi-detached”** means a building, one wall of which is partly wall in common with an adjoining structure.

234 **“Unit, Unattached”** means a single building arranged, intended or designed for a single-use and occupancy and not arranged, intended nor designed for subdivision or separation thereof.

235. **“Utility Storage unit”** is a solid structure designed to accommodate a use that is subordinate to the residences. Such a structure is detached from the residence and is freestanding storage, shed, garden house or similar facility.

236. **“Urgent Care Facility”** means a walk-in clinic focused on the delivery of medical care for minor illnesses and injuries in an ambulatory medical facility outside of a traditional hospital-based or freestanding emergency department.

237. **“Yard”** means a lot, lot area, lot corner, lot coverage, lot flag, lot non-conforming, lot width.

238. **“Zoning”** means a Legislative process that divides privately-owned urban areas into different zones (such as residential, commercial, industrial) according to the specified land use. Each zone is regulated as to the density, location, size, and type of building permitted therein.

## **CHAPTER 2**

### **ESTABLISHMENT OF ZONING DISTRICTS**

#### **§2.1 The Village of Wampsville is hereby divided into the following Zoning Districts:**

- R-30 One and Two Family Residential District
- R-20 One Family Residential District
- C Commercial District
- VC Village Center District
- Ind. Industrial District
- M-F (Overlay within Industrial District) Multi-Family District
- A-1 Agricultural District
- M Mobile Home Park District
- NC Neighborhood/Commercial

#### **§2.2 Zoning Map**

The Zoning Districts are bounded as shown on a map entitled “Zoning Map, Village of Wampsville”, which is hereby made a part of this law. The Zoning Map is on file in the office of the Village Clerk.

#### **§2.3 Interpretation of Zoning District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such as centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerline of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

## **§2.4 Application of Zoning Regulations**

Except as hereinafter provided:

- A. No building, structure or land shall hereinafter be used or occupied, and no building or structure 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.
- B. No building or structure shall hereinafter be erected or altered:
  - 1. To exceed the height;
  - 2. To accommodate or house a greater number of families or dwelling units;
  - 3. To occupy a greater percentage of lot area; or
  - 4. To have narrower or smaller rear yards, front yards, side yards than is specified herein for the district in which such building is located.
- C. No part of a yard or other open space about any building or structure required for the purpose of complying with the provisions of this Chapter shall be included, as part of a yard or other open space similarly required for another building.
- D. All uses not specifically permitted in a Zoning District or permitted after obtaining a Special Use Permit shall be deemed prohibited.
- E. The zoning regulations and districts herein set forth as outlined upon the Zoning Map are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things. As to the character of each district and its suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Village of Wampsville.
- F. In each case where a building or use is proposed other than a single-family residence, in any Zoning District, the Zoning Enforcement Officer shall refer a Site plan of the proposal to the Planning Board for its approval prior to the issuance of any Zoning or Building Permit.

## **§2.5 R-30 – One and Two Family Residential Districts**

Intent: It is the intent to maintain in R-30 Districts the quality of the environment that is usually found in areas occupied by one-family semi-detached dwellings and by two-family detached

dwelling with one-family detached dwellings permitted providing lot size and area requirements are met irrespective of dwelling type.

**A. USES PERMITTED:**

1. One-Family detached dwelling. Not more than one One-Family unit should be constructed on a single lot.
2. Two-Family detached dwelling, one per lot.
3. Semi-detached dwelling. To be a single-family residence without side yard – commonly referred to as a Townhouse. Not more than two family units shall be constructed on a single lot.
4. Private swimming pools.
5. Customary accessory uses and structures including necessary parking serving residential uses including, but not limited to fences, accessory structures, animal boarding provided such uses or structures do not include any business activity.

**B. USES REQUIRING SPECIAL PERMIT**

1. Schools, parks, playgrounds and recreation areas.
2. Nursery school, church, parish houses, library, cemetery, community center, nursing home, golf course, professional office, and customary home occupation. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).”
3. Board or rooming house providing accommodations for not more than two non-transient roomers.
4. All other uses are prohibited in this district.

### **§2.5.5 NC Neighborhood Commercial District**

Intent: It is the intent to maintain in NC Districts the quality of the environment that is commonly found in areas of light commercial use located near residential districts (R-20 & R-30). The lesser scale and intensity of such use within the NC District distinguish it from the Commercial and Industrial zones. Structures should be designed with neighborhood-friendly architecture and distinguishing features so as to blend as best as possible into a residential atmosphere. The high quality of life enjoyed by Village resident’s results in large measure from the physical design of the Village. This traditional neighborhood pattern of development is characterized by an inviting and attractive street environment that encourages informal interaction and a hospitable atmosphere for residential occupants. The traditional Village pattern of development should be maintained as much as possible particularly in those portions of the Village where there is likely to be the newest development and redevelopment.

**A. USES PERMITTED**

1. All uses permitted in §2.5 R-30 Residential District not to include uses requiring a special permit under the said section.
2. Personal service establishment to include barbershops, massage therapy, day spas and Salons (are all of these defined?)

3. Professional Offices
4. Bank/credit union
5. Medical office
6. Day-care center
7. Instructional classroom facility

**B. USES REQUIRING SPECIAL PERMIT**

1. All uses permitted in §2.5 (be sure of reference here as well) R-30 Residential District subsection B “Uses requiring special permit”.
2. Neighborhood Restaurants as defined as a restaurant that is not vehicular-oriented or drive-through service and is a building or portion of a building where food and beverages, both nonalcoholic and alcoholic, are sold to the public for consumption on the premises. However, food and alcoholic beverages shall be the principal operation. Such use may also provide entertainment on the premises.
3. Catering establishment which is for the purpose of delivering food to special events and parties.
4. Specialty Stores (i.e. Books, sporting goods, apparel boutiques, computers, bakeries, delicatessens, etc.).

**C. LOT REQUIREMENTS**

1. Lot
  - a. Minimum lot size: 20,000 square feet
  - b. Minimum lot width: 100 feet (this seems very narrow for a commercial est.)
  - c. Min. Yard Dimensions: 50 front, 15 sides, 25 rear
  - d. Max. Lot Coverage: 40%
2. Principal Structure
  - a. Min. Yard Dimensions: 50 front, 20 sides, 25 rear
  - b. Max. Lot coverage: 25%
  - c. Max. Height: 30 Feet
  - d. Max. Floors: 3

**D. SUPPLEMENTAL DESIGN PROVISIONS**

1. All uses except for those listed under A.1. above are subject to site plan approval by the Planning Board.
2. Commercial establishments (i.e. any non-residential use) shall provide a buffer or the landscaped perimeter of 10 feet adjoining other properties and 25 feet where abutting a residential district or abutting property that is being used as residential.
3. Lot. Principal and accessory structures design, scale, and construction material are subject to site plan approval. They shall be consistent with the existing or planned character of the surrounding area. Non-residential uses are to maintain a 25% green space of lawn and/or landscaping. Greenspace, traffic, noise, and light pollution will be factored in determining compatibility within the NC district.

4. Additional/ Multiple building on one lot such as accessory structures to support the principal use is subject to site plan approval.
5. The special permit must consider and maybe approved/rejected on the amount of traffic flow created by the use.
6. The special permit must consider the character of the neighborhood and determine that the permitted use shall not be detrimental to that neighborhood.

## **§2.6 R-20 – One-Family Residential Districts**

Intent: It is the intent to maintain R-1 Districts the quality of the environment that is usually found in areas occupied by one-family semi-detached and one family detached dwelling permitted providing lot size and area requirements are met irrespective of dwelling type regardless whether served by public water and sewers.

### **A, USES PERMITTED**

1. One-family detached dwelling, one per lot
2. Fences, accessory structures, pet shelters, provided such uses or structures do not include any business activity.
3. Private swimming pools.

### **B. USES REQUIRING SPECIAL PERMIT**

1. Schools, parks, playgrounds, recreation areas,
2. Nursery school, church, parish houses, library, cemetery, community center, nursing home, professional office, family customary home occupation.
3. All other uses shall be prohibited in this district.
4. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).”

## **§ 2.7 A-1 Agricultural District (Formerly A-G)**

It is the intent to maintain in an A-1 District the quality of the wholesome natural environment which, because of scenic and other natural attractiveness, constitutes a basic asset of the Village. This district is designed to accommodate agricultural activities, to provide a setting for low-density family dwellings and supportive nonresidential development in areas of the Village that are unlikely to be served by both public water and sewers.

### **A. USES PERMITTED**

1. One Family –detached dwellings.
2. Farms, farming, farm structures, fences, and apparatus required in the farming operation.
3. Sale of farm products grown on the farm, including a sale at roadside stands.
4. Private swimming pools



5. Accessory uses and structures including necessary parking on a lot containing primary use, providing such uses or structures do not include any business activity.

#### B. USES REQUIRING SPECIAL PERMIT

1. Nursery school, church, parish house, library, cemetery, community center, golf course, stables, riding academy, accessory farm help housing, mobile home, bed and breakfast, and customary home occupations, Schools, parks, playgrounds, recreation areas, upon obtaining a Special Permit. (4/13/21 Animal Hospital)
2. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).. Solar Farms. (subject to the granting of special use permit/site plan) (see § 5.18)."
3. All other uses are prohibited.

### **§2.8 C, Commercial District**

Intent: It is the intent to maintain in C Districts the quality of the environment that is usually found in areas of highest grade small retail stores, office, and personal service shops.

#### A. USES PERMITTED

1. Retail stores where Gross Floor Area does not exceed 5,000 square feet.
2. Professional offices.
3. Personal service establishments.
4. Mixed-use buildings with apartments.
5. Newsstand.
6. Private and public parking lots.
7. Taverns.
8. Restaurant.
9. Banks or other monetary institutions.
10. Club, lodge, social or recreational building.
11. Theater, bowling alley, dance studio.
12. Educational institutions.
13. Radio or television station.

#### B. USES PROHIBITED

1. Shopping center.
2. All other uses shall be prohibited in this district.

#### C. USES REQUIRING SPECIAL PERMIT

1. Gasoline stations.
2. Motor vehicle repair shop.
3. Warehouse or storage building.
4. Retail stores where Gross Floor Area exceeds 5,000 square feet.
5. Automotive sales.
6. Kennels, pet shops.

7. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).”

## **§2.9 VC. Village Center District**

It is the intent in the Village Center District to maintain the small village environment that promotes the reasonable transaction of commerce without inducing large amounts of vehicular traffic to frequent such facilities. Accordingly uses, which tend to be, traffic-intensive or require large amounts of space to accommodate parking or truck access is prohibited.

### **A. USES PERMITTED**

1. Retail stores where Gross Floor Area does not exceed 5,000 square feet.
2. Professional offices.
3. Personal service establishments.
4. Newsstand.
5. Private and public parking lots.
6. Restaurant (excluding drive-in or package restaurants).
7. Banks or other monetary institutions.
8. Club, lodge, social, or recreational building.
9. Theater, bowling alley, dance studio.
10. Educational institutions.
11. Radio or television station.

### **B. USES ALLOWED BY SPECIAL PERMIT**

1. Multiple-family dwellings
2. Retail stores where the Gross Floor area exceeds 5,000 square feet.
3. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).
4. All other uses shall be prohibited in this district.

## **§2.10 Ind., Industrial District**

### **A. USES PERMITTED.**

1. None.

### **B. USES ALLOWED BY SPECIAL PERMIT**

1. Yards for the storage and sale of wood, feed, fuel fertilizer, and similar products.
2. Heating, plumbing, air conditioning, and electrical shops.
3. Public utility structures and uses.
4. Light manufacturing of beverages, cosmetics, confections, food products (excluding meat and fish packing and the rendering or refining of fats and oils), ceramics, clothing, plastics, electrical and electronic goods, furniture and wood products,

hardware, tools, patterns, professional and scientific instruments, handicraft products, paints, dyes, pharmaceuticals.

5. Establishments for scientific or industrial research, or for general research and product development.
6. Warehouse and wholesale distribution facilities.
7. Transportation and trucking terminals.
8. Printers and publishers.
9. Motor vehicle repair shop.
10. Construction companies.
11. Bulk fuel storage.
12. Building materials sales.
13. Multiple-family dwellings in the outlined zoning map overlay.
14. Uses allowed in C, Commercial District, except residences.
15. Multi- Family Residences (2017 amendment)
16. Ground-Mounted Solar Energy Systems. (subject to the granting of special use permit/site plan) (see § 5.18).
17. Solar Farms. (subject to the granting of special use permit/site plan) (see § 5.18).
18. All other uses shall be prohibited in this district.

## § 2.11 AREA REGULATIONS

Zoning District	Min. Lot Area (Sq. Ft.)	Min. Lot Width (Feet)	Min. Yard Dimensions FRONT	Min. Yard Dimensions SIDE	Min. Yard Dimensions REAR	Min. Floor Area (Sq. Ft.)	Maximum Lot Coverage	Max. Height of Building
NC	20,000	100	50	15	25		40%	30'
R-30	30,000	100	50	20	50	1,200/DU	25%	35'
R-20	20,000 *	80 *	50	20	40	1,100/DU	25%	35'
AG	40,000	100	50	20	50	1,200/DU		
Comm.	10,000	100	50	15	25		30%	40'
VCD	10,000	75	50	15	25			
Indust.	40,000	150	50	50	50		40%	40'

1. Except for mobile homes necessary for farm labor.

\*Two-Family Residence requires 5,000 Sq. Ft. and 100 Ft. Width. All multi-family dwellings are with site plan approval.

## § 2.12 STANDARDS OF PERFORMANCE

- A. Noise – It shall be unlawful for any person to permit the emission of measurable noises, as measured at the individual property lines, to exceed seventy (70) decibels during the periods between 6 A.M. and 10 P.M., or sixty (6) decibels during the period between 10 P.M. and 6 A.M. The sound level may exceed these established sound levels for a period not to exceed

six (6) minutes during and sixty (60) minute period by not more than seven (7) decibels. Noises shall be muffled so as not to become unreasonably offensive due to intermittence beat frequency, high frequency, or other means.

- B. Odor – It shall be unlawful for any person to permit the emission of any odor that is unreasonably offensive as measured at the individual property line.
- C. Dust and Dirt – It shall be unlawful for any person to permit or cause the escape of such quantities of soot, cinders or fly ash as to exceed 0.3 grains per cubic foot of flue gas as a stack temperature of five hundred (500) degrees F. when measured at the top of the stack. Other kinds of dust, dirt, and other particulate matter shall not be in excess of 0.8 grains per a cubic foot of air as measured at the top of the stack and corrected to standard conditions, provided that if the top of the stack is one hundred (100) feet or more above the finished grade, the number of particulates of not more than ten (10) microns in size, if any, may be increased to standard conditions, when H is the height of the top of the stack above finished grade.
- D. Vibration – It shall be unlawful for any person to permit or cause, as a result of normal operations, a vibration which creates a displacement of plus or minus 0.003 of one inch as measured at the property line.
- E. Noxious Gases – It shall be unlawful for any person to permit the escape of such quantities of noxious acids, fumes or gasses in such manner and concentration as to endanger the health, comfort or safety of any person, or to cause or have a tendency to cause injury or damage to property, business, or vegetation.
- F. Glare – It shall be unlawful for any person to carry on a process such that a direct or sky reflected glare, whether from floodlights or from high-temperature process such as combustion or welding or other such processes, in unreasonably offensive when visible at the property line. No lighting of such signs or buildings shall be allowed unless it is of such low intensity or brilliance, and at such a location as not to cause glare or impair the vision of the driver of any motor vehicle.
- G. Radioactive Materials – It shall be unlawful for any person to permit the emission of such quantities of radioactive materials, in any nature whatsoever, as to be unsafe under standards established by the United States Bureau of Standards.
- H. Fire and Safety Hazards – All buildings, operations, storage, waste disposal, etc. shall be in accordance with applicable provisions of the Fire Prevention Code of the Village of Wampsville, being Chapter 55 of this Municipal Code.
- I. Open Storage – It shall be unlawful for any person to permit the open storage of any material, scrap or waste material without screening, such as a fence, hedge, or other barriers at least seven (7) feet high that makes the open storage invisible to the persons passing in a normal manner any property line facing a public right of way. Location of said screening

shall be subject to the front, side, and rear yard restrictions, provided, however, that protective fencing, decorative planting, etc., shall not be subject to these restrictions.

- J. Smoke – It shall be unlawful for any person to permit the emission of any smoke from any source whatsoever, as measured at the individual property line, of a density greater than, or equal to, that density described as No. 2 on the Ringlemann Chart, as published by the United States Bureau of Mines; provided, however, that the emission of smoke shall be unlawful if it is unreasonably offensive despite its apparent lack of density when measured by the Ringlemann Chart.
- K. Method of Analysis – Standard methods of collection and chemical analysis, or any method approved by the United States Bureau of Standards, shall be used in the application of these standards.

## **§2.13 MOBILE HOME PARK DISTRICT**

Provision is included for Mobile Home Park District to permit the establishment of alternative housing types should the need and interest arises. The following regulations apply to all mobile homes in mobile home parks:

1. Each mobile home shall have a minimum gross floor area (excluding accessory structures) of at least 980 square feet.
2. Mobile home parks shall be at least ten acres in area and shall provide for individual mobile home lots, access driveways, and parking.
3. Each mobile home lot shall be at least 10,000 square feet in area, one hundred feet wide by one hundred feet deep, and shall front onto an access driveway or street.
4. All-access driveways within a mobile home park must be at least thirty feet wide and built to standards acceptable to the Village Board of trustees.
5. Each mobile lot shall have an attachment to water supply. State Department of Health must approve the water supply source.
6. Each mobile home lot shall have an attachment for sewage disposal. State Department of Health must approve sewage disposal systems.
7. No mobile home lot or service building shall be closer to a public street right-of-way than fifty feet or closer to a property line than thirty feet.
8. A strip of land at least twenty-five feet wide shall be maintained as a landscaped area abutting mobile home park property lines.
9. No additions shall be made to a mobile home except a porch on three sides, or an addition made by the mobile home manufacturer or built-in conformance with State

## Building Construction Code Regulations.

### A. Procedure for Establishing a Mobile Home Park.

1. The owner of the land shall apply in writing for a change in the district to a Mobile Home Park District, and shall submit four copies of a development plan as described in Section B below.
2. The Planning Board shall review the development plan with the owner, and shall prepare general recommendations with regard to the plan. Planning Board shall send a copy of its recommendations to the owner indicating its approval in principle and any specific changes required, or its disapproval.
4. The owner shall submit four copies of an application for a change in district and four copies of a development plan, as described in Section B.
5. Planning Board shall discuss the proposed change in district and development plans with the owner at a public meeting, and shall submit findings as required by Section C below.
6. After receipt of Planning Board recommendations, the Village Board of Trustees shall set up a public hearing on the proposed change of zoning district.
7. After the public hearing the zoning map may be amended, in accordance with the plan approved. The Clerk shall make an appropriate notation to that effect, one copy given to the Planning Board, and one copy returned to the owner. (Such approval shall be valid for two years, at which time unless the proposed Mobile Home Park has been completed, the development plan approval shall be considered denied.)

### B. Development Plan

The owner shall submit a development plan to the Planning Board together with the application for a change of district classification. The development plan shall be prepared by an architect, landscape architect, engineer, land surveyor, or planner, and shall include the following information.

1. Survey showing existing features of the property, including contours, building, structures, large trees, trunk diameter, streets, utility easements, right-of-way, and land use.
2. Site plan showing proposed Mobile Home Lots, traffic circulation, parking, pedestrian walks, building locations, landscaping, and grading.
3. Preliminary engineering plans, including street improvements, drainage systems,

public utility extensions, and feasibility studies of any anticipated problems, which might arise due to the proposed development as required by the Planning Board.

### C. Findings Required

The Planning Board, after determining that all applicable requirements of this Law dealing with Mobile Home Districts have been met, shall recommend the approval, approval with modification or disapproval of the development plan provided a zone change has been obtained. The Planning Board may recommend the establishment of a Mobile Home Park District provided that they find facts submitted with the development plan that establish that:

1. The Mobile Home Park will meet a housing need that is currently unmet by existing housing opportunities in the Village and the surrounding area.
2. Existing and proposed streets are suitable and adequate to carry anticipated traffic within and in the vicinity of the proposed district.
3. Existing and proposed utility services are adequate for the proposed development.
4. The park will not be detrimental to present and potential surrounding land uses, but will have a beneficial effect, which could not be achieved, under another district.
5. Each phase of the proposed development, as it is proposed to be completed contains the required parking spaces, landscape, and utility areas necessary for creating and sustaining a desirable and stable environment.

## CHAPTER 3

### §3.1 Off-Street Parking and Loading Spaces.

#### A. PARKING SPACE SIZE.

A parking space shall be at least ten (10) feet by twenty (20) feet. Parking spaces shall be designed and arranged to provide free and unimpaired ingress and egress thereto and therefrom.

#### B. REQUIRED PARKING SPACES.

The following parking spaces for the uses hereinafter set forth shall be provided and satisfactorily maintained by the owner of the property for each building which is erected, enlarged, or altered for use:

1. Dwellings – Two (2) parking spaces per unit.
2. Apartment Buildings, Garden Apartment, and Townhouses – Two (2) parking spaces per unit with an additional parking space for every unit that has four (4) or more bedrooms contained therein.
3. Auditorium, Stadium, Theater, or Other Places of Public Assemblage – At least one parking space for each eight (8) seats provided for its patrons (based on maximum seating capacity).
4. Hotel or Motel – At least one parking space for each sleeping room.
5. Restaurant or Other Eating Place – At least one parking space for each five (5) seats, except when it is in a building which provides parking space, in which case the number of places already provided may be considered to be available for the restaurant or other eating place.
6. Hospital, Sanitarium, or Nursing Home – At least one parking space for each five (5) patients.
7. Stores – Parking shall be provided for all vehicles used in the conduct of business plus four (4) spaces for the first one thousand (1,000) square feet of total floor area and one additional space for every one hundred fifty (150) square feet of additional floor area.



8. Office and Professional Buildings – At least one parking space for each three-hundred (300) square feet of office floor area.
9. Industrial or Manufacturing – One parking or storage space for each vehicle used directly in the conduct of such industrial use plus one parking space for every employee on the premises at the maximum employment on a single shift.

### C. LOADING SPACES.

The following off-street loading and unloading spaces for commercial vehicles shall be provided and maintained by the owner for the uses hereinafter set forth. Said spaces shall be in addition to the required parking spaces for any such use:

1. On the Same Premises – With every building or structure or part thereof hereinafter erected and occupied for the purpose of business, trade, or industry, there shall be provided and maintained adequate space for the parking of commercial vehicles while loading and unloading off the street or public alley. Such space shall have access to a public alley, or if there is no alley, to a street. Off-street loading and unloading space shall not be used or designed, intended, or constructed to be used in a manner to obstruct or interfere with the free use of any street, alley, or adjoining property. Off-street loading and unloading space shall be provided as set forth below at the time of the erection of any building or structure is enlarged or increased in capacity.
2. Freight Terminals and Trucking Terminals – One off-street loading and unloading space at least twelve (12) feet by fifty-five (55) feet by fourteen (14) feet high for every five thousand (5,000) square feet of total floor area.
3. Hotels, Retail Business, Offices, Professional Offices, and Service Establishments – One off-street loading and unloading space at least twelve (12) feet by thirty-five (35) feet by fourteen (14) feet high.
4. Hospitals – One off-street loading and unloading space at least twelve (12) feet by thirty-five (35) feet by fourteen (14) feet high.
5. Indoor Markets, Warehouses, and Wholesale Storage Facilities – One off-street loading and unloading space at least twelve (12) feet by (55) feet by fourteen (14) feet high for every seven thousand five hundred (7,500) square feet of total floor area, or less, or as required by the Planning Board.
6. Industrial Plants – One off-street loading and unloading space at least twelve (12) feet by (55) feet by fourteen (14) feet high for every ten thousand (10,000) square feet of total floor area, or less, or as required by the Planning Board.

#### D. GENERAL.

All parking and loading and unloading spaces required pursuant to this Section shall be located on the same lot with the building, except that the Planning Board may permit the parking spaces to be on any lot within five hundred (500) feet of the building if it determines that it is impractical to provide parking on the same lot with the building.

#### E. ROADSIDE STANDS.

No fruits or vegetables, produce or personal property of any kind shall be sold or offered for sale within the limits or boundaries of any public highway, and any person who offers any fruits, vegetables, produce, or personal property of any kind for sale shall provide adequate and ample parking for customers outside of the limits and boundaries of the adjacent highway.

No stands or structures of any kind, or any part thereof, for the sale of fruits, vegetables, produce, or personal property of any kind shall be placed or permitted within the limits or boundaries of any public highway.

#### F. PLANNING BOARD MODIFICATION.

The Village Planning Board, as part of a site plan application, may increase or decrease the number or size or modify the location and arrangement of any parking, loading spaces, or access lanes when in its sound discretion the otherwise applicable requirements are either excessive or insufficient or are in need of modification in order to serve the interests of efficient traffic movement and site design.

## CHAPTER 4

### §4.1 Special Flood Hazard Districts

#### A. PURPOSES.

1. To protect human life and health;
2. To minimize public and private property damage;
3. To minimize public expenditure for costly flood control projects;
4. To minimize the need for rescue and relief efforts at public expense;
5. To minimize prolonged interruption of business and governmental services;
6. To put potential home buyer or property owner on notice that the property is in a flood area;
7. To protect the public and private water supply from contamination.

#### B. ESTABLISHMENT AND DELINEATION OF AREAS OF SPECIAL FLOOD HAZARD.

1. Special Flood Hazard Areas are hereby established to accomplish the purposes of this section. The Special Flood Areas identified by the Federal Insurance Administration in an engineering report entitled, “The Flood Hazard Boundary Map” for the Village of Wampsville, amended, with accompanying Flood Insurance Rate Maps and Flood Boundary and Flood-way Maps (Reference only maps provided by Flood Insurance Administration - FIA) are hereby adopted by reference and declared to be a part of this Zoning Law. The boundaries of the Special Flood Hazard Areas are delineated on the zoning map if the scale of the map permits such delineation, otherwise, such boundaries are on the accompanying maps of the Flood Insurance Study, which, with the engineering report, are on file at the Village Clerk’s office and are readily available during normal business hours.
2. This Law does not imply that land outside of the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damage.

3. The provisions of the section Special Flood Hazard Districts shall take precedence over any other zoning article, ordinance, and code to the extent that these provisions are inconsistent with other provisions.

#### C. PERMITTED USES.

1. The following uses which have low flood damage potential and which do not obstruct flood-flows may be permitted within Special Flood Hazard Areas to the extent that these uses do not constitute development within the flood plain and are not otherwise prohibited by any other ordinance.
  - a. Agricultural uses such as pasture or grazing as long as they do not require development within the flood plain.
  - b. Private and public recreational areas such as swimming areas open space, wildlife or natural preserves, hunting and fishing areas, hiking, and horseback trails as long as they do not require development within the flood plain.
2. No uses shall diminish or constrict the capacity of the channel or flood-way of any watercourse, or any tributary to the mainstream, or any other watercourse, drainage ditch, or any other drainage facility or system to discharge the waters from the base flood.

#### D. SPECIAL PERMIT USES.

1. All uses within the Special Flood Hazard Areas, other than those specified in subsection C Permitted Uses, are allowed only after issuance of a special permit by the Village Planning Board as provided in Chapter 7 Section 7.4 of this Law. Special permit uses allowed shall be determined by the nature and location of the applicant's proposed use. The nature and location of the applicant's proposed use should determine special permit uses allowed. Therefore:
  - a. The applicant shall submit a site plan as specified in Chapter 7 Section 7.3.
  - b. The Code Enforcement Officer shall determine whether the proposed special permit use is located within Special Flood Hazard Areas. Such determination shall be made from the Flood Insurance Maps (FIRM) and/or Flood Boundary and Flood-way Maps (Reference only maps provided by Federal Insurance Administration - FIA).
  - c. If it is determined that the proposed use is within Areas of Special Flood Hazard but not within the Floodway, the provisions of Section E Special Flood Hazard Areas, of this Law, shall apply.

d. If it is determined that the proposed use is located within a Flood-way, the provisions of Section F Flood-way, of this Law shall apply.

#### D. SPECIAL PERMIT USES.

#### E. SPECIAL FLOOD HAZARD AREAS.

1. All development uses within Special Flood Hazard Areas as identified on the Flood Boundary and Flood-way Maps (Reference only maps provided by Federal Insurance Administration - FIA). Those uses permitted by right in Section C are allowed only as special permit uses in compliance with the following standards:

a. New construction or substantial improvement of any residential structures shall have the lowest floor, including basement, elevated to, or above, the base flood elevation at that point.

b. New construction or substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including the basement, elevated to, or above, the base flood level, or together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure 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. The design of flood-proofed structures may include the following measures or techniques as appropriate:

1. Anchorage to resist flotation and lateral movement.
2. Reinforcement of walls to resist water pressures.
3. Installment of watertight doors, bulkheads, and shutters.
4. Use of paints, membranes, or mortars to reduce seepage of water through walls.
5. Addition of mass or weight to resist flotation.
6. Installation of pumps to lower water levels in structures.
7. Pumping facilities to relieve hydrostatic water pressure on external walls and basement floors.
8. Elimination of gravity flow drains.
9. Construction to resist ruptures or collapse caused by water pressure or floating debris.

c. Mobile homes shall be anchored to resist flotation collapse or lateral movement by providing over-the-top and frame ties to ground anchors.

Specifically:

1. Over-the-top ties shall be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations, except that a mobile home less than 50 feet in length requires only one additional tie per side.
  2. Frame ties shall be provided at each corner of the mobile home with five additional ties per side at intermediate points, except that a mobile home less than 50 feet long need have only four additional ties per side.
  3. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds, and
  4. Any additions to the mobile home shall be similarly anchored.
- d. New mobile home parks and subdivisions; expansion, substantial repair, reconstruction or improvements to existing mobile homes not placed in a mobile home park or subdivisions shall comply as follows:
1. Stands and lots shall be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at, or above, the base flood elevations.
  2. Adequate surface drainage and access for a hauler shall be provided.
  3. When elevated on piers or pilings, lots shall be large enough to permits steps; pier foundations shall be placed in stable soil no more than ten feet apart, and reinforcement shall be provided for piers more than six feet above ground level.

#### F. FLOODWAY.

1. All development or uses within the flood-way as designated on the Flood Boundary and Flood-way Map except those uses permitted by right in Section C are allowed only as special permit uses in compliance with the following standards:
  - a. Encroachment including fill, new construction, substantial improvements and other developments shall be prohibited within the Flood-way if such an encroachment would result in an increase in flood levels during the occurrence of the base flood discharge.
  - b. If Part (a) of this subsection is satisfied, all new construction and substantial improvements of nonresidential structures allowed in the Flood-way shall meet the standards of Section (e) and (f) of this subsection.
  - c. Any new construction and substantial improvements of residential structures satisfying the requirement of Part (a) of this Section shall meet the standards of Sections (e) and (f) of this subsection.

- d. No mobile home shall be placed in the Flood-way.
  
- e. All new construction or substantial improvements of buildings and other structures, including new or replaced utility and sanitary facilities, shall include the following measures as appropriate:
  - 1. Anchored to prevent flotation, collapse or lateral movement of the structure.
  - 2. Constructed with materials and utility equipment resistant to flood damage.
  - 3. Constructed by methods and practices that minimize flood damage.
  - 4. Public utilities and facilities such as sewer gas, electrical and water systems designed to minimize flood damage.
  - 5. Adequate drainage provided to reduce exposure to flood damage.
  - 6. New and replacement water supply systems designed to minimize or eliminate the infiltration of floodwaters into the system (Design of above water supply, sanitary sewage, and on-site waste disposal systems shall be in compliance with the State Sanitary Code [Public Health Law §255; 10NYCRR §1.1 et seq.] and, where applicable, with county health or sanitary codes).
  - 7. New and replacement sanitary sewage systems designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the system into floodwaters (Design of above water supply, sanitary sewage, and on-site waste disposal systems shall be in compliance with the State Sanitary Code [Public Health Law §255; 10NYCRR §1.1 et seq.] and, where applicable, with county health or sanitary codes).

## **CHAPTER 5**

### **GENERAL REGULATIONS**

#### **§5.1 Application of Regulations**

All uses permitted by this Law shall be subject to such exceptions, additions, or modifications as are provided in the following general regulations.

#### **§ 5.12 Screening, Walls, Fences and Hedges**

##### **A. Residential Districts**

1. Any fence to be erected within the corporate limits of the village of Wampsville shall require a building permit from the code enforcement officer accompanied by a site plan which shall show the height and location of the fence.
2. Any fence of any description as long as it meets the requirements of this law must be a minimum of two feet from the side and rear lot lines and must set back a minimum of 3 feet from any public sidewalk.
3. Any fence of any description as long as it meets the requirements of this law must never obstruct the flow or view of pedestrians or motor vehicles on public sidewalks or highways.
4. No fence permit shall be issued that obstructs the legal rights, easements or right-of-ways of others. Any issued fence permit that does so shall be rescinded and revoked. The Village shall not bear the costs and expenses of establishing the legal rights, easements or right-of-ways of others.
5. Fences in front yards; residence districts. No fence, as defined at number 48 of zoning definitions, higher than three (3) feet shall be erected in any front yard. The front yard shall constitute the property immediately in front of the residence. Corner Lots shall be interpreted as having two (2) front yard lines and two (2) side yard lines.
6. A security fence or a privacy fence shall not exceed six (6) feet in height and shall only be erected within the rear and side yards.
7. Hedges may be permitted in front yards provided that no hedge along the sides or front yard shall exceed two and one half (2 ½) feet in height.
8. Single strand wire fences or anchoring of any fence post by means of a guy wire or guy wires shall be prohibited.
9. Barbed wire and electrified fences shall be subject strictly prohibited in residential areas.



10. Temporary snow fences shall not require a building permit but shall follow all other sections of this provision. Snow fences shall be permitted from November 1st to April 1st and shall have a three (3) foot minimum setback from any property line. Placement of such snow fencing shall not cause drifting on any adjacent property or public sidewalks and streets.
11. Any fence erected shall have the smooth side or finished side facing to the outside of the property of the owner. Fence posts shall be placed on the inside of the fence.
12. All fences shall be maintained by the property owner as meets the original design specifications and shall meet standards of the New York State Property Maintenance Code.

### **§ 5.12.1 Penalty for Violations**

1. If the codes enforcement office determines that any fence or portion of any fence is in violation of §5.12 or is not being maintained in a safe, sound or upright condition he shall issue in writing to the owner a notice to correct within 15 days such service of such notice.
2. A violation of any provision of §5.12 shall be deemed an offense and violation thereof shall be punishable by a fine of \$50 for each violation. Each and every day of reoccurring offense shall be deemed a separate violation. A summons shall be issues to appear in local court to answer such violations.

### **§5.2 Prohibited Uses**

Any use not specifically permitted by these regulations is prohibited.

### **§5.3 Height Exceptions**

The height limitations of Chapter 2 shall not apply to silos, church spires, belfries, cupolas, and domes not used for human occupancy, nor to chimneys, ventilators, skylights, water tanks, bulkheads, similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such a height as is necessary to accomplish the purpose they are to serve.

### **§5.4 Yard Requirement Exceptions**

- A. In computing yard depths required by this Law the following rules shall be observed:
  1. Patio – A ground level shall not be considered as part of a building in the determination of side or rear yard sizes or lot coverage, provided, however, that such patio is unroofed and without walls, parapets, or other forms of enclosure. Such patio, however, may have an open guard railing not over three (3) feet high and shall not project into any yard to a point closer than four (4) feet from any lot line.
  2. Projecting Architectural Features – The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, cornices, eaves, and other architectural features, provided, however, that such features shall not project more than two (2) feet into any required yard.

3. Exterior Stairway and/or Fire Escapes – Open exterior stairways and/or fire escapes may extend into any required yard not more than four (4) feet, six (6) inches. Further extensions may be permitted subject to the granting of variance by the Board of Appeals. The Board of Appeals may permit further extensions subject to the granting of a variance.

## **§5.5 Lots in Two Districts**

Where a District Boundary line divides a pre-existing lot in single or joint ownership of record at the time such line is adopted, the regulations applying to the greater square footage of the lot shall apply to the whole lot, and in the case where a lot is divided exactly in half by the district line, the regulations of the more restrictive district shall apply to the whole lot. However, if the back of such a lot fronts on a residential street, and the effect is to extend a commercial industrial use into the residential street, the above provisions shall not apply and each portion of the lot shall conform to its respective district.

## **§5.6 Front Yard Depth**

In residential districts where the average front yard for buildings existing immediately adjacent on either side exceeds the minimum specified, a front yard shall be provided equal to this greater average depth, but need not exceed fifty (50) feet. Where such an average front yard is less than the minimum specified, the building may be built to this lesser depth, but shall not be less than twenty (20) feet from the street line. An adjacent vacant lot shall be considered as having the minimum front yard as required in the district.

## **§5.7 Side and Rear Yard Transition**

On every lot in the Commercial, Village Center, Business, or Industrial District that abuts directly on a residential district, there shall be a landscaped yard of at least seven (7) feet in width on such lot along the lines where it abuts such residential district.

## **§5.8 Visibility at Intersections**

1. In residential districts, a “clear sight triangle” at street intersections shall be maintained. The “clear sight triangle” is an area encompassed by the intersecting street lines of a corner lot and a straight line joining said street lines at points which are thirty (30) feet distant from the point of intersection of the street lines. The height of any vegetation, fence, wall, or any other structure, whether man-made or natural, excepting the natural grade of the land, shall not exceed two and a half (2 ½) feet above the top of the curbs; or, if no curbs exist, above the level of the intersecting center lines of the street.
2. The Code Enforcement Officer shall have the authority to enforce removal of any materials that are in violation of Section 5.8 Visibility at Intersections. Failure to comply with his written order within ten (10) days shall be considered a violation. If after thirty (30) days from such order the material has not been removed, the Village shall have the authority to remove such material and will charge the owner for the cost of removal.

## **§5.9 Outdoors Lighting**

Outdoor illumination shall be designed so that the light source will be effectively shielded to minimize glare into adjoining properties.

## **§5.10 Storage and Dumping**

On any lot or plot, no storage of junk or other material of any nature shall be permitted in front or side yards. Dumping of refuse, waste material, and other substances at places other than a designated landfill or transfer station are prohibited in all districts in the Village. Disposals of refuse resulting from the operation of a farm and deposited on a farmer's own land shall be at least one hundred (100) feet from any lot line.

All spaces between buildings and structures shall be kept sufficiently free and clear of materials of every nature for the purpose of providing adequate fire protection, light, and air.

No motor vehicle, automobile, automobile trailer, or other vehicles shall remain outside upon any property within any district of the Village when such vehicle, automobile, automobile trailer, or other vehicle has been so dismantled or the parts removed therefrom so as to be incapable of operation or use. Any such vehicles shall be removed from the premises within thirty (30) days of the date they become inoperable. Travel trailers, camping trailers, boats, and similar recreational vehicles shall only be stored in rear yards when not in use.

## **§5.11 Abandoned Cellar Holes, Wells, and Buildings**

Any building substantially destroyed by any cause or rendered incapable of its intended use shall be rebuilt or demolished within (6) months of the date of the occurrence, any excavation or cellar holes remaining after the demolition or destruction of a building from any cause, or abandoned well, shall be permanently covered or filled by the owner within six (6) months.

## **§5.12 Screening Walls, Fences, and Hedges**

### **A. Residential Districts**

1. Any fence of any description as long as it meets the requirements of this Law may be constructed within the boundaries set by the building setback lines of a structure.
2. In any residential district, a front yard fence may be erected not to exceed three (3) feet in height nor closer than the rear of the sidewalk line and a minimum open to close ratio of 1:1.
3. A security fence or a privacy fence may be erected not to exceed six (6) feet in height. The fence may be erected only within the rear and side yards.

4. Hedges may be permitted in front yards provided that no hedge along the sides or front edge from the front yard shall exceed two and one half (2 ½) feet in height.
5. All fences shall be maintained by the property owner as meets the original design specifications.

The property owner meets the original design specifications shall maintain all fences.

## **§5.13 Signs**

One sign per principal structure is permitted in accordance with the following regulations:

### **A. In Residential and Agricultural Districts**

1. One nameplate or identification sign indicating the name of the occupant, professional office, or a permitted home occupation, provided the size of the sign is not over two (2) square feet in area. Such sign shall not be closer than ten (10) feet to the highway right-of-way line.
2. Sale or rental sign (temporary) – advertising the sale or rental of the premises on which it is placed, provided the size of such sign is not in excess of six (6) square feet and shall not be closer than ten (10) feet from the highway right-of-way line.
3. Institutional sign of school, college, church, hospital or other institution or similar public or semi-public nature located on the premises, provided the size of any sign is not in excess of two (2) square feet, that the sign shall be displayed only when such products are in season and is not closer than ten (10) feet from the highway right-of-way line. IS THIS RIGHT???
4. One farm product sign advertising the sale of farm products or produced on the premises, provided the size of the sign is not in excess of two (2) square feet, that the sign shall be displayed only when such products are in season and is not closer than ten (10) feet from the highway right-of-way line.

### **B. All Other Districts**

1. Only on-premises business signs are allowed for each land use activity and shall not project more than four (4) feet beyond the building line but shall not project over any street line or above the roof line. Such signs shall be no closer than twenty (20) feet from the highway right-of-way line.
2. The aggregate area of all signs are allowed for all signs on any building or premises shall not exceed one and one-half (1 ½) square feet for each foot of frontage of the building displaying such sign.

3. If illuminated, the source of light shall not be visible. Flashing, marquee, or intermittently lighted signs shall be prohibited.

In case of a principal use involving no building, or in case of a building the front wall of which is located farther from the street than the required depth of front yard or width of side yard, such signs may be supported by free standing structures and may be located anywhere on the premises except within the required front or side yard, provided the requirements of this subsection as to size, light, and visibility from adjoining lots in any Residential District are met.

### C. General Regulations

1. Animated signs and billboards – sign advertising goods or services not sold or delivered on the premises where the sign is located are prohibited in all districts.

## **§5.14 Mobile Homes**

No person shall place a mobile home on any public or private property except as follows:

1. In an approved Mobile Home Park District.
2. The Village Planning Board may issue a Special Permit for a mobile home to be located on the construction site of a new residence for a period not to exceed six (6) months if, in their opinion, they find that not to do so would cause a hardship.
3. The Village Planning Board may issue a Special Permit for a mobile home to be used as temporary office space related to a construction project for a period not to exceed one year.
4. The Village Planning Board may renew the above Special Permit for mobile homes for a period not to exceed six (6) months if, in their opinion, they find that not to do so would cause a hardship.

## **§5.15 Motor Homes**

1. Motor homes shall not be allowed to be occupied unless they are on a lot containing a single family residence.
2. If a motor home is occupied on a lot containing a single family residence such motor home shall in no event be occupied for more than two weeks during any calendar year.

## **§5.15 Regulations of Land Adjacent to Arterial Highways**

1. Arterial identification. The following public roadways shall be considered for the purpose of this Chapter to be arterial highways of Type “A” or Type “B”. Type “A” arterial highways are those which have a probability and arterial highways are those which have a probability and potential for becoming at least four (4) lane facilities, or are those which are currently four lanes at least in pavement width. Type “B” arterial highways are those which are expected to remain two (2) lane facilities with no reasonable probability or potential of expanding to four (4) lane facilities. The distinction between the Type “A”

and the Type “B” arterial is based on state highway plans, county plans and land development patterns, physical constraints along highway corridors, projected traffic volumes, horizontal and vertical highway alignment, safety considerations, and the projected need for reliance upon the listed highways for a continued safe, smooth and efficient local and regional highway network.

1. Type “A” arterial highways:

- a. New York State Route 5 also known as Genesee Street & Seneca
- b.
- c.
- d.
- e.
- f.
- g.
- h
- i.
- k.

2. Type “B” arterial highways:

- a. Cardjen Circle
- b. Christina Court
- c. Citty Lane
- d. Daniels Drive
- e. Donald Hicks Dew
- f. Frier Lane
- g. Kay Drive
- h. Madison Street
- i. Markell Drive
- j. North Court Street
- k. South Court Street

2. Standard arterial highway setback distance. No structure on lots contiguous to arterial highways shall be located nearer to the arterial highway than one hundred forty (140) feet for Type “A” and one hundred fifteen (115) feet for Type “B” as measured from the center of pavement of the arterial highway to the point of the structure nearest to the arterial highway, excepting fences, signs, steps, open porches, eaves, cornices, gasoline pump islands, and similar fixtures. In the event the Zoning District setback along arterial highway is different, the greater setback shall apply.

3. Exception In Residential and A-1 Districts

- a. New one family residences shall be located subject to the standard arterial highway set back. Thereafter, in cases where the setback applies to reverse frontage lots (rear yards), building additions and accessory structures, including swimming pools, shall be permitted within the last fifty-(50) feet of the setback.

- b. Standard arterial highway parking area setback distances. No lot area intended to function as a parking lot of vehicular service area, excepting driveways which provide access only to parking lot and vehicular service areas, on lots contiguous to arterial highways than seventy (70) feet for Type “A” and fifty-five (55) feet for Type “B” as measured from the center of pavement of the arterial highway to the point of the parking area or vehicular service area nearest to the arterial highway.
- c. Corner Lots. Corner lots established contiguous to an arterial highway Type “A” or Type “B” and intended for non-residential land usage shall be at least two hundred (200) feet by two hundred (200) feet in size along the intersecting street right-of-way lines.

### **§5.16 Retail Propane Sales**

- A. Definition. When used in this Section, “retail propane sales” shall mean the sale of propane or any other liquefied petroleum gas (LPG) involving the refilling or portable containers. Specifically excluded is the sale of pre-filled LPG containers weighing less than 16.5 ounces.
- B. Permit required. No facility for retail propane sales shall be installed without a permit having been issued by the Zoning Enforcement Officer upon approval of an application showing compliance with the requirements of this Section and the generally accepted standard (NFPA 58 [1986]).
- C. Installation requirements.
  - 1. Properties where installations are proposed must be located in zoning districts, which permit retail sales.
  - 2. Regardless of zoning, no installation shall be permitted on properties, which are within one thousand (1,000) feet of residential occupancies.
  - 3. Applications shall include drawings drawn to scale which clearly show the proposed locations of the installation on the site including distances to buildings, driveways, parking areas, and property boundaries as well as the occupancy of each adjoining property. In addition, the methods proposed to protect the installation from vandalism and accidents shall be shown. Additional information shall include the size of the tank and how it is to be mounted.
  - 4. Each installation shall be limited to a maximum of one five hundred-(500) gallon (water capacity) tank.
- D. Operation Requirements

1. Prior to filling the first propane storage tank, a Certificate of Compliance shall have been issued by the Zoning Enforcement Officer and following inspection of the installation. Should subsequent inspections reveal violations of these regulations, including operation of dispensing equipment by non-certified employees, or other hazardous conditions, the Certification shall be suspended until the condition(s) is/are rectified. In the case of repeated violations, the Certificate of Compliance is suspended or revoked.
2. All employees who are intended to fill customers' containers shall be trained in the operation of the dispensing equipment by the propane wholesaler who shall supply written certification of such training to the facility manager. In addition, a colored photograph of each certified employee shall be on display for inspection purposes.

## **§5.17 Non-Conforming Uses and Structures**

### **A. Intent**

1. Within the districts established by this ordinance, or amendments that may later be adopted, there exists:
  - a. Lots,
  - b. Structures,
  - c. Uses of land and structures, and
  - d. Characteristics of use

which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendment. It is the intent of this ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

2. Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of either of other uses, of a nature which would be prohibited generally in the district involved.
3. To avoid undue hardships, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any parcel of land on which actual or constructive construction was lawfully begun prior to the effective date of adoption of this ordinance. Constructive construction is hereby defined to include all proposed construction for which a building permit has been



obtained from the Village of Wampsville. Actual construction is hereby defined to include the placing of construction materials in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently and a building permit for such work has been obtained from the Village of Wampsville.

4. If the work described in any building permit hereinabove included under the definition of constructive construction has not begun within ninety (90) days from the date of adoption or amendment of this ordinance, then said permit shall expire, and said proposed construction shall require the issuance of a new building permit.
5. If the work described in any building permit hereinabove included under the definition of constructive construction or any work of whatever nature proposed or desired where actual construction began prior to the effective date of adoption of this ordinance, has not been substantially completed within twenty four (24) months of the effective date of adoption of this ordinance, any and all further work shall cease, and a new building permit shall be required as hereinafter provided.

#### B. Non-Conforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record, or a lot or parcel described by metes and bounds or a lot in an unrecorded plat which was the subject of a contract to purchase or article of agreement executed prior to the effective date of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. Variance of yard requirements shall be obtained only through action of the Board of Appeals. A non-conforming single-family residence may be enlarged or extended provided that the dimensional non-conformance is not increased thereby.

#### C. Non-Conforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;

2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such non-conforming use of land ceases for any reason for a period of more than sixty (60) days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land.

#### D. Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions of area, lot coverage, height, yards, it's location on the lot, or other requirements, concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in any way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than seventy five (75) percent of its replacement cost at time of destruction, it shall not be reconstructed except to the exact or more conforming dimensions as it existed on the date of its destruction which reconstruction shall be commenced and completed with due diligence, provided, however, if and when the principal place of residence of a citizen of the Village of Wampsville is destroyed by accidental fire, hurricane, tornado, or other acts of God, said home owner may rebuild said structure; or said home owner or mobile home owner may rebuild or replace with a superior type of construction. This applies only to property occupied by the homeowner at the time of the disaster.
3. Should such structure be moved for any reason to any district whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### E. Non-Conforming Uses of Land involving Mobile Homes

Whereas, at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the regulation imposed by this ordinance and where such use involves mobile homes, the use may be continued so long as it remains otherwise lawful, provided:

1. No additional mobile home shall be located on any parcel in excess of the number of trailer sites, consisting of the appropriate pads and at the effective date of adoption or amendment of this ordinance.
2. If any individual mobile homes located on any individually owned parcel, or lot for record shall be moved for more than a period of six (6) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located. An existing non-conforming mobile home may not be replaced by another mobile home.
3. These regulations are not intended to prohibit the continued operation of existing trailer parks as of the effective date of adoption or amendment of this ordinance and such trailer parks are expressly permitted to continue operation in the manner conducted prior to the effective date of adoption or amendment of this ordinance.
4. If any individual mobile home located on any parcel of property on the effective date of adoption of this ordinance shall be bounded by a fence or other boundary mutually agreed to by the adjoining land owners or occupants and provided said lots abut a road, street or public right-of-way said lots may be sold or otherwise conveyed by metes and bounds description and such use continued so long as not abandoned pursuant to Paragraph Two hereof.

#### F. Non-Conforming Uses of Structures or of Structures and Premises in Combination

If lawful uses involving individual structures with a replacement cost of \$1,000.00 or more, or of structures and premises in combination exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure or structure and premises, may as a special exception be changed to another non-conforming use provided that the Board of Appeals shall make an interpretative ruling in the specific case, shall find that the proposed use is equally appropriate

or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this ordinance.

4. Any structure, or structure and land in combination in or on which a non-conforming use was partially superseded by a permitted use, shall thereafter be permitted only after consideration of the plans and specifications for the same have been approved by the governing body or shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and premises in combination is discontinued or abandoned for six (6) consecutive months during any three (3) year period (except when government action impedes access to the premise), the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than seventy-five (75) percent of the replacement cost at the time of destruction.

#### G. Repairs and Maintenance

1. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding twenty five (25) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.
2. If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.
3. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## H. Uses Under Special Permit Exception Provisions Not Non-Conforming Uses

Any use which is permitted as a special permit use in a district under the terms of this ordinance (other than a change through Board of Appeals action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

### Termination of Certain Noxious and Objectionable Non-Conforming Uses

Each of the non-conforming uses specified in this Section is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the community, to the point that such non-conforming use must be, and shall be terminated on or before the expiration of the specified period of time after the effective date of this law; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.

- A. In all Residential Districts as established in this Law, automobile wrecking yards and junk yards may be continued for one year after the effective date of this law, at which time such non-conforming use shall terminate.
- B. In all cases described in sub-section A above, appeal may be taken at any time to the Zoning Board of Appeals, and the said Board, after public notice and hearing, may extend the date of termination for such additional period or periods as it deems reasonable. The said Board in ascertaining whether to extend such termination date and in determining the length of such extensions must consider the following criteria:
  1. The nature of the non-conforming use, the character of the surrounding neighborhood, and a determination of the effect the non-conforming use has on the surrounding neighborhood.
  2. The value of the appellant's land and improvements based upon the non-conforming use.
  3. The amortization life rather than the useful life of the non-conforming use and what constitutes a fair opportunity to amortize the investment in such non-conforming use.
  4. The kind and amount of damages, if any, which would be sustained because of immediate termination and/or relocation.

2.

## Solar Energy Systems

**§ 5.18.1 Purpose and Intent.**

The Village of Wampsville recognizes that solar energy is a clean, readily available and renewable energy source. Development of solar energy systems offers an energy source that can prevent fossil fuel emissions, reduce the Village’s energy demands and attract and promote green business development within the Village. The Village of Wampsville has determined that comprehensive regulations regarding the development of solar energy systems are necessary to protect the interests of the Village, its residents, and businesses. This Article is intended to promote the effective and efficient use of solar energy systems; establish provisions for the placement, design, construction, operation and removal of such systems in order to uphold the public health, safety and welfare; and to ensure that such systems will not have a significant adverse impact on the aesthetic qualities and character of the Village.

**§ 5.18.2 Applicability.**

This Article shall apply to all solar energy systems in the Village of Wampsville which are installed or modified after the effective date of this Article. All solar energy systems which are installed or modified after the effective date of this Article shall be in compliance with all of the provisions hereof.

**§ 5.18.3 Building-Integrated Solar Energy Systems.**

- A. Districts where allowed. Building-Integrated Solar Energy Systems shall be permitted in all zoning districts within the Village subject to the submission of, application for and review and issuance of an applicable building/zoning permit.
- B. Building-Integrated Solar Energy Systems shall be subject to the general requirements set forth at §5.18.6.

**§ 5.18.4 Rooftop-Mounted Solar Energy Systems.**

A .Districts where allowed. Rooftop-Mounted Solar Energy Systems shall be permitted in all zoning districts within the Village subject to the following requirements:

- (1) A building/zoning permit shall be required for installation of all Rooftop-Mounted Solar Energy Systems. An applicant shall submit the following application materials to the Code Enforcement Officer:
  - (a) A site plan showing location of major components of the Solar Energy System and other equipment on the roof or legal accessory structure. This plan should represent relative locations of components at the site, including, but not limited to, location of arrays, existing electrical service locations, utility meters, inverter locations, system orientation and tilt angles. This plan should show access and pathways that are compliant with New York State Uniform Fire Prevention and Building Code, if applicable.
  - (b) One-Line or 3-Line Electrical Diagram detailing the installation, associated components and electrical interconnection methods, with all disconnects and over current devices.
  - (c) Specification Sheets for all manufactured components. If these sheets are available electronically, a web address will be accepted in place of an attachment, at the discretion of the Village.

(d) All diagrams and plans must be prepared by a professional engineer or registered architect and contain the applicable professional's stamp, mark, and/or signature as required by New York State law and include the following:

- [a] Project address, section, block and lot number of the property;
- [b] Owner's name, address and phone number;
- [c] Name, address and phone number of the person preparing the plans; and
- [d] System capacity in kW-DC.

(2) Rooftop-Mounted Solar Energy Systems shall not exceed the maximum allowed height of the principal use in the zoning district in which the System is located or shall be no more than three (3) feet higher than the finished roof to which it is mounted.

(3) Rooftop-Mounted Solar Energy Systems shall be mounted parallel to the roof plane on which they are mounted. However, in the case of commercial buildings which have a flat roof, a titled mount may be allowed provided the panels are not visibly objectionably from the property line.

(4) In order to ensure firefighter and other emergency responder safety, except in the case of accessory buildings under 1,000 square feet in area, there shall be a minimum perimeter area around the edge of the roof and structurally supported pathways to provide space on the roof for walking around all Rooftop-Mounted Solar Energy Systems. Additionally, installations shall provide for adequate access and spacing in order to:

- (a) Ensure access to the roof.
- (b) Provide pathways to specific areas of the roof.
- (c) Provide for smoke ventilation opportunity areas
- (d) Provide for emergency egress from the roof.
- (e) Exceptions to these requirements may be requested where access, pathway or ventilation requirements are reduced due to:

- [a] Unique site specific limitations;
- [b] Alternative access opportunities (such as from adjoining roofs);
- [c] Ground level access to the roof area in question;
- [d] Other adequate ventilation opportunities when approved by the Codes Office;
- [e] Adequate ventilation opportunities afforded by panels setback from other rooftop equipment (for example: shading or structural constraints may leave significant areas open for ventilation near HVAC equipment);
- [f] Automatic ventilation devices; or
- [g] New technology, methods or other innovations that ensure adequate emergency responder access, pathways and ventilation opportunities.

B. In addition to the requirements set forth in this §5.18.4, Rooftop-Mounted Solar Energy Systems shall be subject to the general requirements set forth at §5.18.6.

C. Permit Review and Inspection Timeline. Permit determinations will be issued within fourteen (14) days upon receipt of complete and accurate applications.

### **§ 5.18.5 Ground-Mounted Solar Energy Systems.**

- A. Districts where allowed. Ground-Mounted Solar Energy Systems are permitted as accessory structures in all zoning districts of the Village, subject to the application for and issuance of a building/zoning permit by the Code Enforcement Officer, the granting of a special use permit/site plan by the Planning Board and further subject to the following requirements:
- (a) Ground-Mounted Solar Energy Systems are prohibited in front yards.
  - (b) Ground-Mounted Solar Energy Systems shall comply with the most restrictive area, yard and bulk regulations in each applicable zoning district in which the Ground-Mounted Solar Energy System is constructed. However, Ground-Mounted Solar Energy Systems shall only be permitted on lots which are 20,000 sq. ft. or larger.
  - (c) Further setbacks, area and yard requirements and bulk regulations may be required by the Planning Board in addition to those set forth herein in order to protect the public's health, safety and welfare.
  - (d) The height of the Solar Collector/Panel and any mounts shall not exceed 15 feet in height when oriented at maximum tilt measured from the ground and including any base.
  - (e) Ground-Mounted Solar Energy Systems shall be screened when possible and practicable from adjoining lots and street rights of way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and the surrounding area. The proposed screening shall not interfere with the normal operation of the System.
  - (f) The Ground-Mounted Solar Energy System shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate Solar Access for the Solar Energy System.
  - (g) Neither the Ground-Mounted Solar Energy System, nor any component thereof, shall be sited within any required buffer area.
  - (h) The area beneath the Ground-Mounted Solar Energy System shall be subject to the maximum permitted lot coverage requirements for the applicable zoning district.
  - (i) The criteria for a special use permit/site plan as set forth in §§7.4 and 7.3 shall also be applicable and demonstrated for each application.

### **§ 5.18.6 General Requirements Applicable to Building-Integrated, Rooftop-Mounted and Ground-Mounted Solar Energy Systems.**

- A. All Solar Energy System installations must be performed by a Qualified Solar Installer.
- B. Solar Energy Systems, unless part of a Solar Farm, shall be permitted only to provide power for use by owners, lessees, tenants, residents or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit the sale of excess power through a net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute. However, Solar Energy System applications in a residential setting and serving a residential use on a single parcel or lot shall be limited to 15 kW or less.
- C. Prior to operation, electrical connections must be inspected by a Village Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Village.



D. Any connection to the public utility grid must be inspected by the appropriate public utility and proof of inspection shall be provided to the Village.

E. Solar Energy Systems shall be maintained in good working order

F. All Solar Energy Systems described in this Section 5.18 shall meet and comply with all relevant and applicable provisions of the New York State Uniform Fire Prevention and Building Code Standards and applicable electric codes. To the extent the provisions of the New York State Uniform Fire Prevention and Building Code or applicable electric codes are more restrictive than the provisions set forth in this Article, the provisions of the New York State Uniform Fire Prevention and Building Code or applicable electric codes shall control.

G. If solar storage batteries are included as part of the Solar Energy System, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Village and other applicable laws and regulations.

H. All utility services and electrical wiring/lines shall be placed underground and otherwise be placed within the walls or unobtrusive conduit. Conduits or feeds which are laid on the roof shall be camouflaged to blend in with the roof to reduce aesthetically objectionable impacts.

I. If a Solar Energy System ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall notify the Code Enforcement Officer within 30 days. The property owner shall completely remove the System, mount and all other associated equipment and components by no later than 90 days after the end of the 12-month period or within 10 days of written notice from the Village. The Building Inspector, Zoning Enforcement Officer, Code Enforcement Officer and/or Village Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent to ensure that the Solar Energy System remains operational.

J. To the extent practicable, Solar Energy Systems shall have neutral paint colors, materials and textures to achieve visual harmony with the surrounding area. Solar Energy Systems shall be composed of panels which are the same or similar in composition and color.

K. The design, construction, operation and maintenance of the Solar Energy System shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

L. Prior to the time of the issuance of a building permit, the applicant/owner shall demonstrate to the Code Enforcement Officer a reliable and safe method for de-energizing the Solar Energy System in the event of an emergency. The method and location to de-energize the Solar Energy System, once approved by the Code Enforcement Officer, shall be provided by the applicant to all applicable emergency services and first responders.

M. Solar Energy Systems and their components shall be accessible by emergency service vehicles and personnel.

N. All lighting shall be limited for safety purposes only and shall be shielded from neighboring properties and public roads.

O. Marking of equipment.

(1) Solar Energy Systems and components shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.

(2) In the event any of the standards in this Subsection for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code they shall be deemed to be guidelines only and the standards of the State Code shall apply.

### **§ 5.18.7 Solar Farms.**

A. Districts where allowed. Subject to the issuance of site plan approval and a special use permit and other requirements as set forth herein, Solar Farms shall not be a permitted use in any zoning district other than the Agricultural District (AG) and the Industrial/Manufacturing District (Ind) within the Village.

B. Districts where prohibited. Solar Farms shall be prohibited in the Residential Districts (R-30 and R-20); Neighborhood Commercial District (NC); Village Center District (VC); Mobil Home Park District (M); and Commercial District (C).

C. Setbacks; Lot Area and Yard Regulations. The following lot area and yard regulations shall apply to Solar Farms located in the Agricultural District (AG); and the Industrial/Manufacturing District (Ind) within the Village.

- (1) Minimum Lot Area: 15 acres
- (2) Minimum Front Yard Setback: 250 feet
- (3) Minimum Rear Yard Setback: 100 feet
- (4) Minimum Side Yard Setback: 100 feet

D. Additional Setbacks. Additional setbacks may be required from those set forth in §7.3 by the Planning Board in order to provide for the public's safety, health and welfare.

E. Permits required. No person, firm or corporation, or other entity being the owner, occupant, or lessee of any land or premises within the Village of Wampsville shall use or permit the use of land or premises for the construction or installation of a Solar Farm without obtaining a building/zoning permit, a special use permit issued by the Planning Board and a concurrent site plan approval issued by the Planning Board as hereinafter provided.

F. Special use permit.

(a) In addition to the criteria established pursuant to §7.4, the following criteria are hereby established for purposes of granting a special use permit for a Solar Farm under this Chapter:

[1] Scenic viewsheds. A Solar Farm shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Village of Wampsville or that extends beyond the border of the Village of Wampsville. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Village of Wampsville comprehensive plan and/or any other prior, current, amended and/or future officially recognized Village planning document or resource.

[2] No Solar Farm shall be installed on wetlands as identified/defined by the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers or local governing body.

[3] Emergency shutdown/safety. The applicant shall demonstrate the existence of adequate emergency/safety measures. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any Solar Panel or other component of the Solar Farm need immediate repair or attention. This emergency telephone number should be clearly visible and in a location which is convenient and readily noticeable to someone likely to detect a problem.

[4]Security. All Solar Farms shall be secured to the extent practicable to restrict unauthorized access.

[5] Access road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the Solar Farm, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the Solar Farm site.

(b)Waiver. The Planning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein. Relief from all other requirements must be made by way of an area or use variance from the Zoning Board of Appeals.

G. Site plan review.

(a) The following submission requirements must be observed regarding a site plan application for a Solar Farm. The Planning Board may also require any of the requirements of §7.3 as part of the submission.

(a)A completed application form as supplied by the Village of Wampsville for site plan approval for a Solar Farm.

(b)Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application.

(c) Plans and drawings of the proposed Solar Farm installation signed, marked and/or stamped by a professional engineer registered in New York State showing the proposed layout of the entire Solar Farm along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval. The plans and development plan shall be drawn in sufficient detail and shall further described:

[a] Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals.

[b] Location, approximate dimensions and types of all existing structures and uses on the site.

[c] Location and elevation of the proposed Solar Farm and all components thereof.

[d] Location of all existing aboveground utility lines within 1,200 linear feet of the site.

[e] Where applicable, the location of all transmission facilities proposed for installation. All transmission lines and wiring associated with a Solar Farm shall be buried underground and include necessary encasements in accordance with the National Electric Code and Village requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant demonstrating that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead electric utility/transmission lines (if permitted) and underground electric utility/transmission lines, including substations and junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall be in compliance with the public utility company's requirements for interconnection. Any connection to the public utility grid must be inspected by the appropriate public utility.

[f] Location of all service structures proposed as part of the installation.

[g] Landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features, including size and type of plant material. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater Solar Access.

[h] A berm, landscape screen, or any other combination acceptable to the Village capable of screening the site, shall be provided along any property line.

[i] Soil type(s) at the proposed site.

- (d) Photographic simulations shall be included showing the proposed Solar Farm along with elevation views and dimensions and manufacturer's specifications and photos of the proposed Solar Energy Systems, Solar Collectors, Solar Panels and all other components comprising the Solar Farm or from other vantage points selected by the Planning Board.
- (e) Certification from a professional engineer or architect registered in New York State indicating that the building or structure to which a Solar Panel or Solar Energy System is affixed, is capable of handling the loading requirements of the Solar Panel or Solar Energy System and various components.
- (f) One or three-line electrical diagram detailing the Solar Energy System installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.
- (g) Documentation of access to the project site(s), including location of all access roads, gates, parking area etc.
- (h) A plan for clearing and/or grading of the site and a Stormwater Pollution Prevention Plan (SWPPP) for the site.
- (i) Documentation of utility notification, including an electric service order number.
- (j) Sunchart. Where deemed appropriate, the Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a minimum four-hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the Solar Skyspace of the proposed Solar Farm. The sunchart shall also indicate the potential for obstructions to the Solar Skyspace of the proposed Solar Farm under a scenario where an adjacent site is developed as otherwise permitted by applicable provisions of Chapter 134 of the Code of the Village of Wampsville with a building/structure built to maximum bulk and height at the minimum setback. Where no standards for setback are established, this scenario shall assume a maximum setback of five feet from the property line. The sunchart shall be kept on file at the Village Code Enforcement Office and determine the minimum setback required for any solar collectors from the south property line as well as the Solar Skyspace that should be considered when development of neighboring properties occurs. This section in no way places responsibility on the Village for guaranteeing the Solar Skyspace of a Solar Energy System in the event setbacks are waived at the applicant's request.
- (k) The manufacturer's or installer's identification and appropriate warning signage shall be posted at the site and be clearly visible.
- (l) Solar Energy Systems shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the electric systems. Materials used for marking shall be weather resistant. The marking shall be placed adjacent to the main service disconnect location clearly visible from the location where the lever is operated.
- (m) The average height of the solar panel array shall not exceed 20 feet measured from the ground and including any base or supporting materials.

(n) Color. Neutral paint colors, materials and textures may be required for Solar Farm components, buildings and structures to achieve visual harmony with the surrounding area as approved by the Planning Board.

(o) The design, construction, operation and maintenance of the solar energy system shall prevent the direction, misdirection and/or reflection of solar rays onto neighboring properties, public roads, public parks and public buildings.

(p) Artificial lighting of Solar Farms shall be limited to lighting required for safety and operational purposes, shall be shielded from all neighboring properties and public roads.

(q) Solar Farms shall be enclosed by perimeter fencing to restrict unauthorized access as otherwise approved by the Planning Board. Style and type of fence shall be approved by the Planning Board as part of the site plan.

(r) Only signage used to identify the location of the Solar Farm shall be allowed and such signage shall otherwise comply with the Village's sign regulations and requirements.

(s) To the extent practicable, equipment that produced noise above ambient levels during normal operation shall be placed in the center of the solar array or at a minimum of 1,000 feet from the nearest property line.

(t) All applications shall be accompanied by a full environmental assessment form for purposes of environmental review under the New York State Environmental Quality Review Act (SEQRA), including a visual impact analysis/visual environmental assessment form. The following additional material may be required by the Planning Board:

[a] A digital-elevation-model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scaled use shall depict a three-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.

[b] No fewer than four color photos taken from locations within a 3-mile radius from the proposed location, as selected by the Planning Board and computer-enhanced to simulate the appearance of the as-built aboveground Solar Farm components as they would appear from these locations.

(b) Site plan review criteria. In addition to the above and subject to the criteria from §7.4, no site plan shall be approved unless the Planning Board determines that the proposed Solar Farm complies with the following:

(a) The use is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

[a] The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;

[b] There is reasonable compatibility in all respects with any structure or use in the surrounding area, actual or permitted, which may be directly substantially affected;

[c] There shall not be any unreasonable detriment to any structure or use, actual or permitted, in the surrounding area;

[d] There is a reasonable provision for open space and yard areas as appropriate to the surrounding area.

H. Public hearing. No action shall be taken by the Planning Board to issue a special use permit or by the Planning Board to issue site plan approval, nor the Zoning Board of Appeals to grant a use or area variance in relation to an application for a Solar Farm until after public notice and a public hearing. Proper notice of a hearing before a board shall be given by legal notice published in the official newspaper of the Village of Wampsville at least 5 days before the date

set for such public hearing(s) and written notice mailed to the applicant or his agent at the address given in the application to be considered. The applicant shall be responsible for notifying, by certified mail, all property owners of record within 500 feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing at least 10 days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least 7 days prior to such hearing, the applicant shall file with the board his/her affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.

I. Compliance with New York State Uniform Fire Prevention and Building Code.

(1) Building permit applications shall be accompanied by standard drawings of structural components of the Solar Farm and all its components (including but not limited to Solar Panel, Solar Collector, Solar Energy System etc.). Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Uniform Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.

(2) Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State registered professional engineer for compliance with the structural design provisions of the New York State Uniform Fire Prevention and Building Code.

J. Compliance with state, local and national electric codes.

(1) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the Solar Farm to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.

(2) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electric Code and good engineering practices.

K. Following construction/installation of the Solar Farm, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust.

L. Post Construction/Installation Certification. Following the construction/installation of the Solar Farm, the applicant shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and is operating according to the drawings and development plan(s) submitted to the Village and this §5.18.7.

M. Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the Solar Farm at all times. Said policy shall provide a minimum of \$2,000,000 property and personal liability coverage.

N. Inspections. The Building Inspector, Zoning Enforcement Officer, Code Enforcement Officer and/or Village Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a Solar Farm is being or is constructed, to inspect all parts of said Solar Farm installation and require that repairs or alterations be made if, in his judgment, there exists a deficiency in the operation or the structural stability of the Solar Farm or any component thereof. If necessary, the Building Inspector or Village Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

O. Power to impose conditions. In granting any site plan approval, special use permit or variance for a Solar Farm, the Zoning Board of Appeals or Planning Board, as the case may be, may impose reasonable conditions to the extent that such board finds that such conditions are necessary to minimize any adverse effect or impacts of the proposed use on neighboring properties and to protect the general health, safety and welfare of the Village.

P. Continued Operation. A Solar Farm shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Code Enforcement Officer shall also have the right to request documentation from the owner/operator of a Solar Farm regarding the Solar Farm's operation/usage at any time.

Q. Decommissioning and Removal of Solar Farm Facilities.

(1) The applicant shall agree, in writing, to remove the entirety of the Solar Farm and all accessory structures and components thereof if the Solar Farm ceases to be used for its intended purpose for 12 consecutive months. Removal of such obsolete and/or unused Solar Farm components shall take place within 3 months thereafter. The decommissioning plan shall identify the anticipated life of the project, method and process of removing all components of the Solar Farm and accessory structures/components and returning the site to its pre-existing condition and estimated decommissioning costs. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete Solar Panels upon any person subsequently securing rights to relocate the Solar Panels.

(2) Bond/Security. The applicant shall be required to execute and file with the Village Clerk a bond, or other form of security acceptable to the Village Attorney and Engineer, in an amount sufficient for the faithful performance of the terms and conditions of the permit issued under this Chapter, and to provide the decommissioning removal and restoration of the site subsequent to the removal of the Solar Farm. The amount of the bond or security shall be no less than 150% of the cost of the removal of the Solar Panels and restoration of the site, and shall be reviewed and adjusted at 5 year intervals. In the event of a default upon performance of such condition or any of them, the bond or security shall be forfeited to the Village, which shall be entitled to maintain an action thereon. The bond or security shall remain in full force and effect until the complete removal of the Solar Panels and site restoration is finished.

R. Time Limit on Completion. After the granting of a special permit of a Solar Farm with concurrent site plan approval, the building permit shall be obtained within six months and the project shall be substantially completed within twelve months. If not constructed, the special permit and/or site plan approval shall automatically lapse within twelve months after the date of approval by the Village of Wampsville Planning Board.

S. General Complaint Process. During construction, the Village Code Enforcement Officer may issue a stop order at any time for any violations of a special permit or building permit. After

construction is complete, the permit holder of a Solar Farm shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit or operation of the Solar Farm.

T. Fees. Fees for applications and permits under this section shall be established by resolution of the Village Board of the Village of Wampsville. It shall be the applicant's responsibility to reimburse the Village for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Village in reviewing and administering an application for a Solar Farm under this Section.

U. Waiver. The Planning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.



## **CHAPTER 6**

### **Zoning Board of Appeals**

#### **§6.1 Creation, Appointment, and Organization**

The Village Board of Trustees shall appoint a Board of Appeals pursuant to Section 7-712 of the Village Law. Said Board shall consist of five (5) members to serve for overlapping five (5) year terms. The Chairman of the Board shall be one of the five- (5) members and shall be designated as such by the Village Board of Trustees. The Board shall elect a Vice-Chairman from its membership, shall appoint a Secretary and shall establish rules for the conduct of its officers.

#### **§6.2 Powers and Duties**

The Board of Appeals shall have all the powers, duties, rights and functions pursuant to Section 7-712 of the Village Law for the State of New York as amended and by this law, which are more particularly specified as follows:

##### **A. Interpretation.**

An appeal from an order, requirement, decision or determination made by the Zoning Officer to decide any question involving the interpretation of any provision of this law or of the following questions:

1. Meaning – Determination of the exact meaning of any portion of the text of this law or of any condition or requirement specified or made under the provisions of this law.
2. Location – Determination of the exact location of any district boundary shown on the Zoning Map. The Board may request assistance from the Village Engineer or County Planning Department or other professional person in making this determination.

##### **B. Variances.**

1. Determination – On appeal from a determination of the Zoning Officer the Board may grant a use variance where, owing to exceptional and extraordinary circumstances there are unnecessary hardships in the way of carrying out of the strict letter of this law. The Board of Appeals shall not grant a use variance unless

it shall have made a finding of fact based upon the evidence as presented to it in each specific case that:

- a. Because of exceptional, narrowness, shallowness or shape of specific parcel which was created before these regulations were adopted, or because of extraordinary topographic conditions or location of the specific parcel, the strict application of the provisions of this law actually prohibit or unreasonably restrict the use of the land or building for which such variance is sought, that the granting of the variance is necessary for the reasonable use of such property, and that the variance granted by the Board is the minimum variance that will provide for the reasonable use of the property.
- b. The granting of the variance will alleviate a clearly demonstrated hardship that is not self-created, which is peculiar to such land or building and do not apply generally to land or buildings in the vicinity or neighborhood and have not resulted from any act of the applicant, or predecessor in title, subsequent to adoption of this law.
- c. In any case, the granting of the variance will be in harmony with the intent and purpose of this law, will not constitute, in effect, an amendment of any district regulations or boundaries, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- d. The property owner or applicant cannot obtain a reasonable return from any use permitted in the district.
- e. The use will not alter the essential character of the neighborhood.

#### C. Area Variances.

1. Determination – An appeal from a determination of the Zoning Officer, the Board may grant an area variance where, owing to exceptional circumstances there are practical difficulties in the way of carrying out the strict application of this law. The Board shall not grant such an area variance unless, based upon the evidence presented to it specifically finds that the benefit to the applicant of granting the variance outweighs the detriment to the health, safety and welfare of the neighborhood and/or community. In making these determinations, the Board shall consider the following:
  - 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 affect or impact on the physical or environmental conditions in the neighborhood or district; and
- e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

### **§6.3 Conditions and Safeguards**

In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this law or a Special Permit, the Board of Appeals shall prescribe conditions and safeguards that it deems to be necessary or desirable in preserving the spirit and intent of this Law. These conditions and safeguards shall be directly related to and incidental the proposed use of the property or the period of time such relief minimizing any adverse effects such relief may have on the neighborhood or community

### **§6.4 Need and Desires of Applicant**

The needs or desires, economic, social or otherwise, of a particular owner or tenant shall not, either alone or in conjunction with other factors such as existing improvements as the time of the application which are old, obsolete, outmoded, or in disrepair, afford any basis for the granting of a variance.

### **§6.5 Recommendations for Rezoning**

Where the Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or building by the owner thereof, and where the Board deems the same conditions apply generally to other land or building in the same neighborhood or district, the said Board shall call this condition to the attention of the Planning Board for consideration of rezoning and report to the Village Board of Trustees.

### **§6.6 Procedure**

A. Rules and Regulations.

The Zoning Board of Appeals shall act in strict accordance with the procedure specified by State Laws, and this law and amendments thereto. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board and shall include all required information.

1. Substantiation.

Each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the law involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for, and the grounds on which it is claimed that the same should be granted.

## 2. Public Hearing.

- a. At the next regular meeting after receiving the completed appeals or application form, the Board shall fix a date for the hearing within a reasonable time, not exceeding thirty (30) days, or sixty (60) days when the appeal or application must be referred to the Madison County Planning Board pursuant to General Municipal Law, Section 239.
- b. Notice of hearing shall be published in a newspaper of general circulation in the Village at least ten calendar days prior to the date of the hearing unless otherwise provided, and shall contain the date, time and place of the hearing and the name of the appellant and the substance of the Appeal.
- c. The Secretary of the Board of Appeals at least ten (10) days prior to the date of the hearing shall mail a notice to the owners of all property abutting that held by the applicant in the immediate area and all other owners within 200 feet. Such notices shall be sent by mail to the owners of record on the current assessment roll. The applicant shall provide the list of such owners along with an envelope for each owner with the necessary postage for mailing.
- d. The Zoning Officer shall post the notice of hearing together with the substance of the appeal conspicuously on the property involved in such appeal or application.
- e. Notification of Adjacent Municipality.

If the land involved in an appeal or application lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also transmit to the municipal clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the Village.

## 3. Notification of Madison County Planning Board.

Prior to taking action on any matter which would cause any change in the regulations or use of land or buildings on real property as specified in Section 239m of the General Municipal Law the Zoning Enforcement Officer, shall make referral to the Madison County Planning Board in accordance with Section 239 1 and m of the General Municipal Law.

## **§6.7 Expiration**

Unless major structural construction has commenced within twelve (12) months from the date of the granting of a variance and completed within two (2) years of start of construction, such

variance shall become null and void. If circumstances beyond the control of the applicant preclude the commencement of major structural construction within two (2) years, as determined by the Zoning Board of Appeals, then the applicant has a right to reapply for such variance.

#### §6.8 Decision

Every decision of the Zoning Board of Appeals shall be recorded in accordance with standard forms adopted by the Board, and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be by resolution and each such resolution shall be filed in the office of the Village Clerk, together with all documents pertaining thereto.

## **CHAPTER 7**

### **PLANNING BOARD**

#### **§7.1 Planning Board Created**

A Planning Board of the Village of Wampsville is hereby created in accordance with the provisions of the Village Law.

#### **§7.2 Powers and Duties of the Planning Board**

A. Staff - The Planning Board shall have the power and authority to employ experts and a staff and to pay for their services and such other expenses as may be necessary and proper, not exceeding the appropriations that may be made for such Board.

B. Rules and Regulations - The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this Chapter or any statute after public hearing by such Board and subject to the approval of the Village Board.

C. Specific Powers and Duties - The Planning Board shall hear and exercise the powers and duties as follows:

1. To prepare and change a Master Plan for the development of the entire area of the Village of Wampsville, to make investigations and reports relating to the planning of the Village and its future growth and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.
2. To review, approve, approve with modifications or disapprove all plats showing lots, blocks or sites, with or without streets or highways, within the Village of Wampsville in accordance with the Village Law and the Village's subdivision regulations.
3. To review, approve, approve with modifications or disapprove changes in the lines of existing streets, highways, or public areas shown on subdivision plats or maps filed in the County Clerk's office.

4. To review, approve, or disapprove the layout of, closing off or abandonment of such streets, highways, or public areas under and subject to the provisions of the Village and Highway Laws.
5. Simultaneously with the approval of a plat or plats pursuant to the Village Law and the Subdivision Regulations of the Village of Wampsville, to modify applicable provisions of the Zoning Law, subject to the conditions set forth in the Village Law, such authorization to apply to all lands within the Village of Wampsville.
6. The Planning Board shall also exercise all other powers conferred upon it by the provisions of the Village Law and shall pass upon all matters, which may be referred to it from time to time by resolution of the Village Board. It shall conduct hearings and perform its duties in accordance with such procedure as provided in the Village Law, and acts amendatory thereto.
7. To adopt, after public hearing by the Planning Board and approval by the Village Board subdivision rules and regulations and amendments thereto.
8. To grant or deny site plan approval as specified in this law and the Village Law of the State of New York.
9. To grant or deny special use permit approvals as specified in this law and the Village Law of the State of New York.

### **§7.3 Site Plan Review**

In each case where a building or use is proposed in any district (other than single or two family residences and agricultural uses) the Code Enforcement Officer shall refer the site plan of the proposal to the Planning Board for its review. Such Board shall determine that all the requirements of this Chapter, the Subdivision Regulations, and other pertinent ordinances, local laws, rules and regulations have been met, and shall approve, shall approve with modifications, or disapprove said site plan. In modifying or disapproving any site plan, the Board shall enter its reasons for such actions in its minutes.

#### **A. Procedure.**

1. Applications for site plan approval and special permits shall be made to the Code Enforcement Officer who shall refer the completed special permit and/or site plan application to the Village Planning Board.
2. At its next regular or special meeting, the Village Planning Board shall, for special permit applications, designate a public hearing date within a reasonable period of time, not to exceed thirty (30) days; or sixty (60) days in cases when the

application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239 m and n.

3. The Code Enforcement Officer shall send a notice of the said public hearing to the applicant and publish a notice of the said public hearing, in the official newspaper of the Village.
4. The notice of the said public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing, and shall contain the date, time and place of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.

#### B. Required Documentation.

An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by a map or maps with information drawn from the following checklist, as determined necessary by the Planning Board. The Planning Board may waive any of the following requirements if conditions warrant.

#### C. Plan Checklist.

1. Survey of the property drawn to scale, showing existing features of the property, including contours, buildings, structures, trees, streets, utility easements, right-of-way, land use, and ownership of surrounding property;
2. Grading and drainage plan, showing proposed contours;
3. Location, proposed use and height of all buildings;
4. Location and design of all parking and truck loading areas, showing entrances and exits;
5. Provision for pedestrian access;
6. Location of outdoor storage, if any;
7. Location and design of all proposed site improvements, including drains, culverts, retaining walls and fences;
8. Description of the method of sewage disposal and location design and construction materials of such facilities;
9. Description of the methods of securing public water and location, design and construction materials of such facilities;
10. Location, size and design of all proposed signs;
11. Location and proposed development of all buffer areas, including existing vegetative cover;
12. Location and design of outdoor lighting facilities;
13. Designation of the amount of building area proposed for retail sales or similar commercial activity;
14. General landscaping plan and planting schedule; and
15. Other elements or plans integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permit required for the project's execution.



#### D. Findings.

Before approving a site plan application, the following findings shall be made:

1. The proposed use is physically and visually compatible with and will not discourage the appropriate planned development or redevelopment of the general neighborhood or adversely affect the character of existing land uses within close proximity of the subject site.
2. The proposed use will be provided with adequate supporting services such as fire and police protection, public and private utilities and all other supporting public services necessary and appropriate to the proposed use.
3. That access facilities are adequate for the estimated traffic from public streets or highways, so as to assure the public safety and to avoid traffic congestion and hazards, and further that vehicular entrances and exits shall be clearly visible from the street and not be within fifty (50) feet of any intersection, except under unusual circumstances.
4. There are an adequate number of off-street parking and loading spaces provided for the anticipated number of occupants, employees, attendants, and patrons or visitors, and further that the layout of spaces and driveways is convenient and conducive to safe operation.
5. Adequate buffer areas, screening and landscaping are provided where necessary to minimize the impact of the proposed land use activity on properties and land uses in the vicinity of the site. Due consideration should be given to maximum retention of existing vegetation.
6. Controls for pedestrian movement are designed to provide for the safety of the general public and the employees, occupants, attendants, patrons and visitors for whose benefit the proposed land use activity is intended.
7. Adequate provisions are made for the collection and disposal of: stormwater runoff from the site, sanitary sewage, refuse or other waste, whether liquid, solid or gaseous or of other character.
8. That the lot area is sufficient, appropriate and adequate for the land use activity and the reasonably anticipated operation and expansion thereof.

#### E. Conditions and Safeguards.

As binding conditions for the approval of a site plan application, the Planning Board, as appropriate, may require the applicant to make specific modifications to the site plan or fulfill certain stipulations with regard to the development and subsequent use of the applicant's

property. These conditions must be clearly related to the required findings. Failure of the applicant to make such required modifications or fulfill such stipulations to the satisfaction of the Board shall be grounds for revocation of the site plan approval.

#### **§7.4 Special Permits.**

Whenever the law specifies that a use, permission or activity is subject to the issuance of a Special Permit by the Planning Board, the Board is hereby empowered to grant or deny such permit in accordance with the following:

1. No Special Permit shall be granted by the Planning Board unless it finds that the use for which such Special Permit is sought will not, in the circumstances of the particular case and under any conditions that the Planning Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
2. Such conditions, which the Planning Board may impose, shall be entered in full in the minutes of the Planning Board.
3. The special uses for which a Special Permit are required and for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics or such unique and special forms that each specific use shall be considered as an individual case.
4. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a Special Permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this chapter.
5. A Special Permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six (6) months for any reason.
6. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.
7. The location and size of the use, the nature and intensity of the operations involved, the size of the site in respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls, and fences will not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof.

8. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, or flashing lights, than would be the operations of any permitted use.
9. The issuance of a Special Permit by the Planning Board shall in no way eliminate the need for site plan approval if otherwise required by this law.

## **CHAPTER 8**

### **§8.1 Enforcement and Administration**

This Law shall be enforced and administered by the Zoning Officer. No zoning permit or certificate of occupancy shall be issued except in conformity with all the provisions of this Law. The Zoning Officer is authorized to cause any building, structure, place, premise or use to be inspected or examined, and to order in writing the remedying of any condition found to exist therein and thereon in violation to any provision of this Law.

### **§8.2 Zoning Permit**

No building, mobile home, structure, or sign in any district shall be erected, added to or removed, or structurally altered until the Zoning Officer has issued a zoning permit. No zoning permit shall be issued unless and until the proposed construction, addition, alteration, or uses thereof is in full conformity with all the provision of this Law, or any other applicable law. Any zoning permit issued in violation of the provisions of this law shall be null and void and of no effect, and any work undertaken or use established pursuant to any such permit shall be unlawful.

#### **A. Application Procedure:**

1. Applications for zoning permits shall be made to the Zoning Enforcement Officer upon official forms furnished for such purpose, which shall be signed by the applicant. Applications for permits may be made by the owner or his/her authorized agent. The owner or his/her authorized agent may make applications for permits.
2. There shall be submitted with all applications for zoning permits four (4) copies of a layout or plot plan drawn to scale or showing the actual dimensions of the lot to be build upon, and the exact size and location of the building and accessory buildings to be created.
3. All applications for zoning permits shall be accompanied by a description of the intended use or uses of the land and buildings and such further details as the Zoning Officer may require to determine conformance with this law.

4. Every application for a non-refundable fee shall accompany a zoning permit, according to the fee schedule as adopted by the Board of Trustees.

#### B. Expiration

1. Every zoning permit issued hereunder shall become void after the expiration of twelve (12) months immediately following the date of issuance of such permit and any further work performed beyond the expiration date shall constitute a violation of this Law.
2. Any zoning permit issued hereunder may be extended by the Zoning Board of Appeals for a period up to six (6) months provided that the applicant submits the proper application form forty-five (45) days prior to the expiration date of such permit. In the event any permit issued hereunder shall expire, the applicant shall submit a new application form including documents and fees as required.
3. Substantial construction shall be started within the twelve-(12) month period of issuance. Within eighteen (18) months of the issuance of the zoning permit, construction shall be completed.

#### C. Revocation

1. The Zoning Officer may revoke a zoning permit which has been issued, in the following instances:
  - a. Where there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the zoning permit was based;
  - b. Where the zoning permit was issued in error and should not have been issued in accordance with applicable laws or ordinances;
  - c. Where the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

#### D. Denial of Zoning Permit

The Zoning Officer, after determining that such application for the proposed work, use, and/or occupancy are not in compliance with all provisions of this Law, or any other applicable ordinances or laws shall disapprove such application and shall return to the applicant plans endorsed as disapproved with the reasons stated in writing thereon.

### **§8.3 Complaints of Violation**

Whenever a violation of this 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 Officer, who shall properly record such complaint and immediately investigate any report thereon. The Zoning Officer, upon completion of his investigation shall file a report with the Village Board of Trustees.

### **§8.4 Certificate of Occupancy**

A. No land shall be used or occupied, and no building or structure shall be erected, or changed in use until the Zoning Officer has issued a Certificate of Occupancy. All applications for such certificates shall be in compliance with the provisions of this law and shall be in compliance with any additional conditions set by the Zoning Board of Appeals or Planning Board.

B. All Certificates of Occupancy shall be applied for coincident with the application for a zoning permit.

C. The Zoning Officer shall issue a Certificate of Occupancy after determining by inspection that such erection, extension, alteration, use, or occupancy complies with the provisions of this law and other applicable laws and ordinances. A Certificate of Occupancy shall be issued within ten (10) days after the erection, extension, alteration, use, or occupancy shall have been approved as complying with the provisions of this law. The Zoning Officer shall maintain a record of all Certificates of Occupancy.

### **§8.5 Compliance with New York State Fire Prevention and Building Code**

The erection, construction, alteration, enlargement, removal, improvement, conversion or change in the nature of the occupancy of any building or structure must comply with the New York State Fire Prevention and Building Code, and this law.

### **§8.6 Violations and Penalties**

A. Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of the law shall be guilty of a violation and upon conviction thereof shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for a period not to exceed fifteen (15) days.

1. If a person fails to abate any violation of this law within five (5) calendar days after written notice has been served personally upon said person, or within thirty (30) days after written notice has been sent to said person by certified mail at said person's home or business address, said person shall be subject to the penalties hereinafter set forth.
2. Each day a violation is continued shall be deemed a separate offense.

D. Where the Code Enforcement Officer occupies a structure without the issuance of the Certificate of Occupancy, this shall constitute a violation of this law.

E. The penalties provided herein shall be cumulative, and shall be in addition to any other penalties provided by law.

F. In addition any persons, firm, or corporation found in violation of this law shall be liable for all legal costs and fees incurred in seeking compliance with this law. The provisions of this paragraph shall be in addition to, and shall not preclude enforcement by injunction or other lawful means.

#### §8.7 Amendments

A. The Village Board of Trustees may from time to time on its own motion, or by petition, or on recommendation of the Planning Board, amend, supplement, or repeal the regulations and provisions of this law after public notice and hearing.

B. 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 before the public hearing hereinafter provided for. The Village Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

1. By publishing a notice at lease [least?] ten (10) days before, given the time and place of such hearing in a newspaper of general circulation in the Village.
2. A written notice of any proposed change or amendment affecting [effecting?] property within five hundred (500) feet of the boundaries of any town, village or state park or parkways shall be given to the clerk of such municipality or to the Regional Park Commission having jurisdiction over such park or parkway at least ten (10) days prior to the date of such hearing.
3. In the case, however, of a protest against such change signed by the owners of twenty (20) percent or more of the area of land included in such proposed change or of that immediately adjacent extending one hundred (100) feet therefrom or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of the members of the Village Board of Trustees.
4. In accordance with General Municipal Law of the State of New York, Section 239 l and m, all proposed zoning regulations, or amendments thereof, which would change the district classification of, or regulations applying to, real property lying within areas defined by the aforementioned sections, shall be referred to the Madison County Planning Board for Review and recommendations, prior to taking final action by the Village Board of Trustees.
5. In the case of zoning map amendments, or re-zonings, large and conspicuous signs, on forms provided by the Zoning Officer, shall be posted on properties for

which the amendment or re-zoning is sought at least ten (10) days prior to the date of such public hearing. The sign shall contain full information as to the change sought, and the date, time and place of the required public hearing. The Zoning Officer shall determine the proper number and placement of such signs.

6. Any petition for any amendment or change in the text or map of the Zoning Ordinance shall include a copy of the proposed change along with information and materials the Village Board deems is necessary to adequately consider the proposed amendment or change, including a narrative on why the amendment or change is necessary.
7. The Village Planning Board shall have thirty (30) days from the date of referral to make its report and recommendations on a proposed amendment. In recommending the rejection or revisions of any proposed amendment to the Village Board of Trustees, the Planning Board shall state its reasons.
8. Any amendment or change to this law that is adopted or approved pursuant to this Section shall thereafter be inserted in its appropriate place in the text of the Zoning Ordinance to replace the affected [effected?] provision.

#### §8.8 Validity

If any section, paragraph, subdivision, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional, the same shall not affect [effect?] the validity of this law as a whole or any part or provisions thereof other than the part so declared to be invalid or unconstitutional.