

ZONING ORDINANCE  
VILLAGE OF MACEDON  
WAYNE COUNTY, NEW YORK

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**ZONING ORDINANCE  
FOR THE  
VILLAGE OF MACEDON**

**ARTICLE I  
ENACTMENT AND INTENT**

**Section 101 Title**

This Local Law shall be known and may be cited as the “Zoning Ordinance of the Village of Macedon.”

**Section 102 Purpose**

For the purpose of promoting the health, safety and general welfare of the people of the Village of Macedon, this Zoning Ordinance is adopted pursuant to Article 7 of the Village Law of the State of New York. Its purpose is to regulate and restrict: the height, number of stories and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards, courts and other open space; the density of population and the location and use of buildings, structures and land for business, industry, agriculture, residence or other purposes. Such Zoning Ordinance and Zoning Map which is a part of said Zoning Ordinance are designed to: lessen congestion in the streets; to secure safety from fire and other dangers; to provide adequate light and air; to provide for solar access and the implementation of solar energy systems; to prevent the overcrowding of land and to avoid undue concentration of population; to facilitate the efficient and adequate provision of public facilities and services; and to provide the maximum protection to residential areas from the encroachment of adverse environmental influences. Such Zoning Ordinance and Zoning Map were made after reasonable consideration, among other things, as to the character of the Village and its peculiar suitability for particular uses and with a view to conserving property values and natural resources and encouraging the most appropriate use of land throughout the Village.

**Section 103 Interpretation**

In their interpretation and application, the provisions of this Local Law shall be held to be the minimum standards and requirement for the protection of the public health, safety and general welfare.

**Section 104 Conflict With Other Laws**

Whenever the requirements of this Local Law are at variance with the requirement of any other lawfully adopted rules, regulations, ordinances, or laws, the most restrictive or those imposing the higher standards shall govern.

## **Section 105 Compliance with SEQR**

Prior to any action, by a municipal board or official on any application made in accordance with the provisions of this Local Law, the Village shall satisfy the requirements of the State Environmental Quality Review (SEQR) regulations.

## **Section 106 Separability**

If any section, subsection, paragraph, sentence, clause or phrase of this Local Law is declared by any court of competent jurisdiction to be invalid or unconstitutional, it is hereby declared that no other provision of this Ordinance shall be affected thereby.

## **Section 107 Amendments**

### **A. Procedure**

The Village Board may from time to time on its own motion, on petition or on recommendation of the Planning Board and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Local Law.

### **B. Filing of Petition**

A petition to amend, change or supplement the text of this Local Law or any zoning district as designated on the Zoning Map established herein shall be filed with the Village Clerk and shall be transmitted by the Clerk to the Village Board. A petition for a change to the Zoning Map shall contain a map, which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for an amendment to this Local Law shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.

### **C. Referral to Planning Board**

Each proposed amendment, except those initiated by the Planning Board, shall be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its approval, as may be appropriate and shall state whether such amendment is in harmony with the Village's plan for land use. The Planning Board shall state its position relative to proposed zoning amendments in writing within forty-five (45) days of its referral from the Village Board. Absence of a reply from the Planning Board

within the forty-five (45) day period shall indicate that the Board is in favor of the amendment.

D. Public Hearing, Notice, Recording of Actions

Unless otherwise provided, the provisions of the Village Law of the State of New York pertaining to public hearings, official notices and proper recording of zoning actions taken by the Village Board shall apply to all amendments to this Local Law. In addition, the Village shall place a poster on each property proposed for rezoning. Said poster shall be four (4) feet high by four (4) feet wide and placed in a location, which is easily viewed from the street. Said poster shall indicate the nature of the proposed rezoning and the date, time and place of the public hearing. The poster shall be placed on the site not less than seven (7) days prior to the public hearing and shall be removed within fifteen (15) days following the hearing.

E. Disposition Final, Rehearing on Petition

The disposition of a petition for amendment by the Village Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Village of Macedon shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefore certifying that there have been substantial changes in the situation which would merit a rehearing by the Village Board. Such rehearing may be granted only upon a favorable vote of a majority of the Village Board plus one (1)

**Section 108 Repealer**

The text of the Macedon Zoning Ordinance and the Zoning Map of the Village of Macedon enacted by the Village Board of the Village of Macedon, Wayne County, New York on April 8, 1970, Local Law No. 1 of the year 1972 Regulating the Construction of Townhouses and the Sign Ordinance of the Village of Macedon enacted by the Village Board of the Village of Macedon on December 10, 1986 and as the same from time to time have been amended, are hereby repealed and all previous enactments and amendments, and from their taking effect, all such previous enactments and amendments thereto shall be repealed.

**Section 109 Annexation**

Any lands annexed into the Village of Macedon subsequent to the adoption of this Local Law, shall, immediately upon the effective date of the annexation, be zoned as an R-1

Residential District. The rezoning of lands annexed into the Village to any other zone district classification shall follow the procedures for amendments specified in Section 107 above.

**Section 110 Effective Date**

This Local Law shall be in effect immediately upon adoption and the posting and filing of notice of adoption as required by State Law.

**ARTICLE II  
DEFINITIONS AND WORD USAGE**

**Section 201 Word Usage, Administrative Agencies Defined**

For the purpose of this Local Law, certain words and terms used herein shall be defined as follows:

A. Word Usage

- 1) All words used in the present tense include the future tense.
- 2) All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- 3) The word “person” includes an association, partnership or corporation.
- 4) Unless otherwise specified, all distances shall be measured horizontally along the ground.
- 5) The word “building” includes the word “structure.”
- 6) “Lot” includes the words “plot”, “parcel”, “tract”, or suite.
- 7) The word “premises” includes a lot and all buildings or structures thereon.
- 8) To “erect”, “to construct” and “to build” a building or structure each have the same meaning and also include “to excavate” for a building and “to relocate” a building by moving it from one location to another.
- 9) “Used” shall be deemed also to include “designated, intended or arranged to be used or occupied.”
- 10) “Shall” is mandatory and not discretionary”; “may” is permissive.

B. Administrative Agencies Defined

BOARD OF APPEALS – The Zoning Board of Appeals of the Village of Macedon.

BUILDING INSPECTOR – The official designated by the Village Board of the Village of Macedon to enforce the provisions of the New York State Uniform Fire Prevention and Building Code in the Village.

COUNTY PLANNING BOARD - The Planning board of the County of Wayne.

DEPARTMENT OF HEALTH – The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the village.

PLANNING BOARD – The Planning Board of the Village of Macedon.

VILLAGE BOARD – The Village Board of the Village of Macedon.

ZONING OFFICER – The official designated by the Village Board of the Village of Macedon to enforce the provisions of this Local Law.

## **Section 202 Definitions**

As used in this Local Law, the following terms shall have the meanings indicated:

ACCESSORY – The term applied to a building, structure or use which: (1) is customarily incidental and subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and, (4) is located in the same parcel as the principal building or principal use.

ACTION – Any project or physical activity, such as construction or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board or official of the Village of Macedon.

ADULT BOOKSTORE – A business, whether retail or wholesale, having more than five percent (5%) of its net floor space set aside for or more than five percent (5%) of the value of its stock-in-trade allocated to recordings, books, magazines, periodicals, films, videotapes/cassettes or other viewing materials for sale or viewing on or off the premises, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT USE – Generally, any business, including but not limited to those specifically enumerated in this Article which has more than five percent (5%) of its net floor space set aside or more than five percent (5%) of the volume of its stock-in-trade, devoted to the display, viewing or dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or related to sexual activity or specified anatomical areas, including but not limited to any establishment that allows or promotes dancers, performers or employees, whether male or female, to display specified anatomical areas.

**ADULT MOTION-PICTURE THEATER** – An enclosed or unenclosed building, structure or portion thereof used for presenting materials distinguished or characterized by an emphasis on matters depicting, describing or relating to sexual activities or specified anatomical areas for observation by patrons.

**AGRICULTURAL ACTIVITY** – The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**AGRICULTURAL OR FARMING ACTIVITIES** – The use of the land for agricultural purposes including: truck farms or nurseries, greenhouses, horticulture, viticulture and apiaries, and the raising or breeding of animals, swine, poultry, riding academies, livery or boarding stables, and the necessary accessory uses for storage; provided, however, that the operation of any such accessory use shall be incidental to that of the principal agricultural activities.

**ALTERATIONS** – As applied to a building or structure, reconfiguration of any space, the addition or elimination of a window or door, reconfiguration or extension of any system, or installation of any additional equipment.

**APARTMENT BUILDING** – A building containing more than 2 dwelling units where the occupants are primarily permanent in nature..

**APPLICANT** – A property owner or agent of a property owner who has filed an application for a land development activity.

**AREA OF SPECIAL FLOOD HAZARD** – Land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

**BASE FLOOD** – The flood having a one (1) percent chance of being equaled or exceeded in any one given year. For purposes of this Local Law, base flood shall have the same meaning as the 100-year flood.

**BASEMENT** – That portion of a building that is partly or completely below grade.

**BUFFER AREA** – A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms not less than ten (10) feet in depth and not less than six

(6) feet in height densely planted and designed to provide a physical screen preventing visual and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

**BUILDING** – Any structure, either temporary or permanent, having a walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**BUILDING AREA** – The aggregate of the total area of all enclosed and roofed spaces of the principal building and all accessory buildings on a common lot. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

**BUILDING HEIGHT** – The vertical distance from the grade plane to the average height of the highest roof surface.

**BUILDING LINE** – A line formed by the intersection of a horizontal plan at an average grade level and vertical plant that coincides with the exterior surface of the building or a projected roof or porch, the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yards and setback requirements are measured to the building lines.

**BUILDING, PRINCIPAL** – A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUSINESS** – Any person, firm, association, partnership, corporation or other entity for profits.

**CAMPING GROUND** – A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same.

**CERTIFICATE OF COMPLIANCE** - A certificate issued by the Building Inspector stating that the construction is in compliance with all requirements of the building permit for the subject project.

**CERTIFICATE OF OCCUPANCY** – A certificate issued by the Building Inspector upon completion of construction or alteration of a building for occupancy. Said Certificate shall acknowledge compliance with all of the requirements of the Uniform Code.

**CHANNEL** – A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING** – Any activity that removes the vegetative surface cover.

**CLUB** – An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club or as permitted by separate ordinance or local law.

**CLUSTER DEVELOPMENT** – A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

**CONDOMINIUM** – A building or groups of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners of individual units on a proportional undivided basis. Condominiums are a form of ownership of units, which may be built in Residential Districts, or non-residential units, which may be built in the C and I zoning districts. Condominiums are governed under Article 9-B of the Real Property Law, also known as the “Condominium Act” of the State of New York.

**CURB LEVEL** – The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb on the two intersection streets. Where no such grade has been established, the Superintendent of Public Works shall establish the curb level for the purposes of this Local Law.

**DAY CARE CENTER** – A building or structure or portion thereof for educational supervision or personal care for more than 5 children 2 \_ years old.

**DEDICATION** – The deliberate appropriation of property by its owner for general public use.

**DEPARTMENT** – The New York State Department of Environmental Conservation.

**DESIGN MANUAL** – The New York State Storm water Management Design Manual, most recent version including applicable updates, that serves as the official guide for storm water management principles, methods and practices.

**DEVELOPER** – A person who undertakes land development activities.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

**DISSEMINATION** – The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or specified anatomical areas.

**DRIVEWAY** – A roadway providing a means of access from a street to a property or off-street parking area.

**DWELLING** – Any building that contains one or more dwelling units used, intended or designed to be built, used, rented or leased that is occupied for living purposes.

**DWELLING, MANUFACTURED** – A factory built residential dwelling unit, designed to be occupied as a dwelling, complete and ready for occupancy except for minor and incidental unpacking and assembly operations and placement on a permanent foundation and connections to utilities. Manufactured housing built after June 14, 1976 shall meet the National Manufactured Home Construction and Safety Standards as set forth by the U.S. Department of Housing and Urban Development. A travel trailer shall not be considered as a manufactured dwelling.

**DWELLING MODULAR** – Same as a manufactured dwelling, however built to New York State building codes and approved by New York State.

**DWELLING, MULTIPLE FAMILY** – A building containing 3 or more dwelling units.

**DWELLING, MULTIPLE FAMILY DEVELOPMENTS** - A series of multiple family dwellings, designed and built as an integrated development with a common architectural style.

**DWELLING, SINGLE FAMILY** – A building containing 1 dwelling unit.

**DWELLING, TWO FAMILY** – A building containing two dwelling units.

**DWELLING UNIT** – A single unit providing complete independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation.

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

**ERROSION CONTROL MANUAL** – The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

**ESSENTIAL SERVICES** – The erection, construction, alteration or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical, telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishings of adequate service by such public utilities or municipal or other governmental agencies, or for the public healthPage 11 of 152, safety or general facilities or sites for the disposal of waste materials associated with the provision of such services.

**EXCAVATION** – The process of the removal of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means.

**EXCAVATION SITE** – A parcel of land used for the purpose of extracting stone, sand, gravel or topsoil for sale as an industrial or commercial operations.

**FAMILY** – One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single non-profit housekeeping unit.

**FARM** – Any parcel which is used for agricultural production, or farming activities. It includes necessary farm structures and storage of equipment used.

**FENCE** – A structure of wood, masonry, wire mesh or other material, including landscaping, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

**FINISHED GRADE LEVEL** – The level where the finished grade of the ground intersects the foundation walls, height measurements shall be based from the finished grade level.

**FLOOD OR FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)** – An official map published by the Federal Emergency Management Agency as part of a Flood Insurance Study. The

FBFM delineates a Regulatory Floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) – An official map issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the Village.

FLOOD INSURANCE STUDY – The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary –Floodway Map and the water surface elevation of the base flood.

FLOOD PROOFING – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – The channel of a river or other watercourses and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.

FLOOR AREA, GROSS – The sum of the gross horizontal areas of several floors of a building or buildings, measured from the inside faces of exterior walls or from the centerline of walls separating two uses. For the purpose of applying the requirement for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for non-public purposes such as storage, restrooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE – The horizontal area of any floor of a building designed and intended for living purposes, which includes working, sleeping, eating, cooking or recreation or combination thereof. A floor used only for storage purposes is not a “habitable floor”. All dimensions shall be measured from the interior faces of exterior walls or from the centerline of the base of walls separating two dwelling units.

GARAGE, PRIVATE – An accessory building which provides for the storage of motor vehicles by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit.

GRADING – Excavation or fill of material, including the resulting conditions thereof.

HOME OCCUPATION – Any occupation or profession customarily conducted entirely within a dwelling or a building accessory to the dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, day care services, musical and dancing instruction to groups exceeding four (4) pupils, convalescent homes, mortuary establishment, garages or shops for the repair of motor vehicles, retail businesses and trades, barber and beauty shops and other personal service establishments.

IMPERVIOUS COVER – Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt water (e.g., building rooftops, pavement, sidewalks, driveways, etc.)

INDUSTRIAL STORMWATER PERMIT – A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries, which regulates the pollutant levels, associated with industrial storm water discharges or specifies on-site pollution control strategies.

INFILTRATION – The process of percolating storm water into the subsoil.

JUNK YARD – A lot, land or structure, or part thereof, where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including: motor vehicle or other vehicle or machinery, wrecking or dismantling yards; house wrecking yards; used lumber yards; places or yards for storage of salvaged house wrecking and structural steel materials and equipment; or where any unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. The term junkyard shall not include pawnshops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, or for processing of used, discarded or salvaged materials as part of manufacturing operations.

Exceptions:

- 1) New, and/or used motor vehicles, which are operable, qualify for a current New York State Motor Vehicle inspection sticker under Article 5 of the New York Motor Vehicle and Traffic Law, and are offered for sale to the public, may be stored on premises on which new or used car sales may be conducted in accordance with the provisions of these regulations.

- 2) The storage of vehicles subject to seasonal use such as travel trailers and snowmobiles even though such vehicles may be unlicensed during the part of the year they are not in use.

**JURISDICTIONAL WETLAND** – An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**KENNEL** – Any premises on which four (4) or more dogs, six (6) months old or older are kept, bred and/or boarded.

**LAND DEVELOPMENT ACTIVITY** – Construction activity including clearing, grading excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre (see 5note), or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER** – The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LOADING SPACE, OFF-STREET** – Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking area.

**LODGING UNIT** – A unit used for sleeping and living without cooking facilities where the occupants are primarily transient. Sanitation provisions are optional in the unit.

**LOT** – A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

**LOT AREA** – The area of a lot contained within the boundaries of the lot lines in units of square feet, acreage or other units.

**LOT, CORNER** – A parcel of land at the junction of, and fronting on, two or more intersecting streets. All corner lots shall be deemed to have two (2) front yards, two (2) side yards and no rear yard.

LOT DEPTH – The minimum horizontal distance from the front lot line of a lot to its opposite rear line, measured in the general direction of the sidelines of the lot.

LOT FRONTAGE – The front of a lot shall be construed to the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards.

LOT LINES – The property lines bounding the lot:

- 1) Lot Line, Front: The line separating the lot from a street right-of-way.
- 2) Lot Line, Rear: The lot line opposite and most distant from the front lot line.
- 3) Lot line, Side: Any lot line other than a front or rear lot line.

LOT OF RECORD – A lot which is part of an approved subdivision recorded in the Office of the County Clerk or a lot described by metes and bounds, the description of which has been so recorded.

LOT, THROUGH – A lot which is not a corner lot and which has frontage on two (2) streets.

LOT WIDTH – The distance between the side lot lines measured parallel to the street line at the front setback line.

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

MAINTENANCE AGREEMENT – A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

MASSAGE – A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

MASSAGE ESTABLISHMENT – Any establishment having a fixed place of business where massages are administered. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of any health care practitioner duly

licensed by the State of New York, nor barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulders. The definition shall not include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational or athletic facility.

**MEAN SEA LEVEL** – For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** – Any portable vehicle which is designed to be transported on its own wheels, or those of another vehicle, which is used, designed to be used, and capable of being used as a detached single-family residence and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, and plumbing and electrical connections for attachment to outside systems. The definition of mobile home includes all additions made subsequent to installation. All mobile homes built after June 15, 1976 shall meet the National Mobile Home Construction and Safety Standards as set forth by the U.S. Department of Housing and Urban Development. This definition does not include manufactured housing placed on a permanent foundation or a travel trailer.

**MOBILE HOME PARK** – A parcel of land under single ownership on which two (2) or more mobile homes are occupied as residences or which is planned and improved for the placement of two (2) or more mobile homes for non-transient residential use, or for the sale or rental of two (2) or more mobile home lots.

**MOTEL** – A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities; and which may include restaurant facilities, and a dwelling unit for a bona fide caretaker or operator. The term motel includes: hotels, motor vehicle courts, motor lodges and similar terms. Each sleeping unit shall contain not less than two hundred forty (240) square feet of gross floor area.

**MOTOR VEHICLE** – Every vehicle which is propelled by any power other than muscular power, except electrically driven invalid chairs being operated or driven by an invalid. Motor vehicles shall include but not be limited to motor vehicles, trucks, boats, all terrain vehicles, snowmobiles, etc.

**MOTOR VEHICLE REPAIR GARAGE** – A motor vehicle repair garage is any building or part thereof, which is used for painting, body and fender work, engine overhauling or other major repairs of motor vehicles.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** – A vertical control as corrected in 1929, used as a reference for establishing varying elevations within the floodplain.

**NEIGHBORHOOD CHARACTER** – The atmosphere or physical environment, which is created by the combination of land use and buildings within an area. Neighborhood character is established and influenced by land use types and intensity, traffic generation and also by the location, size and design of structures as well as the interrelationship of all these features.

**NET FLOOR AREA** – That portion of the building devoted to display, whether for viewing or dissemination, of a business' stock-in-trade. This shall not include entry areas, stockrooms, closets, storage areas, cash register areas or any area from which the public is excluded or restrooms whether public or private.

**NON-CONFORMING BUILDING OR STRUCTURE** – Any lawful building or structure existing at the date of enactment of this Local Law which in its design or location upon a lot does not conform to the regulations of this Local Law for the district in which it is located.

**NON-CONFORMING LOT** – A lot of record existing at the date of the enactment of this Local Law where the owner(s) of said lot does not own any adjoining property, the re-subdivision of which would create one (1) or more non-conforming lots, which does not have the minimum width, depth or area for the district in which it is located.

**NON-CONFORMING USE** – Any use of land, buildings or structures lawfully existing on the date of enactment of the Local Law which does not conform to the use regulations of the district in which it is situated.

**NONPOINT SOURCE POLLUTION** – Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**NURSERY SCHOOL** – A place providing or designed to provide daytime care or instruction for three (3) or more children from two (2) to five (5) year of age away from their home for up to three (3) hours per day.

**OPEN SPACE** – Any unoccupied space open to the sky on the same lot with a building.

**PARKNG SPACE, OFF STREET** – A space adequate for parking an motor vehiclemobile and having an area of not less than two hundred (200) square feet per vehicle, exclusive of passageways and driveways appurtenant thereto. Such space shall be located on the lot it is accessory to and shall have direct access to a street or public way with minimum dimensions of 10' wide and 20' long.

PHASING – Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN – Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

POND – A pond is any artificially confined body of water.

PRINCIPAL BUILDING - A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPALLY ABOVE GROUND – At least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

PRINCIPAL USE – The main or primary purpose for which a building, structure or lot is to be used.

PROJECT – Land development activity.

PUBLIC AND SIC BUILDINGS AND USES – The words “public and semi-public buildings and uses” as used in this Local Law are intended to designate any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- 1) Churches, places of worship, parish houses and convents.
- 2) Public parks: including golf courses, playgrounds and recreational areas when authorized or operated by a governmental authority.
- 3) Nursery schools, elementary schools, secondary schools, colleges or universities having a curriculum approved by the Board of Regents of the State of New York.
- 4) Public libraries and museums.
- 5) Administrative office buildings and related facilities operated by public agencies.
- 6) Fire, ambulance, public safety and public works buildings.
- 7) Hospitals for the care of human beings, nursing homes, convalescent home, homes for the adults, homes for the aged or residences for adults as the same are defined under the Public Health Law of the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
- 8) Membership corporations established for cultural social or recreational purposes.
- 9) Day care centers approved by the New York State Department of Social Services.

RECHARGE – The replenishment of underground water reserves.

RECREATIONAL VEHICLE – A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are:

A. Travel Trailer

A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight (8) feet and a body length of no more than thirty-eight (38) feet when factory equipped for the road.

B. Camp Trailer

A portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

C. Truck Camper

A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:

- 1) Slide-in camper – A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
- 2) Chassis-mount camper – A portable unit designed to be affixed to a truck chassis.

D. Motorhome

A vehicular unit built on a self-propelled motor vehicle chassis.

RESERVOIR SPACE – Any temporary storage space for a vehicle waiting for admission to a commercial use for service. Such space shall be in addition to drives, aisles or parking spaces required by this Local Law. One (1) reservoir space shall be twenty (20) feet long and eight (10) feet wide.

RESTAURANT – Any establishment however designated at which food is sold for consumption on the premises to patrons and equipped with seating facilities and where the taking of food and drink from said building is incidental. The term restaurant shall include bars and taverns licensed to sell alcoholic beverages for on-premises consumption. However, a snack bar refreshment stand at a public, semi-public or community swimming pool, playground, playfield or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**RESTAURANT, DRIVE-IN** – An establishment where food, soft drinks, ice cream and similar confections are sold for principal consumption outside the confines of the principal building or in motor vehicle, regardless of whether or not seats are provided for patrons.

**RIGHT-OF-WAY** – The line determining the streets or highway limit of public ownership.

**ROOMING HOUSE** – A dwelling other than a hotel, motel, or tourist home, where more than two (2) persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a tourist home in that it is designed to be occupied by longer-term residents as opposed to overnight or weekly guests.

**SEDIMENT CONTROL** – Measures that prevent eroded sediment from leaving the site.

**SENSITIVE AREAS** – Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge area, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SETBACK** – The horizontal distance between the front lot line, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from front lot line to building lines are defined as “front set-backs”. Setbacks from side lot lines are “side setbacks”. Setbacks from rear lot lines are “rear setbacks”.

**SEXUAL ACTIVITIES** – Any act of masturbation, fellatio, sadomasochism, sexual intercourse or physical contact with a person’s clothed or unclothed genitals, pubic area or buttocks.

**SHOPPING CENTER** – A group of stores, shops and similar establishments occupying adjoining structures or two (2) or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

**SIGN** – Any material, structure or part thereof, or any device attached to a building or structure or painted or represented thereon, composed of lettered or pictorial matter, or upon which lettered or pictorial matter is placed and is intended for display of an advertisement, notice, directional matter or name, and includes sign frames, billboards, sign boards, illuminated signs, pennants, fluttering devices, projecting signs, or ground signs.

**SIGN AREA** – The area of a sign consisting of the entire surface of any regular geometric form or combinations of regular geometric forms, comprising all of the

display area of the sign and including all of the elements of the matter displayed, but excluding supporting or structural members not bearing advertising matter.

**SIGN, BUILDING FRONT OR FACE** – The outer surface of a building which is visible from any private or public street, highway or driveway, including window display areas.

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

**SIGN, COPY CHANGE** – A sign on which the visual message may be periodically changed.

**SIGN, PORTABLE OR MOBILE** – A sign that is designed and intended to be transported from place to place and is not permanently affixed to the ground or to a building or structure.

**SIGN, BUSINESS** – A sign which directs attention to a business, profession or industry conducted upon the premises or to a commodity or service sold or offered by such business, profession or industry upon the premises where such sign is located.

**SIGN, DIRECTIONAL** – A sign that directs attention to the location of a local service or place of business.

**SIGN, ERECTION** – The construction, alteration, repair, display, location or relocation, attachment, placement, suspension, affixage or maintenance of any sign, including the painting of exterior wall signs and the use of any vehicle or other substitute for a sign.

**SIGN, FREESTANDING** – A sign or sign support structure that is not attached to, or part of a building or structure.

**SIGN, GROUND** – A sign supported by a pole, uprights or braces which are placed in or on the ground.

**SIGN ILLUMINATED** – A sign lighted by electricity, gas, or other artificial light, including reflective or phosphorescent light, paint, or tape.

**SIGN, LIGHTING DEVICE** – Any light, string, or groups of lights located or arranged so as to cast illumination on or from a sign.

**SIGN, NONCONFORMING** – A sign which exists at the time of enactment of this Local Law and which does not conform to the regulations and restrictions imposed herein.

**SIGN, OUTDOOR ADVERTISING** – A sign which directs attention to a business, profession or industry conducted or a commodity or service sold or offered on a site other than upon the premises where such sign is located.

**SIGN PORTABLE OR MOBILE** – A sign that is designed and intended to be transported from place to place and is not permanently affixed to the ground or to a building or structure. Portable signs may or may not have wheels.

**SIGN, PROJECTING** – A sign which is attached to the exterior of a building or a structure beyond the surface of that portion of the building or structure to which the sign is attached and not parallel to the face of the building.

**SIGN, ROOF** – Any sign constructed on or supported by the roof of any building or structure.

**SIGN, TEMPORARY** – A sign which is intended to advertise community or civic projects, real estate for sale or lease, or other special events on a temporary basis.

**SITE PLAN** – A plan, to scale, showing uses and structures proposed for a parcel of land, including lot lines, street, existing and proposed buildings and structures, topography, rights-of-way, parking areas, open space, and any other information deemed necessary by the Planning Board.

**SPECIFIED ANATOMICAL AREAS** – Human male or female genitals, pubic areas or buttocks with less than a full opaque covering.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01** – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES GENERAL PERMIT FOR STORM WATER DISCHARGES FROM MUNICIPAL SEPARATE STORM WATER SEWER SYSTEMS GP-02-02** – A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify storm water control standards.

**STABILIZATION** – The use of practices that prevent exposed soil from eroding.

**STOP WORK ORDER** – An order issued which requires that all construction activity on a site be stopped.

**STORM WATER** – Rain water, surface runoff, snowmelt and drainage.

**STORM WATER HOTSPOT** – A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical storm water runoff, based on monitoring studies

**STORM WATER MANAGEMENT** – The use of structural or non-structural practices that are designed to reduce storm water runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORM WATER MANAGEMENT FACILITY** – One or a series of storm water management practices installed, stabilized and operating for the purpose of controlling storm water runoff.

**STORM WATER MANAGEMENT OFFICER** – An employee or officer designated by the municipality to accept and review storm water pollution prevention plans, forward the plans to the applicable municipal board and inspect storm water management practices.

**STORM WATER MANAGEMENT PRACTICES (SMPs)** – Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to storm water runoff and water bodies.

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP)** – A plan for controlling storm water runoff and pollutants from a site during and after construction activities.

**STORM WATER RUNOFF** – Flow on the surface of the ground, resulting from precipitation.

**STREET** – A public or private thoroughfare which affords the principal means of access to abutting properties.

**STREET GRADE** – The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the “street grade.”

**STRUCTURE** – Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to something having permanent location on the ground, including gasoline and oil tanks, buildings, mobile homes, fences, signs, billboards, towers, antennae and satellite TV dishes.

**SUBDIVISION** – The division of any parcel of land into two (2) or more lots, plots, sites, or other division of land, for the purpose, whether immediate or future, of transfer of ownership of building development, and shall include resubdivision.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, alteration, modification of a building, the cost of which equals or exceeds 50 percent of the market value of the building either: (a) before the improvement or repair is started; or, (b) if the building has been damaged and is being restored before the damage occurred. The Building Inspector shall determine the value of the improvements to be made based upon the square footage of building area added or improved. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

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

**SURFACE WATERS OF THE STATE OF NEW YORK** – Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment systems, including treatment ponds or lagoons, which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to manmade bodies of water, which neither were originally created in water of the state (such as disposal area in wetlands) nor resulted from impoundment of waters of the state.

**SWIMMING POOL** – Any body of water or receptacle for water, which has a capability of a depth of more than two (2) feet at any point, used or intended to be used for swimming, bathing or wading and installed or constructed above or below ground.

**TEMPORARY USE** – An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of this Local Law. Examples of such uses are structures incidental to new construction, which shall be removed after the completion of this construction work.

**TOURIST HOME** – A dwelling in which overnight accommodation are provided or offered for transient guests for compensation. For purposes of this Local Law, tourist home shall include bed and breakfast establishments.

**TOWER** – Includes any structure, including dish antennae, whether attached to a building or free-standing and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to broadcast, short-wave, citizens band, FM or television signals or wind-driven devices such as energy converters and windspeed and/or direction indicators.

**TOWNHOUSE** – An independent single family dwelling unit which is one (1) of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

**TOWNHOUSE CLUSTERS** – A building, or group of buildings, with each building containing not more than eight (8) townhouse dwelling units connected by common party walls.

**TOWNHOUSE DEVELOPMENTS** – A tract of land adequately sized to accommodate the construction of townhouse dwelling units in accordance with the density standards contained elsewhere in these regulations.

**UNIFORM CODE** – The New York State Uniform Fire Prevention and Building Code.

**USE, SPECIAL PERMIT** – A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relating to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in a zoning district as a special permit use only if specific provision for such special permit use is made in this Local Law.

**VARIANCE** – A relaxation of the terms of the zoning ordinance which, in the determination of the Board of Appeals, would not be contrary to the public interest and which satisfied the conditions spelled out in State Law relative to the issuance of variances.

**WATERCOURSE** – A permanent or intermittent stream or other body of water, either natural or manmade, which gathers or carries surface water.

**WATERWAY** – A channel that directs surface runoff to a watercourse or to a public storm drain.

WINDMILL – An alternate energy device, which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

YARD – A required open space unoccupied and unobstructed by any structure, except as may be provided by this Local Law and situated between the principal building or group of buildings and the nearest lot line.

YARD, FRONT – A yard extending between the side lot lines across the front of a lot adjoining a street; situated between the street line and the front building line.

YARD, REAR – A yard extending between the side lot lines situated between the rear line of the building and the rear lot line. In the case of through lots there will be no rear yards, but only front and side yards.

YARD, SIDE – A yard extending between the side building line and the nearest side lot line; situated between the front and rear yards.

**ARTICLE III**  
**GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS**

**Section 301 Applicability of Regulations**

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone district of this Local Law and meeting the requirements set forth herein. Open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations required by this Local Law for the zone district in which such building or space is located. In the event of any such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of this Local Law, and the Certificate of Occupancy or Certificate of Compliance, as appropriate, shall become null and void.

**Section 302 Preservation of Natural Features**

- A. No structure shall be built within fifty (50) feet of the bed of a stream carrying water on an average of six (6) months of the year, except for:
  - 1) Public bridges, public water works and other municipal or public utility facilities.
  - 2) Such private bridges, fords, drainage conduits, embankments and similar structures as are necessary to permit access to a lot or portion thereof or as are incidental to a lawful use of a lot, provided that such structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.
- B. No movement of earth or filling of any material shall be permitted in any district without a permit issued by the Village of Macedon subject to the provisions of this Local Law.
- C. No person shall strip, excavate or otherwise remove topsoil for use, other than on the premises from which taken, except in connection with the approved construction or alteration of a building, swimming pool or other use or structure on such premises pursuant to the provisions of this Local Law.
- D. No movement of earth or erosion shall be permitted at any time in any district, which adversely affects conditions on any other property.

- E. Whenever natural features such as trees, brooks, drainage channels and views interfere with the proposed use of property; the retention of the maximum amount of such features consistent with the intended use of the property shall be encouraged.

**Section 303 Regulations Applicable to All Zones**

- A. Except as specifically provided herein, no lot shall have erected upon it more than one (1) principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this Local Law shall be considered to provide a yard or open space for any other building.
- B. No site preparation or construction shall be commenced until final subdivision approval has been granted by the Planning Board and the subdivision map has been filed in the Wayne County Clerk's office or site plan approval has been granted by the Planning Board and all conditions of said approval have been met and final approval signatures from the Village Engineer, Zoning Officer and Planning Board Chair are obtained. Upon application the Planning Board may, in special circumstances, grant approval for site preparation in advance of final approval. Said application shall be supported by good and sufficient reasons for starting in advance of final approval and must contain adequate surety for the performance of the work.
- C. Accessory or storage buildings including, but not limited to, a private garage for the parking of passenger motor vehicle/mobiles of residents on the premises, garden house, tool house, play house, housing for domestic animals incidental to the residential use of the premises, subject to the following:
  - 1) Accessory buildings attached to a principal building shall comply with the yard requirements of this Local Law for the principal building.
  - 2) No more than two (2) detached accessory buildings excluding private garages, may be located on any one parcel of land in a residential district. Accessory buildings with less than fifty (50) square feet of floor area shall not be included in determining the number of accessory buildings on a property.
  - 3) The total area of all detached accessory buildings on any one parcel of land in a residential district, including buildings with less than fifty (50) square feet of floor area, shall not exceed two hundred (200) square feet in area. The area of detached private garages shall not, however, be included in determining total square footage of detached accessory buildings.

- 4) No detached accessory building in a residential district shall exceed twelve (12) feet in height, except for a detached parking garage, which may be up to fifteen (15) feet in height.
  - 5) With the exception of detached private garages all detached accessory buildings must be located in the rear yard and subject to the setback requirements of the Schedule. Detached garages shall be located to the rear of the front building line of the principal building.
  - 6) These provisions shall not apply to permitted uses in non-residential districts except that no detached accessory buildings incidental to permitted uses in such districts shall be closer to the street or right-of-way line than the minimum front yard setback for the principal building.
  - 7) The Planning board may require detached accessory buildings to be fenced and/or buffered from adjacent properties consistent with approved site development plans, in order to protect and/or screen adjacent properties.
- D. Every principal building shall have access to a public street improved to meet Village requirements. Access may be either by a driveway or private road approved by the Village. **Said road or driveway shall have a right-of-way width of not less than thirty (30) feet and a pavement width of not less than twenty (20) feet**, improved with a durable all weather surface, subject to approval of the Planning Board. All structures shall be so located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- E. At the intersection of two (2) or more streets, no hedge, fence or wall (other than a single post or tree) which is higher than three (3) feet above ground level measured at the edge of the pavement or at the curb, nor any obstruction to vision, including agricultural crops, shall be permitted in the triangular area formed by the intersection street lines and a line joining each fifty (50) feet distant from said intersection. This triangular area shall be measured along the edge of the pavement.
- F. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard setback area shall be measured from such proposed right-of-way line.
- G. No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machine of any type to be placed in any

location which would infringe upon the required yard areas specified in this Local Law.

- H. No manure, odor or dust-producing substances shall be permitted to be stored within one hundred (100) feet of any lot line.
- I. For the purpose of regulating the location of buildings on corner lots, and on lots extending through between two parallel streets, all portions of a corner lot or through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
- J. No front yard shall be used for the open storage of boats, vehicles, travel trailers, snowmobiles, snowmobile trailers and other similar equipment on a residential lot except for vehicular parking or driveways. Such equipment may be stored on the side of the building but no closer than ten (10) feet to the rear or side lot line.
- K. No commercial vehicle with a load capacity of more than one (1) ton shall be parked out of doors overnight or on Sunday in a residential district. No display vehicle for commercial purposes shall be parked in any district for display purposes.
- L. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this Local Law either with respect to any existing structures or use and any proposed structures or use or setbacks.
- M. Nothing in this Local Law shall restrict the construction, use or maintenance of public buildings, structures or facilities, parks or other publicly owned properties or the installation and maintenance of such public utilities as may be required to service any district. All facilities shall be subject to the yard requirement of this Local Law and to site plan review.
- N. Fences erected in the Village shall adhere to the following standards:
  - 1) No fence in a front yard of a residential district shall be erected, altered or reconstructed to a height exceeding four (4) feet above ground level.
  - 2) Fences in any rear or side yard of a residential district may be erected, altered or reconstructed to a height of up to six and one-half (6  $\frac{1}{2}$ ) feet above ground level.

- 3) Fencing used to enclose a tennis court may be permitted up to ten (10) feet in height provided that such fencing is not less than twenty-five (25) feet from either the side or rear property line.
  - 4) These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.
  - 5) Fences in non-residential districts may be up to eight (8) feet in height, except that they shall not exceed four (4) feet in height in any front yard.
  - 6) No fence shall be erected to encroach on any property line or upon a public right-of-way.
  - 7) The face side of all fences erected shall be located so as to face the adjoining lot.
  - 8) No fence shall be erected in a special flood hazard area.
- O. If the use of any lot or building involves the disposal of sewage or wastewater and public sewers are not available, an adequate sanitary disposal system for the same shall be installed in accordance with regulations and standards promulgated by the New York State Department of Health and/or NYSDEC and at all times maintained on such lot or in lawful connection therewith. The minimum lot area otherwise required shall be increased where necessary to the extent required to provide such disposal system. Certification of approval for the installation of on-site sewage disposal systems shall be obtained from the Department of Health and/or NYSDEC and submitted to the Village prior to the start of construction.
- P. No lot shall be used for the commercial storage or disposal of solid or liquid waste without the prior approval of the Village Board. Duly approved individual sewage disposal systems shall be excepted from this provision. Village Board approval shall be given only upon a finding that the proposed use shall not have a detrimental effect upon surrounding properties and evidence of any required permits necessary from the New York State Departments of Health and/or Environmental Conservation. The Village Board may require the submission of any documents necessary to make the foregoing finding. Consistent with the provisions of paragraph O above, this provision shall not prohibit the storage of animal waste upon any farm.
- Q. Discharge from individual sewage disposal systems shall be in accordance with approved plans and the procedures and standards of the New York State Departments of Health and Environmental Conservation.

- R. All construction plans shall include consideration of storm water drainage needs. Site grading shall direct water away from buildings and structures to the natural drainage way, and shall not direct water runoff to neighboring properties.
- S. Any structure which has been vacant or which has had utility service disconnected for twelve (12) consecutive months shall not be used for any purpose without obtaining a new Certificate of Compliance.
- T. Any structure determined by the Fire Department to be completely destroyed by fire shall require a new building permit before any reconstruction is started. A new **Certificate of Occupancy** shall also be required.
- U. Any structure partially destroyed by fire shall be rebuilt in accordance with this Local Law and the following additional provisions:
- 1) No permit shall be required to restore/replace any portion of a structure to its same condition prior to its being damaged.
  - 2) Any change in a structure damaged by fire including but not limited to size of building, bearing walls, entranceways, building materials, shall require a new building permit and said reconstruction shall meet or exceed the Uniform Code requirements and the provisions of this Local Law.
- V. No more than one antenna and no more than one TV satellite reception dish shall be permitted on any lot in any district.
- W. The dumping of refuse waste material and other substances shall be prohibited in all districts. This is not, however, to be construed as prohibiting filling to establish grades following the issuance of a permit by the Zoning Officer. Materials used as fill to establish grades shall consist solely of clean dirt, gravel and other clean fill. All materials applied shall be leveled, compacted and covered with at least four (4) inches of clean dirt and subject to approval of the Zoning Officer.
- X. No dwelling units shall be allowed to keep more than three (3) dogs, which are more than four (4) months of age.
- Y. No lot may be used or occupied and no structure may be erected, maintained or used for the raising, harboring or housing of pigeons, swine, goats, rabbits, cows, horses, poultry, foxes, mink, skunks or any other fur bearing animals in any district.

**ARTICLE IV**  
**BOARD OF APPEALS AND PLANNING BOARD**

**Section 401 Creation, Appointment and Organization of the Board of Appeals**

- A. A Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Village Board, who shall also designate a Chairman. The existing Board of Appeals shall be continued. No person who is a member of the Village Board shall be eligible for membership on such Board of Appeals. Of the members of the Board of Appeals, first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years. Their successors shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Village Board for appointment for the unexpired term.
- B. The Board of Appeals shall establish such rules and regulations as are required by State and local laws for the transaction of their business, and may amend, modify and repeal the same from time to time.
- C. Whenever the Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this Local Law, denies or rejects the same, said Board of Appeals shall refuse to hold further hearings on the same or substantially similar application for appeal by the same applicant, their successors or assigns, for a period of one (1) year, except and unless the Board of Appeals shall find and determine from the information supplied in the request for a rehearing that a change in conditions has occurred which relates to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon the favorable vote of a majority of the Board of Appeals plus one (1).

**Section 402 Powers and Duties of the Board of Appeals**

The Board of Appeals shall have all the powers and duties prescribed by Article 7 of the Village Law of the State of New York and by this Local Law which are more particularly specified as follows:

- A. Administrative Review
  - 1) The Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this Local Law.

- 2) The Board of Appeals may reverse or affirm wholly, partly or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.
- 3) The Board of Appeals shall hear and decide on interpretive matters where the provisions of this Local Law, including the determination of exact district boundaries, are not clear.

**B. Variances**

- 1) The Board of Appeals is empowered to authorize upon appeal in specific cases such variance from the terms of this Local Law as will not be contrary to the public interest where, owing to condition peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship (use variance) or practical difficulties (area variance).
- 2) As used herein, a variance may be authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.
- 3) A variance shall not be granted solely because of the presence of non-conformities in the zoning district or uses in other zoning districts.
- 4) In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
- 5) Variances granted shall be the minimum which would accomplish the purpose of providing for reasonable use of land or buildings.
- 6) Variances granted shall be in harmony with the general purpose and intent of this Law and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**Section 403 Variance and Appeals Procedure**

**A. Variance Procedure**

- 1) The applicant may arrange an informal discussion with the Board of Appeals to determine any and all of the data to be included in the application.

- 2) All applications for variances shall be made in quadruplicate to the Zoning Officer on forms provided and shall be accompanied by plans and supporting documents and a complete SEQR Part 1, to sufficiently describe the proposal. The Board of Appeals may request additional information it deems necessary in order to act on the application.
- 3) The Zoning Officer after determining that an application is in proper form shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.
- 4) All requests for a variance shall be referred to the Village Planning Board for their recommendations concurrent with the submission to the Zoning Board of Appeals. The Planning Board shall have thirty (30) days from the receipt of said variance application to provide the Board of Appeals with an advisory opinion on the application. The Zoning Board of Appeals shall not act on the application for a period of thirty (30) days, unless a reply is received from the Planning Board within the thirty- (30) day period. Absence of a reply within said thirty- (30) day period shall constitute an approval by the Planning Board.
- 5) A copy of the complete variance application and supporting documents shall also be transmitted to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law.
- 6) The Board of Appeals shall fix a reasonable time for the hearing of variances and shall give due notice of the time set for the hearing to the applicant. Public notice shall be made by the publication of a notice in the official newspaper of the Village. Said notice shall briefly describe the nature of the variance and the time and place of the hearing. The Board of Appeals or its designee shall, at least seven (7) days prior to the date of the hearing, give written notice to all property owners within five hundred (500) feet of the property to be affected by said variance or to all property owners of contiguous land or properties adjoining said property.
- 7) The Village shall supply the applicant with one (1) variance poster which shall be placed on the property for which a zoning variance is requested. Said poster shall be four (4) feet high by four (4) feet wide and be placed in a location which is easily read from a public street. The poster shall specify the date, time and place of the public hearing and telephone number to call for more specific information. Such poster shall be placed on the site not less than seven- (7) days prior to the public hearing and shall be removed within fifteen (15) days following the hearing.
- 8) In its review, the Board of Appeals may consult with any other Village, County and State officials or boards.
- 9) The Board of Appeals shall approve, with or without conditions, or disapprove the application within the time limit specified in Village Law. The Village Clerk shall

communicate the action of the Board of Appeals in writing, to the applicant, the Zoning Officer and other appropriate boards within one (1) week of the time of the meeting at which it decided the application. When applicable, the Board of Appeals shall comply with the provisions of 239-m of the General Municipal Law.

- 10) The Village Clerk shall provide the Village Board and the Village Planning Board with a monthly report of the actions taken by the Board of Appeals.
- 11) The Zoning Officer shall, upon receipt of the notice of approval and upon application by the applicant, issue the appropriate permit or such other approval permitting the variance, subject to all conditions imposed by such approval.

#### B. Appeals Procedure

- 1) An appeal, specifying the grounds for the appeal, shall be filed with the officer from whom the appeal is taken and with the Board of Appeals. All appeals and applications shall be made to the Board of Appeals within thirty (30) days of the date on which the order, requirement, decision or determination appealed from was rendered and shall be on forms prescribed by the Board of Appeals.
- 2) Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Village.
- 3) The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official.
- 4) The officer from whom the appeal is taken shall, within thirty (30) days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Board of Appeals.
- 5) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- 6) If the Board of Appeals determines that a public hearing is necessary, the Board of Appeals shall fix a time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable length of time thereafter. At the time of the hearing, any party may appear in person, by agent or by attorney.

- 7) The Board of Appeals shall render a decision on each appeal within sixty (60) days of the filing of the appeal, giving timely notice thereof as provided by State Law.
- 8) Any action by the Board of Appeals shall be stated in writing and communicated to the person bringing the appeal within seven (7) days after the decision has been made.

#### **Section 404 Board of Appeals Office**

The Office of the Village Clerk shall be the office of the Board of Appeals. Every rule, regulation, amendment or appeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by Article 7 of the Village Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact and shall keep records of its examinations and other official action.

#### **Section 405 Lapse of Authorization**

Any variance or modification of regulations authorized by the Board of Appeals shall be automatically revoked unless a site plan permit or building permit, conforming to all the conditions and requirements established by the Board of Appeals, is obtained within six (6) months of the date of approval by the Board of Appeals and construction commenced within one (1) year of such date of approval.

#### **Section 406 Violation of conditions or Restrictions**

Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies.

#### **Section 407 Creation, Appointment and Organization of Planning Board**

- A. Pursuant to the provisions of the Village Law applicable thereto, the Village Board hereby creates a Planning Board. The existing Planning Board shall be continued.
- B. The Planning Board shall consist of five (5) members each with a term of five (5) years. The Board is hereby vested with the powers and duties subject to the limitations set forth in Section 718 of Article 7 of the Village Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

- C. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of their business and may amend, modify and repeal the same from time to time.

**Section 408 Powers and Duties of the Planning Board**

The Planning Board shall have the following powers and duties:

- A. To prepare and from time to time change the master or comprehensive plan for the development of the Village.
- B. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Village Board.
- C. To make investigations and reports relating to the planning and development of the Village as it deems desirable. This shall include, but not be limited to changes in boundaries of districts, recommended changes in the provisions of this Local Law other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Village Board.
- D. To review, act on or provide advisory reports as specified by this Local Law.
- E. To review and approve, approve with modifications or disapprove site plans, prepared to specifications set forth in this Local Law, showing the arrangement, layout and design of proposed uses, buildings and/or structures shown on such plan.
- F. To review and approve, approve with modifications or disapprove plats showing lots, blocks or sites for subdivisions under Section 728 of Article 7 of the Village Law.
- G. All such powers as are conferred upon Village Planning Boards by the provisions of the Village Law, now or hereafter in effect.

**ARTICLE V  
ADMINISTRATION AND ENFORCEMENT**

**Section 501 Zoning Officer**

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Zoning Officer, who shall have such powers as are conferred upon him by this Local Law. He shall be appointed by the Village Board and shall carry out any directives from the Board relative to the duties of the position set forth in Section 502 below. The Zoning Officer shall receive such compensation, as the Village Board shall determine.

**Section 502 Duties of the Zoning Officer**

- A. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Local Law. In the fulfillment of their duties, the Zoning Officer or his authorized assistants may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law after due written notice has been given.
- B. If the Zoning Officer shall find that any of the provisions of this Local Law are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it. In his efforts to attain compliance, the Zoning Officer shall have the authority to order: discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; stop work; or, discontinuance of any illegal work being done. On the serving of notice by the Zoning Officer to the owner of any property violating any of the provisions of this Local Law, the Certificate of Occupancy or Certificate of Compliance, as appropriate, for such building or use shall be held null and void. A new Certificate of Occupancy and/or Compliance shall be required for any further use of such building or premises.
- C. It shall be the duty of the Zoning Officer to issue permits and certificates to applicants who fully comply with the provisions of this Local Law.
- D. The Zoning Officer shall maintain a permanent and current record of all applications for permits and certificates, his action upon same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his office and shall be available for use by Village officials and for inspection by the public. The records to be maintained shall include the following:

- 1) **Application File.** An individual permanent file for each application for a permit or certificate provided for herein shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees; one (1) copy of any resolutions or actions of the Village Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.
  - 2) **Monthly Report.** The Zoning Officer shall prepare a monthly report for the Village Board. Said report shall cite all actions taken by the Zoning Officer, including all referrals made by him; all permits and certificates issued and denied; all complaints of violation received and all violations found by him, and the action taken by him consequent thereon; and the time spent and mileage used. A copy of this monthly report shall also be transmitted by the Zoning Officer to the Tax Assessor, Planning Board and Board of Appeals at the same time it is transmitted to the Village Board.
- E. Whenever the Zoning Officer denies a permit or certificate he shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
- F. The Zoning Officer shall maintain a current list and a map of non-conforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.
- G. The Zoning Officer shall maintain a current list and a map showing the variances and special use permits to determine if the conditions and safeguards placed on variance and special permits are being complied with.
- H. Upon written direction from the Planning Board, the Zoning Officer shall issue special use permits. Upon approval of a variance by the Board of Appeals, the Zoning Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.
- I. The Zoning Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

### **Section 503 Issuance of Certificates and Permits**

The Certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Local Law. A zoning permit or special use permit shall be a prerequisite for an application for a building permit for the

erection or alteration of a building, structure or use thereof or for the change in the use of any land area or existing building. Permits issued pursuant to this Section shall expire in twelve (12) months unless the project is completed. The Zoning Officer may grant an extension for time of completion and include any conditions or requirements deemed necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the cancelled permit shall not proceed until a new permit has been obtained. If a project is not initiated within six (6) months of the issuance of the permit, the permit issued shall be considered null and void.

A. Zoning Permit

- 1) The Zoning Officer is hereby empowered under the procedures and requirement specified in Section 504 to issue a zoning permit for any plans regarding the construction or alteration or demolition of any building or part of any building, or the change in the use of any land area or part thereof, or for the change in use of any existing building, where he shall determine that such plans are not in violation of the provisions of this Local Law.
- 2) No building or structure shall be erected, moved, added to or structurally altered or changed in use without a zoning permit therefor issued by the Zoning Officer. No zoning permit shall be issued by the Zoning Officer except in conformity with the provisions of this Local Law, unless he receives a written order from the Board of Appeals in the form of an administrative review or variance as provided by this Local Law.

B. Temporary Use Permit

Upon written direction of the Village Board, the Zoning Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period of not to exceed three (3) months; said permit may be extended by the Village Board not more than once, for an additional period not to exceed three (3) months.

C. Certificates of Compliance/Occupancy

- 1) It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance or Certificate of Occupancy, as appropriate, has been issued by the Zoning Officer or Building Inspector stating that the proposed use of the building or land conforms to the requirements of this Local Law.

- 2) Failure to obtain either a Certificate of Occupancy or Compliance shall be a violation of this Local Law and punishable as provided by Article XIII.

D. Special Use Permit

Upon written direction of the Planning Board, the Zoning officer is hereby empowered to issue a special use permit as provided for by this Local Law.

- (1) Uses permitted by special permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article X in addition to all other requirements of this Local Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- (2) A special use permit shall authorize only one particular special use. The special use permit shall expire if the use shall cease for more than one (1) year for any reason.
- (3) No person shall be issued a special use permit for a property where there is an existing violation of this Local Law. Before any special use permit shall be issued, the Planning Board shall make written findings certifying compliance with the specific rules governing individual special permit uses and that satisfactory provision and arrangement has been made relative to the following additional concerns:
  - (a) Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - (b) Off-street parking and loading areas where required, with particular attention to the items in (a) above, and the noise, glare or odor effects of the special permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.
  - (c) Refuse and service areas, with particular reference to the items in (a) and (b) above.
  - (d) Utilities as appropriate, with reference to locations, availability and compatibility.

- (e) Storm drainage, including potential impact on downstream properties.
  - (f) Screening and buffering, with reference to type, dimensions and character.
  - (g) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
  - (h) Required yards and other open space.
  - (i) General compatibility with adjacent properties and other properties in the zone district.
- 4) The Zoning Officer shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Planning Board in approving the permit. If the Zoning Officer shall determine that the conditions are not in compliance with the permit, the Zoning Officer shall nullify the Special Use permit and set forth the procedures and requirements for re-establishing the use. The use may not be operated until a new application is submitted and approved.

## **Section 504 Application Procedures**

### **A. Zoning Permits.**

No building or structure shall be begun, nor shall any building or structure be extended or structurally altered, nor shall any use of a building or land be changed, until a zoning permit is issued by the Zoning Officer and a building permit, if required, is issued by the Building Inspector. The Zoning Officer shall in no case, except under a written order of the Board of Appeals issue any permit for any building or structure or use where the proposed construction, alteration or use thereof would be in violation of any provision of this Local Law.

- (1) All applications for zoning permits shall be made in quadruplicate to the Zoning Officer on forms supplied by him in the detail specified in Section 505 of this Local Law.
- (2) One copy of the application and supporting documents shall be returned to the applicant by the Zoning Officer, after he shall have marked such copy either as

approved or disapproved and attested to same by his signature on such copy. The original and all remaining copies of the application, similarly marked, shall be retained by the Zoning Officer.

- (3) Where the proposed use is for the construction of a new single family dwelling, the expansion or structural alteration of any existing single family dwelling or the erection of an accessory use or structure in a residential district, the Zoning Officer shall carefully consider the application for compliance with this Local Law, and may either issue or deny the permit applied for within thirty (30) days after receipt of a complete application and determination of environmental significance. In the event of disapproval, the reasons shall be stated clearly in writing. The Zoning Officer shall deny a zoning permit until such conditions as the disapproval are based upon have been corrected.
- (4) When the application is for any other permitted use in any district, the Zoning Officer shall, prior to the issuance of any permit, refer a copy of the zoning permit application, environmental assessment and site plan concurrently to the Planning Board for site plan approval in accordance with section 504 B. of this Local Law.
- (5) The Zoning Officer shall also transmit a copy of the complete application, environmental assessment and site plan to the County Planning Board of review when required under Article 12-B, 239-m of the General Municipal Law. This transmission shall be made concurrent with the referral of the application to the Planning Board.
- (6) All zoning permit applications shall be reviewed to determine: that the proposed site development plan is consistent with the goals and objectives of the Village's Master Plan; that the proposed improvements are sufficient to adequately serve the proposed use; that adjacent properties are protected from potential negative impacts; and, that potential adverse environmental impacts are identified and appropriate mitigation measures have been proposed.
- (7) The Planning Board shall carefully consider the proposed development or construction and make a decision to approve, approve with conditions or deny the proposed application within sixty-two (62) days after the receipt of a complete application from the Zoning Officer. The Planning Board may not act within the first thirty- (30) days, however, unless a report, if applicable, is received from the County Planning Board. In approving said application, the Board may impose any conditions it determines to be in the best interests of the Village and sound land use planning. All decisions of the Planning Board shall be in writing and shall be transmitted directly to the applicant.

- (8) Prior to taking action on the application, the Planning Board may conduct a public hearing on the proposal. If a public hearing is considered desirable, such public hearing shall be conducted within sixty-two (62) days of the receipt of the complete application, and shall be duly advertised in the official newspaper of the Village. If a public hearing is held on an application, the time period within which the Planning Board shall act on the proposal shall be extended up to a maximum of sixty-two (62) days following the date of the public hearing, prior to reaching a final decision.
- (9) If the Planning Board does not act on an application within sixty-two (62) days of the receipt of a complete application from the Zoning Officer, or within sixty-two (62) days following a public hearing on an application, the application shall be approved and the Zoning Officer shall issue the permit.
- (10) The period of time available for the Planning Board to act on an application may be extended by mutual agreement of the applicant and the Planning Board.

#### B. Site Plan Approval

- 1) Each application for a zoning permit, which is dependent upon site plan approval by the Planning Board, shall initially be made to the Zoning Officer. The Zoning Officer shall determine the application's completeness. Upon the Zoning Officer's acceptance of a complete site plan application, the Zoning Officer shall prepare a written response to the applicant containing the following information:
  - (a) Date of Planning Board meeting at which the application for site plan approval will be discussed.
  - (b) A preliminary indication under SEQR as to include the Type of Action involved and any additional SEQR Forms to be completed by the applicant or agent.
  - (c) A determination whether any portion of the site will be affected by the FPO Flood Plain Overlay District regulations and what effects this will have on the application.
  - (d) A tentative time schedule for site plan approval.
  - (e) Any other information the Zoning Officer deems appropriate, including fees and criteria for site plan preparation.

- (f) In the event a site plan identifies the potential need for dimensional variances, the applicant shall first be denied preliminary site plan approval by the Planning Board, before appealing the need for such variance(s) to the Zoning Board of Appeals. Where the Planning board has denied such site plan on these grounds, the Planning Board shall convey its opinion to the Board of Appeals on the requested variances. Once variances have been granted the applicant may proceed for site plan approval. If the variances are denied the applicant shall submit a revised site plan complying with the dimensional requirements of the zoning district.
- 2) The Planning Board shall, for each site plan application, determine whether a public hearing would serve a community benefit. According to such a determination by the Planning board, the process for site plan approval, including the timetables for making decisions, shall coincide with that set forth in Section 504 A above.
- 3) The Zoning Officer shall transmit one (1) copy of all approved and denied applications to the Planning Board and one (1) copy of all approved applications to the Tax Assessor.

#### C. Supplemental Regulations Pertaining to Site Plan Approval

##### 1) Expiration of Site Plan Approval

Such site plan approval shall automatically terminate one (1) year after the same is granted unless work has commenced on the site.

##### 2) Reimbursable Costs

Costs incurred by the Village for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule specified in the application documents.

##### 3) Performance Guarantee

No zoning permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Village Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Village Board after consultation with the Zoning Officer, Village Engineer, Planning Board and Village Attorney.

4) Inspection of Improvements and Development

The Zoning Officer shall be responsible for the overall inspection of site improvements, including coordination with the Village Engineer and other officials and agencies, as appropriate. No Certificate of Compliance shall be granted prior to a final inspection and determination of conformity to the site plan and the New York State Uniform Code.

5) Integration of Site Plan Approval Procedure with Other Planning Board Approvals.

Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure or the requirements of the Village's land subdivision regulations, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this Section with the procedural and submission requirements for such other compliances. In any case, all State permits and local land use control approvals shall be procured prior to the issuance of a Building Permit for a development project.

6) Conflicts

If any conflicts arise between this site development plan review procedure and other land use controls of the Village, this Section shall apply.

D. Temporary Use Permits

- 1) All applications for temporary use permits shall be made in quadruplicate to the Zoning Officer on forms provided by him.
- 2) The Zoning Officer, after determining that an application is in proper form, shall transmit copies of the application to the Village Board for review and approval.
- 3) The application shall include a statement by the applicant which specifies the nature of the proposed use and the length of time for which the temporary use is to be authorized.
- 4) The Village board may seek the advisory opinion of the Planning Board or the Village Engineer as well as that of other agencies, organizations or individuals prior to making a decision on the request.
- 5) The Village Board may schedule a public hearing to invite public comment, if it determines that the public interest would be served on the application by such a hearing.

- 6) The Village Board shall within forty-five (45) days of the receipt of a complete application approve or deny the application. In approving the request, the Village Board shall set the maximum length of time for the authorization of such use. Further, the Village Board may impose any conditions or restrictions on the applicant that is deemed to be in the best interests of the Village of Macedon.
- 7) The Zoning Officer, acting on written direction of the Village Board, shall either issue or deny the permit.

#### E. Special Use Permits

- 1) All applications for special use permits shall be made in quadruplicate to the Zoning Officer on forms provided by him.
- 2) The Zoning Officer, after determining that an application is in proper form shall transmit copies of the application and all supporting documents to the Planning Board and may refer the application to the Village Engineer for an advisory report.
- 3) The Zoning Officer shall also transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law. This transmission shall be made concurrent with the referral of the application to the Planning Board.
- 4) The application shall include a site plan of the special permit use and subject parcel drawn to scale, which includes all of the data specified in Section 505 of this Local Law.
- 5) If the Planning Board determines that a public hearing on the proposal would serve no community benefit, it shall render a decision on the proposal not less than thirty (30) days nor more than sixty-two (62) days following the receipt of a complete application. The sixty-two (62) day period may be extended by mutual agreement of the applicant and the Planning Board.
- 6) If the Planning Board determines that the public benefit would be served by a public hearing, said hearing shall be conducted within sixty-two (62) days following the receipt of a complete application. Within sixty-two (62) days from the date of such public hearing, the Planning Board shall, by resolution, either approve or disapprove the application so heard. The sixty-two (62) day period available to act on an application may be extended by mutual agreement of the applicant and the Planning Board.

- 7) In approving an application, the Planning board may impose any modifications or conditions it deems necessary to conform to the goals and objectives of the Village's Master Plan and to protect the health, safety or general welfare of the public.
- 8) If the Planning Board does not act on an application within sixty-two (62) days of the receipt of a complete application from the Zoning Officer, or within sixty-two (62) days following a public hearing on an application, the application shall be approved and the Zoning Officer shall issue the permit.
- 9) If an application is approved by the Planning Board, the Zoning Officer shall be furnished with a copy of the approving resolution and he shall issue the permit applied for in accordance with the conditions imposed by the Board.
- 10) If any application is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Zoning Officer. The Zoning Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
- 11) The Zoning Officer shall transmit one (1) copy of all approved and denied applications to the Planning Board and one (1) copy of all approved applications to the Tax Assessor.

#### F. Certificates of Compliance

- 1) Within seven (7) days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Zoning Officer by certified mail stating that such action has been completed in compliance with this Local Law. The applicant shall provide the Zoning Officer with suitable evidence to document compliance. This evidence shall be in the form of an instrument survey, tape location map or comparable documentation. Within seven (7) days of the receipt of this letter, the Zoning Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this Local Law. If the Zoning Officer determines that said building or use complies with the provisions herein, he shall issue a Certificate of Compliance. If it is determined that the provision specified herein are not fully complied with, the Zoning Officer shall specify the violations and the terms and conditions for remedying these violations. A Certificate of Compliance shall not be issued until such violations are corrected.
- 2) No non-conforming building or use shall be maintained, renewed, changed or extended without a Certificate of Compliance having first been issued by the

Zoning Officer. The Certificate of Compliance shall state specifically wherein the non-conforming use differs from the provisions of this Local Law.

### **Section 505 Application Details**

Each application for a zoning, temporary use and special use permit shall be made in quadruplicate and accompanied with a site plan. All site plans submitted to the Village for review and approval shall be prepared by a licensed professional engineer, architect, land surveyor or landscape architect as per New York State Education Law. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. The application shall include the following information and specify both “before” and “after” conditions:

- 1) The location, design, dimensions, use and height of each proposed building and yard area.
- 2) Property boundaries, as shown on an accurate map drawn to scale, including the precise location of the centerline of the road, dimensions, north arrow, date.
- 3) A general location map showing the location of the property in relation to adjacent parcels.
- 4) The location and arrangement of vehicular accessways and the location, size and capacity of all areas to be used for off-street parking.
- 5) Information to describe topography and natural grades.
- 6) Provisions for water supply, sewage disposal, and storm drainage.
- 7) The location of fire hydrants.
- 8) The location and design of outdoor lighting facilities.
- 9) The location and design of construction materials of all proposed signs.
- 10) The location and capacity of all areas to be used for loading and unloading and the distance to the nearest intersection.
- 11) The location and dimensions of sidewalks, walkways and other areas established for pedestrian use.

- 12) The design and treatment of open areas, buffer areas and screening devices maintained, including dimensions of all areas devoted to lawns, trees and other landscaping devices.
- 13) The location of fire and other emergency zones.
- 14) Other elements integral to the proposed development as considered necessary by the Zoning Officer, Village Engineer or Planning Board, including a property survey, any and all requirements to comply with the State Environmental Quality Review (SEQR) procedures, other community impacts and the identification of any State or County permits required for the execution of the project.
- 15) A Storm Water Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of the Storm Water Control Law shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local Storm Water Control Law. The approved Site Plan shall be consistent with the provisions of this local Storm Water Control Law.

#### **Section 506 Fees**

Each application for a permit provided for by this Local Law shall be accompanied by a fee, payable in cash or other form of security approved by the Village Attorney. Fees shall be established annually by resolution of the Village Board.

**ARTICLE VI  
PERMITTED MODIFICATIONS**

**Section 601 Zone Lot Regulations**

A. Existing Zone Lots of Record

- 1) A non-conforming zone lot of official record existing at the effective date of this Local Law may be used for any purpose permitted in the zone district in which it is located, irrespective of its area or width, provided that the owner of which does not own any adjoining property which would create a conforming lot if all or part of said property were combined with subject zone lot and provided that the minimum area for such lot shall be ten thousand (10,000) square feet and a minimum lot width of seventy-five (75) feet in the R-1 Residential District and seven thousand, five hundred (7,500) square feet and a minimum lot width of sixty (60) feet in the R-2 Residential District and that all other provisions of this Local Law are adhered to. No lot or lots in single ownership shall hereafter be reduced so as to create one or more non-conforming lots.
- 2) A permit for the use of pre-existing lots which are less than the minimum area and lot width specified in Section 601 A. 1) above, may only be issued following the approval of a variance by the Board of Appeals.

**Section 602 Height Regulations**

- A. The height limitations of this Local Law shall not apply to church spires, belfries, cupolas, domes, silos and other buildings not used for human occupancy.
- B. Chimneys, ventilators, skylights, water tanks, free standing towers, television and radio antennae and similar features and necessary mechanical appurtenances usually carried on and above the roof level may exceed the height limitation of this Local Law by not more than fifteen (15) feet.
- C. The provisions of this Local Law shall not apply to prevent the erection of a parapet wall or cornice for ornament which may extend above the height limits of this Local law by up to five (5) feet.
- D. Public and quasi-public buildings, schools, churches and other similar permitted uses may exceed the maximum height specified for the zone district provided that the minimum front, side and rear yard setbacks are increased by two (2) feet for each one (1) foot of such additional height up to a maximum height of fifty (50) feet and provided that on-site fire protection facilities approved by the local fire company are installed.

## **Section 603 Yard Regulations**

### **A. Side Yard Reduction**

- 1) The width of one side yard in a residential district may be reduced to not less than ten (10) feet in an R-1 Residential District and eight (8) feet in an R-2 Residential District provided that the sum of widths of the two side yards is not less than the required minimum, and further provided that the distance between the proposed structure and either an existing or proposed structure on an adjacent zone lot is not less than the required minimum sum of the widths of the two side yards.
- 2) In the case of lots which comply with the provisions for modification (see paragraph 601 A) the combined total side yard requirements, as specified in the Schedule, shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in the Schedule for the zone in which located. In no case shall the combined side yard width be reduced to less than twenty-five (25) feet nor shall any single yard be less than ten (10) feet in width in an R-1 Residential District and lot less than twenty (20) feet and eight (8) feet in an R-2 Residential District.

### **B. Front Yard Exception**

In residential districts where the frontage on the same side of the street within five hundred (500) feet of the subject property is fifty (50) percent or more developed, the required front yard setback from the right-of-way line for a new structure may be modified to the average for such existing development. Otherwise, the requirements of the Schedule shall apply.

## **Section 604 Projections into Required Yards**

Certain architectural features may project into required yards as follows:

- 1) Cornices, canopies, eaves or other architectural features may project into side yards a distance not exceeding two (2) inches per one (1) foot of side yard width, but may not exceed a total of three (3) feet.
- 2) Fire escapes may project into side and rear yards a distance not exceeding four (4) feet, six (6) inches.
- 3) Bay windows, balconies, fireplaces, uncovered stairways and necessary landings and chimneys may project a distance not exceeding three (3) feet, provided that such features do not occupy in the aggregate, more than one-third of the length of the building wall on which they are located.

- 4) Patios may be located in side and rear yards provided that they are not closer than ten (10) feet to any adjacent property line.

## **ARTICLE VII**

### **NON-CONFORMING USES**

#### **Section 701 Continuance**

Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this Local Law may be continued although such use or building does not conform to the regulations specified by this Local Law for the zone district in which such land or building is located. The following provisions shall, however, apply to all non-conforming uses:

- A. A non-conforming lot shall not be further reduced in size.
- B. A non-conforming building shall not be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformance.
- C. A non-conforming use shall not be expended except as may be authorized by Section 703.
- D. A non-conforming use may be changed into a conforming use. When a non-conforming use is changed to conform to the requirements of this Local Law, the use of the building or tract of land shall not be changed again except in accordance with these regulations.
- E. Where such non-conforming use is upon the land itself and not enclosed within a structure or where such use involves the removal of soil, minerals or the excavation of gravel or rock or other material, such use may be continued upon the land being so used at the time of the adoption hereof. Any such non-conforming use of the land may be extended or expanded to include any part of the plot or parcel of land now being used or held in reserve for future use, provided such enlargement does not involve the use of any lot acquired or the excavation rights of which were acquired by the excavation operator after the effective date of this Local Law. However, such extension or expansion of such non-conforming use shall comply with the setback and fencing requirement of this Local Law.

#### **Section 702 Certification of Non-Conformance**

After the effective date of this Local Law upon the written request of the user of any structure or premises or at the insistence of the Zoning Officer, an examination by the Zoning Officer of any existing use shall be made. A report of the findings made upon such examination shall thereafter be filed with the Zoning Board of Appeals, together with a Certificate of Existing Non-conforming Use, which shall clearly describe the premises and structure, if any, referred to, and shall specify the nature and extent of such existing use. Such certificate shall be prepared in triplicate, one (1) copy of which shall

be maintained by the Zoning Officer, one (1) copy of which shall be furnished to the Zoning Board of Appeals and one (1) copy to be furnished to the owner or user.

### **Section 703 Expansion of Non-Conforming Uses and/or Structures**

A non-conforming use and/or structure shall not be expended except in conformance with the procedures and regulations specified in this section. In no case shall such expansion extend beyond the lot occupied by such non-conforming use or structure. The expansion of a non-conforming use or structure hereunder shall be subject to approval by the Village Board and each case shall be considered on an individual basis. Application forms for the expansion of a non-conforming use and/or structure shall be obtained from the Zoning Officer. The Zoning Officer shall issue a permit to allow the expansion of a pre-existing non-conforming use and/or structure only upon written authorization of the Village board. The Village Board in considering such special requests shall, at a minimum, address the following potential concerns:

- A. Standards applicable to authorizing the expansion of a non-conforming use and/or structure.
  - 1) The location and size of the non-conforming use, and/or structure, the nature and intensity of the operations involved in or conducted in connection with it, the size and site in relation to it, the location of the site in relation to it, the location of the site with respect to streets giving access thereto. Conditions shall be in place such that the expansion will not be inconsistent with the orderly development of the district in which the use is located.
  - 2) Screening or other protective measures shall be adequate to protect any adjacent properties from objectionable aspects of any such expansion of the non-conforming use.
  - 3) Off-street parking areas shall be of adequate size for the particular use, and access drives shall be laid out so as to achieve maximum safety and minimum inconvenience to adjacent properties.
  - 4) The Village Board may prescribe any condition that it deems necessary or desirable to aid it in making a determination on the application and to protect the interests of the community and adjacent properties
- B. Public Hearing
  - 1) Before authorizing the expansion of a non-conforming use and/or structure, the Village Board shall give public notice and hold a public hearing on the application in the same manner as required by law for amendments to the Local Law.

- 2) Prior to such public hearing, the application shall be referred to the Village Planning Board for report and recommendation. The Planning Board shall have thirty (30) days after said referral to state its position relative to the proposed application. The Village Board shall hold such public hearing at the earliest possible date following the thirty (30) day referral period and may take action on the proposal as it deems appropriate.

C. Limitations:

An authorization to permit the expansion of a non-conforming use and/or structure shall be deemed to authorize only the particular use or structure specified in the application and shall apply only to the area specified in the permit. A permit authorizing an expansion under this section shall expire within six (6) months from the date of issuance if the non-conforming use and/or structure is not expanded or enlarged.

#### **Section 704 Abandonment**

In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Local Law. Such discontinuance of the active and continuous operation of such non-conforming use, or part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such non-conforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such non-conforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to re-establish or continue such non-conforming use shall thereupon terminate.

#### **Section 705 Restoration**

- A. Any building damaged by fire or other unintentional causes to the extent of more than fifty (50) percent of its true value shall not be repaired or rebuilt except in conformance with this Local Law. In the case of a permitted restoration of a non-conforming use, such restoration shall not increase the degree of conformance.
- B. Nothing in this Law shall prevent the strengthening or restoring to a safe condition any wall or roof, which has been declared unsafe by the Building Inspector.

- C. Normal maintenance repairs and incidental alteration of a building or other structure containing a non-conforming use shall be permitted provided it does not extend the area of volume of space occupied by the non-conforming use.
- D. Any building which is non-conforming due to insufficient yard distances or lot area shall not be considered a non-conforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirement of this Local Law.

**Section 706 District Changes**

Whenever the boundaries of a district shall be changed so as to transfer an area from one (1) district to another of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein or created thereby.

**Section 707 Construction Approval Prior to Adoption of this Local Law.**

Nothing herein contained shall require any change in plans, construction or designated use of a building or site complying with existing laws, a permit for which had been duly granted before the date of adoption of this Local Law or any applicable amendment thereto.

**ARTICLE VIII  
ESTABLISHMENT AND DESIGNATION OF ZONE DISTRICTS**

**Section 801 Establishment of Districts**

The Village of Macedon is hereby divided into zoning districts as hereinafter set forth and as the same may be from time to time amended:

- R-1 Residential District
- R-2 Residential District
- C Commercial District
- I Industrial District
- FP-O Flood Plain Overlay Districts
- DT-O Downtown Main Street Overlay District

**Section 802 Zoning Map**

- A. There shall exist only one (1) official zoning Map which shall be kept in the office of the Village Clerk and it shall bear the seal of the Village of Macedon, a certification that it is the official zoning map of the Village of Macedon and its date of adoption. Said zoning map shall show the boundaries of the zoning districts herein established and which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Local Law.
- B. Said zoning map shall be on material suitable for reproduction by a dry diazo copier or equivalent process. Copies of this map which may from time to time be published and distributed would be accurate only as of the date of their printing and shall bear words to that effect.
- C. Changes made in zoning district boundaries or other matters portrayed on the zoning map under the provisions set forth herein shall be permanently affixed to the zoning map promptly after the amendment has been approved by the Village Board and shall convey information as to the date and nature of the change. No amendment to this Local Law which involves matters portrayed on the zoning map shall become effective until such change and entry has been made on said zoning map and has been attested by the Village Clerk.

**Section 803 Interpretation of District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following rules shall apply:

- A. Boundaries indicated, as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

- B. Boundaries indicated, as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following the municipal limits of the Village shall be construed as following such municipal limits.
- D. Boundaries indicated as following the centerlines of streams or other water bodies shall be construed to follow such centerlines.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- F. Where physical or cultural features on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections A through E above, the Board of Appeals shall interpret the district boundaries.

**ARTICLE IX  
DISTRICT REGULATIONS**

**Section 901 Application of Regulations**

The regulations set by this Local Law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
  - 1) Exceeds the height limitation for any structure within a specified district;
  - 2) Accommodates or houses a greater number of families;
  - 3) Occupies a greater percentage of lot area; or
  - 4) Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Local Law and the requirements of the New York State Uniform Code.
- C. No part of a yard or other open space, or off-street parking or loading space required or in connection with any building or use for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building or use except as provided in Article XI.
- D. No yard or lot existing at the time of enactment of this Local Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet or exceed the minimum requirements.

**Section 901-1 Statutory Authority and Amendment**

**901.2- Title – Property Maintenance Code**

**901.3- Purpose**

- A. Protect the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential

and non-residential premises. Provide for the public health, safety and welfare.

- B. Avoid, prevent and eliminate the maintenance or creation of hazards to the public health or safety.
- C. Avoid, prevent and eliminate conditions, which if permitted to exist or continue, will depreciate the value of adjacent properties.
- D. Prevent the creation, continuation or aggravation of blight.
- E. Preserve property values in the Village of Macedon.
- F. Prevent the physical deterioration or progressive downgrading of the quality of housing facilities in the Village of Macedon.
- G. Maintain the value and economic health the commercial properties and businesses that serve and help support the Village of Macedon and its citizens.
- H. Prevent and eliminate physical conditions on the property, which constitute nuisances and are thereby potentially dangerous or hazardous to the life, health or safety of persons on or near the premises where such conditions exist.
- I. Establish minimum standards governing the maintenance and condition of land, building, structures and premises in the Village of Macedon.
- J. Provide for Administration and enforcement.
- K. Fix penalties fro the violation of this section.
- L. Fix responsibilities upon owners, operators, occupants and other persons.

**901-4- Legislative Intent** – The purposes stated herein are remedial and essential for the public interest and it is intended that this section be liberally construed to effectuate the purposes as stated herein.

**901-5- Definitions, Word Usage**

- A. Words and terms in this chapter which are defined in Section 202 of Article II of the Zoning Ordinance of the Village of Macedon shall apply to this chapter, unless they are specifically defined in this chapter.

- B. The following terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them, unless a different meaning clearly appears from the context:
- C. For the specific purposes of this chapter, the following terms, whenever used herein or referred to in this chapter, shall have the respective meaning assigned to them hereunder unless a different meaning clearly appears from the context:
1. **BUILDING INSPECTOR** – The Building Inspector or his duly authorized representative.
  2. **COMMERCIAL VEHICLE** – All trucks, vans, construction equipment and limousines, bearing commercial license plates which are in excess of (4) tons’ net weight.
  3. **DETERIORATION** – The condition or appearance of a building or part thereof characterized by holes, breaks, rot, crumbling, crackling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.
  4. **EXPOSED TO PUBLIC VIEW** – Any premises or part of any premises which may be lawfully viewed by the public or any member thereof.
  5. **EXTERIOR OF THE PREMISES** – Those portions of a building or structure which are supposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto; and the open land space of any premises outside of any building or structure erected thereon.
  6. **EXTERMINATION** – The control and elimination of insects, rodents and vermin.
  7. **FRONT YARD** – That space on the same lot with a principal building situated between the front street line or lines and the front line of the building projected to the side property lines. The depth of the “front yard” shall be measured along a line perpendicular to the front street line or right-of-way line from the point of the foundation of the structure or building closest from such street line.

8. GARBAGE – Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
9. INFESTATION – The presence of rodents, vermin, insects or other pests on the premises which constitutes a health hazard.
10. NUISANCE –
  - a. Any public or private condition so defined by common law, or that would constitute a nuisance according to the statutes, laws and regulations of the State of New York, its governmental agencies or the Code, or ordinances of the Village of Macedon.
  - b. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, or near or passing within the proximity where such condition exists.
  - c. Any physical condition, use or occupancy of any premises or appurtenances considered an attractive nuisance to children including but not limited to abandoned wells, shafts, basements, excavations and unsafe fences or structures; or detrimental to the health or safety of children, whether in a building on the premises of a building, or upon an unoccupied lot.
  - d. Any premises which are manifestly capable of being a fire hazard or are manifestly unsafe or unsecured as to endanger life, limb or property.
  - e. Any premises which are unsanitary, or which are littered with rubbish or garbage, or which have an uncontrolled growth of weeds; or conditions which render air, food or drink unwholesome or detrimental to the health of human beings; or
  - f. Any structure or building that is in a state of dilapidation or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to an extent as not to provide shelter; in danger of collapse or failure; and is dangerous to anyone on or near the premises.

11. OCCUPANT – Any person residing, living or sleeping in or on the premises or having actual possession, use of occupancy of a dwelling, premises or rooming unit, or any person or entity in possession of or using any premises, or part thereof, whether or not the owner thereof, and regardless of the duration of time of such possession, use or occupancy.
12. OPERATOR – Any person, persons or entity not the owner, who has charge, care or control of a dwelling or premises or a part thereof, with or without the knowledge, consent or authority of the owner.
13. OWNER – Any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof with or without accompanying actual possession thereof, or who shall have charge, care or control of any lot, premises, building, structure or part thereof; as owner or agent of the owner, or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sub-lessee or assignee of a lessee of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this chapter and shall have responsibility over the portion of the premises so sublet, leased or assigned.
14. PREMISES – A lot, plot or parcel of land, right-of-way or multiples thereof, including the buildings or structure thereon.
15. REFUSE or RUBBISH – All discarded, useless, unusable, unused or worthless solid waste matter or materials, combustible or noncombustible, including but not limited to garbage, trash, ashes, paper goods and products, wrappings, cans, bottles, containers, yard clippings, garden waste, debris, glass, boxes, crockery, wood mineral matter, plastic, rubber, leather, furniture, household goods, appliances, bedding, scrap lumber, scrap metal, construction material, dead or rotting vegetation, tires, abandoned inoperative or unusable automobiles and vehicles, and solid commercial or industrial waste.

**901-6- Compliance required**

All structures and premises residential, commercial and industrial shall comply with the provisions of this chapter, whether or not those structures and premises

have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which may have been issued for their use or occupancy prior to the effective date of this chapter. Vacant lots, lands and premises are also required to comply with the provisions of this chapter.

**901-7- Higher Standards to Prevail**

in any case where the provisions of this code impose a higher standard than set forth in any other ordinance of the Village of Macedon or under the laws or regulations of the State of New York, then the standards as set forth herein shall prevail. If the provisions of this code impose a lower standard than any other ordinance of the Village of Macedon or of the laws and regulations of the State of New York, then the higher standard contained in any such ordinance or law shall prevail.

**901-8- Compliance with Other Ordinances**

no certification of compliance with this code shall constitute a defense against any violation of any other ordinance of the Village of Macedon applicable to any structure or premises.

**901-9- Applicability of Zoning Ordinance**

nothing contained in this chapter or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of the Zoning Ordinance or other ordinances regulating land use of the municipality.

**901-10- Maintenance**

- A. It shall be the duty of the owner, operator, and/or occupant to keep the exterior of the premises free of nuisances, which include but are not limited to the following:
  - 1. Garbage and/or refuse
  - 2. Natural growth, such as dead and dying or storm-damaged trees and limbs or other growth which, by reason of its condition or nature, constitutes a hazard to a public street, easement or right-of-way, or to persons lawfully in the vicinity. Lawn grass shall not be allowed to grow to a height of greater than twelve (12) inches. Owners of vacant premises must keep them free of nuisance.
  - 3. Ground surface hazards, such as holes, excavations, breaks and projections, residential premises within five (5) feet of an unfenced property line or any part of a non residential premises to which the public has lawful access.
  - 4. Sources of infestation, including all environments and conditions conducive to the increase of spread of vermin.

- B. It shall be the duty of the owner, operator and/or occupant to keep and Maintain the exterior of the premises and structures so that the appearance of the same shall not constitute a blighting factor, including but not limited to landscaping. Premises shall be kept from becoming overgrown and/or unsightly. Vegetation along the public right-of-way shall be kept from becoming a hazard to pedestrians and motorists.

#### **901-11- Condition of Premises**

- A. Sanitation – All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation of rubbish or garbage
- B. Insect & Rat Control – An owner of a structure or property shall be responsible for the extermination if insects, rats, vermin or other pests in all exterior and interior areas of the premises. Whenever infestation exists in the shared or public parts of the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.
- C. Prohibited Conditions – The exterior of all premises shall be kept free of the following matter, materials or conditions:
  - 1. Abandoned, uncovered or structurally unsound walls, shafts, towers, Exterior cellar openings, basement hatchways, foundations or excavations.
  - 2. Abandoned iceboxes, refrigerators, heaters, television sets, and other Major appliances.
  - 3. Animal excrement
  - 4. Buried rubble, refuse or rubbish
  - 5. Nuisances as herein above defined

#### **901-12- Exterior Structures**

- A. General. The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment.

### **901-13- Vacant Buildings**

- A. Definition. An “unoccupied or vacant building” shall mean any structure Intended for residential or commercial use which is not currently occupied or in use. For the purpose of the enforcement of this chapter, a presumption shall exist that a structure vacant fro six (6) months is not currently occupied or in use.
  
- B. Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.
  
- C. Basic equipment and facilities. Every unoccupied or vacant building must comply with the following minimum standards for basic equipment and facilities:
  - 1. Plumbing. All fixtures shall be properly installed and be in sound condition and good repair.
  
  - 2. Electricity. Every existing outlet and fixture shall be properly connected. Wiring and service lines shall be maintained in good and safe working condition.
  
  - 3. Heating Plant. The heating plant shall be maintained in a safe condition.
  
  - 4. Cooking equipment. All cooking equipment shall be maintained in a safe condition.
  
- D. Safety from fire. All owners of unoccupied or vacant buildings shall comply with the applicable provisions of the New York State Fire Prevention Code and the following additional standards for safety from fire:
  - 1. No unoccupied or vacant building shall contain any space utilized for the storage of flammable liquids.
  
  - 2. Doors and windows shall be boarded up, and shall be covered with no less than one-half inch exterior plywood or equivalent, which shall be the same color as the building exterior.
  
- E. Safe and Sanitary Maintenance. The exterior of the premises and the

condition of accessory structures shall be maintained so that the appearance of the premises and all buildings thereof shall reflect a level of maintenance in keeping with the standards of the neighborhood and such that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property owners.

- F. Further responsibilities of owners. All owners of unoccupied or vacant buildings shall be required to comply with the following standards.
1. Any yard area (front, side and rear) adjacent to an unoccupied or vacant building shall be cleared and maintained free of trash, solid debris or any other materials that cause litter to accumulate to unhealthy and blighting proportions.
  2. Grass, weeds or vegetation shall not be permitted to grow or remain on the side, front, and/or rear yards of any unoccupied or vacant building so as to exceed a height of twelve (12) inches. Any edible vegetation planted for some useful or ornamental purpose shall not be governed by this provision.
  3. When a vacant dwelling is found to be infested with rats, termites, roaches and/or any other insects and vermin, the owner shall undertake an expedient means of extermination of such nuisances.

#### **901-14- Existing Remedies**

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any building or structure which is deemed to be dangerous, unsafe or unsanitary.

#### **901-15- Enforcement**

- A. Enforcement Officer. The Building Inspector, or his designee, or the Zoning officer of the Village of Macedon, is hereby designated as the officers in charge with the enforcement of this code, and is hereinafter referred to as the "Enforcement Officer."
- B. The Enforcement Officer shall cause to be made such inspections of premises within the Village of Macedon, as he shall deem necessary to effect compliance with this chapter and shall have the authority to use the services of and public authority in the enforcement of this code.
- C. Notice to owner, operator or occupant upon noncompliance, following

inspection, if the Enforcement Officer determines that the premises are not in compliance with this chapter, he shall then issue and cause to be served upon the owner, operator, and/or occupant of the premises a written notification, stating the nature of the violation and the corrective action sought, and allow for its correction, within a period (not to exceed thirty (30) days, exclusive of the day of service) to be determined by the Building Inspector or Zoning Officer. In cases where the violation presents a clear and present danger to public health and safety, the complaint is to be turned over to the Wayne County Health Department, and/or the complaint is to be processed in Village Court for prompt action within its jurisdiction.

D. Service of Notice. In the case of an owner or operator, the notice may be served personally upon him or by registered mail, or certified mail, addressed to the last known address. If after due diligence, the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the structure. Personal service of the notice may be upon a member of the family or the owner or operator over fourteen (14) years of age, residing in the same dwelling unit with the owner or operator, as the case may be. In the case of the occupant notice may be mailed or delivered to him at his place of business or posted to the door of the occupant's premises.

E. Protest; hearing before Village Board, subsequent actions:

1. Within ten (10) working days following receipt of the notice of violation, the person receiving such notice may file an objection, in writing, to the Enforcement Officer, and any such person shall be afforded a hearing before the Village Board of Trustees as soon as is reasonably possible. The Village Board of Trustees may, in its discretion modify or withhold strict enforcement of this chapter.
2. If the decision rendered by the Village Board of Trustees, after the hearing upholds the decision of the Enforcement Officer, a second notification shall be issued and served allowing such time period as is established by the Village Board of Trustees for correction of the violation and carrying notice of the penalties which will be imposed for failure to comply.

### **901-16- Emergency Situation**

Where the violations or conditions existing on the premises are of such a nature as to constitute an immediate threat to life and limb unless abated without delay, the Enforcement Officer may either abate the violation or condition immediately or order the owner, occupant or operator to correct the violation or condition within a period of time not to exceed three (3) days. Upon failure to do so, the

Enforcement Officer shall abate the condition subject to the provision of this chapter.

### **901-17- Abatement by the Village**

Where abatement of any nuisance, as defined herein, correction of a defect in the premises or work necessary to place the premises in a proper condition so as to conform to the Ordinances of the Village of Macedon, or applicable laws of the State of New York required expending village moneys, the Enforcement Officer shall present a report of work proposed to be done to accomplish the foregoing, to the Village of Macedon Board of Trustees, with an estimate of the cost, along with a summary of the proceedings undertaken by the Enforcement Officer to secure compliance, including notices served upon the occupants, owners, operators or their agents, as the case may be. The Village Board of Trustees may thereupon, by resolution, authorize abatement of the nuisance, correction of the defect or work necessary to place premises in proper condition and in compliance with this code. The Enforcement Officer shall thereafter proceed to have work performed in accordance with the resolution at municipal expense, not to exceed the amount specified, in a resolution, and shall, upon completion thereof, submit a report of the moneys expended and costs to the Village Board of Trustees. After review of the report, the Village Board of Trustees may approve the expenses and costs, whereupon the same shall become a lien against the premises, collectable as provided by law. A copy of the resolution approving the expenses and costs shall be certified by the Village Clerk, and filed with the Tax Collector of the Village of Macedon, who shall be responsible for the collection, and a copy of the report and resolution shall be sent by certified mail, return receipt requested, to the owner of the affected premises.

### **901-18-Violations and Penalties**

- A. Where an owner, operator or occupant fails to comply with an order issued pursuant to this chapter, he shall be deemed in violation of this chapter and shall be subject to the penalties provided herein. It shall be the duty of the Enforcement Officer to cause a summons to be issued from the Village Court for such violation, but nothing contained herein shall limit the power of the Enforcement Officer to take such further action under the criminal and civil laws of this state through any court of competent jurisdiction as may be necessary to remove or abate any nuisance.
- B. Each violation of any of the provisions of this chapter and each day that the

violation existed shall constitute a separate and distinct offense and shall be punishable by a fine not to exceed five hundred dollars (\$500) per day and per offense, levied against the owner, operator, or occupant, with a minimum fine of one hundred dollars (\$100) per day.

- C. Where abatement of any nuisance, as defined herein, was accomplished and premises brought into compliance with this chapter through the expenditures of the Village of Macedon funds, such costs shall be assessed against the premises cited as a lien in the same manner as real estate taxes.

#### **901-19- Compliance Inspection**

Upon issuance of a notice of violation pursuant to this chapter, the property owner, operator/or occupant shall correct the condition and notify the Enforcement Officer that said condition has been corrected. A compliance inspection shall be made. Should full compliance not to be achieved at the time of said inspection, the Village shall be reimbursed by the property owner for the cost of all re-inspections. Failure to reimburse the Village of Macedon shall result in a lien for said cost being placed against the property in the same manner as real estate taxes.

#### **901-20- Fees**

There shall be no fee for an initial compliance inspection made following the issuance of a notice of violation required pursuant to this chapter. Fees for subsequent inspection to determine compliance shall be twenty-five dollars (\$25) for the first inspection and shall increase in increments of twenty-five dollars (\$25) for each subsequent inspection.

#### **901-21- Severability**

Should any section, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason, the remaining portions thereof shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this chapter are hereby declared to be severable.

#### **901-22- Partial Invalidity & Severability**

If any part of provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Local Law or the application thereof to other persons or circumstances, and the Village

Board of Trustees of the Village of Macedon hereby declares that it would have passes this Local Law or the remainder had such invalid application or invalid provision been apparent.

## **Section 902 R-1 Residential District**

In an R-1 Residential District, no building or premises shall be used, and no building or part of a building shall be erected, or altered, which is arranged, intended, or designed to be used, in whole or in part for any uses except the following:

### **A. Permitted Principal Uses**

- 1) Single family dwellings, not to exceed one principal structure per lot.

### **B. Permitted Accessory Uses.**

- 1) One (1) private garage or carport with a maximum capacity of six hundred (600) square feet for the parking of motor vehiclemobiles of residents on the premises.
- 2) Customary accessory structures serving residential uses including but not limited to fences, storage buildings, greenhouses, tennis courts, pet shelters, fireplaces and free standing towers, all subject to the provisions of Article III of this Local Law.
- 3) Private swimming pools subject to the provisions of Article XI of this Local Law.
- 4) Off-street parking subject to the provisions of Article XI of this Local Law.
- 5) Signs subject to the provisions of Article XII of this Local Law.
- 6) Not more than one (1) ground mounted satellite TV dish antenna not more than twelve (12) feet in diameter and sixteen (16) feet in height, may be permitted for each property. The minimum setback of a ground-mounted satellite TV dish antenna from all property lines shall be sixteen (16) feet. A zoning permit issued by the Zoning Officer shall be required prior to placing a dish in operation. The Village may require the applicant to screen the dish antennae in order to reduce potential nuisance or disturbances to adjacent properties. Although locations in side and rear yards shall be encouraged, a ground mounted satellite TV dish antenna may be located in a front yard if the applicant can demonstrate to the satisfaction of the Planning Board that locating the dish in either the side or rear yard would not provide adequate reception.

- 7) Other antennae or towers may be either ground mounted, mounted on or attached to a building for support. Such antennae or towers shall not exceed fifteen (15) feet above the maximum height of the building on which it is mounted or to which it is attached or accessory thereto. A zoning permit issued by the Zoning Officer shall be required prior to placing a ground-mounted antenna in operation.
- 8) An antenna or tower, which is ground mounted, shall be located in rear yards only. Antennae or ground mounted towers shall be setback from all other structures and all property lines a distance which is not less than one and one half (1-1/2) times the distance between the highest part of such antenna or tower and the ground. Guy wires, anchors and other supports for an antenna shall not be closer than ten (10) feet to the property line.
- 9) Other accessory uses not specified herein, may be approved by the Planning board, provided that the Board determines that such uses are clearly accessory to the permitted principal use and consistent with the purpose and intent of the zone district and this Local Law.

#### C. Dimensional Requirements

The dimensional requirements for this district are specified in the Zoning Schedule, which is a part of this Local Law.

#### D. Special Uses

The following uses may be permitted consistent with the provisions of Article X provided that a Special Use Permit is approved by the Planning board:

- 1) Essential services, excluding power plants, maintenance buildings, and storage yards.
- 2) Home occupations
- 3) Windmills
- 4) Public and semi-public uses and buildings
- 5) Cluster residential development

### **Section 903 R-2 Residential District**

In an R-2 Residential District, no building or premises shall be used, and no building or part of a building shall be erected, or altered, which is arranged, intended or designed to be used, in whole or in part for any uses except the following:

#### A. Permitted Principal Uses.

- 1) Single and two family dwellings, not to exceed one principal structure per lot.

2) Duplexes, subject to the provisions of Section 1012 of this Local Law.

B. Permitted Accessory Uses.

1) Includes all uses, provisions and regulations specified for the R-1 Residential District.

C. Dimensional Requirements.

The dimensional requirements for this district are specified in the Zoning Schedule, which is made a part of this Local Law.

D. Special uses

The following uses may be permitted consistent with the provisions of Article X, provided that a special Use Permit is approved by the Planning Board.

1) Includes all uses, provisions and regulations specified for the R-1 Residential District except for two-family dwelling units and duplexes which are permitted uses in the R-2 Residential District.

**Section 904 C-Commercial District**

In a C-Commercial District, no building or premises shall be used, and no building or part of a building shall be erected, or altered, which is arranged, intended, or designed to be used, in whole or in part for any uses except the following:

A. Permitted Principal Uses

- 1) Retail business establishments which are clearly of a neighborhood service character such as, but not limited to, the following:
  - a) Stores selling groceries, meats, baked goods, and other such food items.
  - b) Drugstores.
  - c) Stationery, tobacco and newspaper stores and confectionery stores.
  - d) Clothing, variety and general merchandise stores.
  - e) Hardware, appliance, radio and television sales and service.
- 2) Personal service establishments which are clearly of a neighborhood service character such as, but not limited to, the following:

- a) Barber and beauty shops.
  - b) Shoe repair and fix-it shops.
  - c) Business and professional offices, including, but not limited to, medical, real estate and insurance offices and banks.
- 3) Theaters and assembly halls.
  - 4) Restaurants and taverns.
  - 5) Newspaper printing, including incidental job printing. Such operations shall be limited to having not more than ten (10) full time persons engaged therein at any one time and using not more than twenty (20) horsepower in electric motor power.
  - 6) The sale of new and used motor automobiles provided that:
    - 1) Such sales shall be conducted in a fully enclosed building located on the same lot, and having a building area of not less than 5,000 square feet devoted to the sales and services of motor automobiles.
    - 2) Accessory to such building, the sale of new and used motor vehicles may be carried on in an unenclosed area provided that:
      - 1) Such area is on the same or an adjacent lot to such building. If the enclosed area is on an adjacent lot, the lot shall be not more than 200 feet from the lot with the building and shall further; be in the same ownership as said building; be in a C-Commercial District; and be used for no other purpose.
      - 2) Such unenclosed area shall be paved, shall be suitably drained, and shall be maintained in a neat and orderly manner and in good order and condition.
      - 3) All exterior illumination shall be approved by the Planning Board and shall be shielded from the view of all-surrounding properties and streets.
      - 4) Suitable landscaping and/or fencing of such unenclosed area shall be required and the grade of such area shall, at no point, exceed seven (7) percent.

- 5) As used in this section, the sale of new motor vehicles shall be deemed to mean only the sale of such motor vehicles under a franchise granted to the person, firm, or corporation conducting such business by a motor vehicle manufacturer. Used motor vehicles shall be sold only in connection with the sale of new motor vehicles.

No establishment for the sale of new and used motor vehicles shall be opened, conducted, or maintained except as provided above. None of the provisions of this section, however, shall be deemed to prohibit the continuance of the present use of any property for the sale of new and used motor vehicles, provided that any such continued use shall be subject to all of the provisions of this section. Plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Planning Board may approve, modify, or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this Local Law shall be observed.

- 6) A minimum area of two hundred (200) feet shall be provided on the lot for each motor vehicle displayed, parked or stored in any unenclosed area. Each motor vehicle stored or displayed therein shall be placed or parked parallel to each other facing in the same direction toward the street upon which such lot fronts and such motor vehicles shall be arranged in an orderly manner in such spaces.
- 7) Bus and railroad stations.
- 8) Building supply and farm equipment stores.
- 9) Electrical, heating, plumbing or woodworking shops.
- 10) Assembling, converting, altering, finishing, cleaning, or any other processing of products provided that:
  - a) Goods so produced or processed are to be sold at retail, exclusively on the premises;
  - b) Space used for such purposes shall not occupy more than 20 percent of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street;

- c) Except in connection with newspaper printing, electric motor power not exceeding a total of ten (10) horsepower shall be used exclusively. An installation of ten (10) horsepower or less using fuel other than electricity may be used upon a finding by the Zoning Officer that said installation is expected to be free of nuisance characteristics and will have no adverse effect on neighboring uses; and
  - d) Not more than two (2) persons shall be engaged in such production/processing at any one time.
- 11) Outlets and pickup stations for laundries and cleaning establishments dealing directly with the public. Except as specified hereinafter, the washing of wearing apparel on the premises is prohibited. Cleaning of wearing apparel or household effects on the premises is permitted only if non-combustible solvent is used except for the incidental removal of spots with combustible solvent, and only if not more than ten (10) horsepower in electric motor power is used. Self-service motor vehicle laundry establishments are permitted provided each such establishment shall contain not more than a total of twenty-five (25) washing or drying machines or combination thereof.
  - 12) Produce markets.
  - 13) Funeral parlors.
  - 14) Hotels and motels.
  - 15) Other business uses which, in the opinion of the Planning Board are similar in nature and scale to those permitted above.
  - 16) Upon the approval of the Village board a principal building may contain a combination of residential and business uses, provided that such residential uses are accessory to the business conducted and located elsewhere than on the street frontage of the ground floor, and having a minimum habitable area as required in the Schedule.

B. Permitted Accessory Uses

- 1) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
- 2) Off-street parking, loading and unloading facilities, signs, fences and landscaping subject to the provisions of this Local Law.
- 3) Satellite TV dish antennae subject to the provisions of Section 901, however, a building mounted antenna may be permitted by approval of the Planning Board if it can be demonstrated that a ground mounted location is not appropriate or would not provide adequate reception. No building mounted TV dish shall exceed four (4) feet in diameter and extend more than six (6) feet above the height of the building to which it is attached.
- 4) Other accessory uses which, in the opinion of the Planning Board are similar in nature and scale to those permitted above.

C. Dimensional Requirements

The dimensional requirements for this district are specified in the Zoning Schedule, which is a part of this Local Law.

D. Special Uses

- 1) Essential services, excluding power plants, maintenance buildings and storage yards.
- 2) Motor vehicle service stations and motor vehicle repair shops.
- 3) Car wash establishments.

E. Other Provisions and Requirements for Uses in the C District.

- 1) The gross aggregate floor area of all buildings on a single parcel of land shall not exceed two (2) times the area of the lot on which such building(s) is located.
- 2) Except as otherwise provided herein all permitted uses, whether principal or accessory, including all storage, shall be carried on in a fully enclosed building. Such provisions shall not apply to parking of registered vehicles, outdoor loading or other service activities.

## Section 905 I – Industrial District

In an I – Industrial District no building or premises shall be used and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be or used in whole or in part for any uses except the following:

### A. Permitted Principal Uses

- 1) Any use of a light industrial nature is permitted which involves only the processing, assembly, compounding or packaging of previously prepared, or refined materials, provided that at no time shall such use result in or cause:
  - a) Dissemination of dust, smoke, smog, observable gas, fumes or odor, or other atmospheric pollution, objectionable noise, glare or vibration that will be evident beyond the property line.
  - b) Hazard of fire or explosion or other physical hazard to any adjacent building or any land area adjacent to the site of the use.
  - c) Violation of applicable standards or regulations adopted and enforced by any Federal, State, County or Village environmental or health agency or legislative body. Violation of such standards shall result in the revocation of an existing Certificate of Occupancy and/or Certificate of Compliance and the immediate cessation of operations. The correction of the violation and new certificates shall be pre-requisite to the resumption of such industrial operations.
- 2) The following uses are indicative of those which are intended to be permitted:
  - a) Manufacture of machinery such as cash registers, sewing machines, typewriters, calculators and other office machines.
  - b) Fabrication of metal products such as baby carriages, bicycles, metal foil, tin, aluminum, gold, etc., metal furniture, musical instruments, sheet metal products and toys.
  - c) Fabrication of paper products such as bags, book bindings, boxes and packaging materials, office supplies and toys.
  - d) Fabrication of wood products such as bolts, boxes, cabinets and woodworking, furniture and toys.

- e) Food and associated industries such as bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, ice cream manufacturing and manufacturing of spirituous liquor.
  - f) The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of fuel for resale is specifically excluded from the intent of the above.
- 3) Office buildings for executive, engineering and administrative purposes.
  - 4) Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabricating incidental thereto.
  - 5) The compounding and processing of pharmaceutical and cosmetic products.
  - 6) Commercial storage buildings.
  - 7) Other uses, which in the opinion of the Planning Board, are similar in nature and scale to those permitted above.

B. Permitted Accessory Uses.

- 1) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted use.
- 2) Off-street parking, loading and unloading facilities and signs, fences and landscaping subject to the provisions of this Local Law.
- 3) Other accessory uses which, in the opinion of the Planning Board are similar in nature and scale to those permitted above.

C. Dimensional Requirements.

The dimensional requirements for this district are specified in the Zoning Schedule, which is a part of this Local Law.

D. Special Uses.

- 1) Essential services, excluding power plants.

- 2) Motor vehicle service stations and motor vehicle repair shops.
- 3) Car- wash establishments.

E. Other Provisions and Requirements for Uses in the I District.

- 1) Residential uses shall be prohibited except for a caretaker's residence on-site.
- 2) The manufacturing of all goods, including but not limited to the processing, assembly, compounding and packaging of materials shall be performed in a fully enclosed building.
- 3) Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping or other appropriate measures.
- 4) All permitted uses shall set aside not less than twenty (20) percent of the lot area to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purposes.
- 5) Each use shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
- 6) Parking areas may be located in any of the required yard area provided they are not less than seventy-five (75) feet from a right-of-way line or thirty (30) feet from a property line.
- 7) The gross aggregate floor area of all buildings on a single parcel of land shall not exceed one hundred thirty (130) percent of the area of the lot on which such buildings stand.

F. Adult Entertainment

1. Purpose – The Village Board of the Village of Macedon has determined that adult entertainment businesses exhibit serious objectionable operational characteristics which can lead to significant adverse impacts in the surrounding community and that the unrestrained proliferation of such businesses is inconsistent with existing development and future plans for the Village of Macedon in that adult entertainment businesses often result in the influences on the community which increase the crime

rate and undermine the economic, moral and social welfare of the community. The deleterious effects of these businesses change the economic, social and moral character of the existing community and adversely affect existing businesses and community and family life. Therefore, the Village Board of the Village of Macedon recognizes that special regulation is necessary in order to prevent the proliferation of adult entertainment businesses and to ensure that the effects of such businesses will not adversely affect the health, safety and economic well being of the community.

2. Regulations – Adult bookstores, adult motion-picture theaters, massage establishments and adult entertainment uses and businesses shall only be located in the C-Commercial District as designated by the Village of Macedon on its Zoning Map, as amended from time to time, shall require a special use permit, and shall also be subject to the following regulations:
  - A. All provisions of the Zoning Law of the Village of Macedon applicable to any special use permit.
  - B. Such uses and businesses shall be a minimum of two thousand (2000) feet from schools, churches, public parks, and recreation lands, municipal boundary lines, residentially zoned lands and other specified uses and businesses set forth in the Article. Measurements of distances shall be from the property lines of the uses.
  - C. In addition to any other requirements imposed by the Village of Macedon or the State of New York, the following specified regulations shall apply to any adult entertainment and business use:
    - (1) No exterior sign shall contain any photographic or artistic representation of the human body.
    - (2) All building openings, entries, windows, doors, etc., shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
    - (3) No adult entertainment use or business shall be established in any building of which any part is used for residential purposes.
    - (4) No residential use shall be established in any building or which any part is used as an adult establishment or business.
    - (5) Parking:
      - (a) One (1) parking space for every two-hundred (200) square feet of gross floor area devoted to the adult use shall be provided.

- (b) All adult entertainment uses and businesses shall provide on-site parking for all vehicles during typical peak use periods.
- (6) No more than (1) of the adult uses as defined herein is permitted on any one lot.
- D. Penalty – Any violation of any provision of this Section shall be punishable as prescribed by Article XIII Section 1301 and 1302 as may be amended.

**Section 906 FP-O Flood Plain Overlay District**

A. Statement of Purpose

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

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

B. Objectives

The objectives of this Section are:

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

C. General Provisions

- 1) Lands to which this Section Applies.

This Section shall apply to all areas of special flood hazards within the Village of Macedon.

- 2) Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Village of Macedon, New York, Wayne County" dated March 30, 1982 with Flood Insurance Rate Maps enumerated on Map Index No. 360893 0001B dated September 30, 1983 and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360893 001B dated September 30, 1983.

- 3) Interpretation, conflict with Other Laws

This Section has been developed in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supercede all previous laws and ordinances adopted for the purpose of establishing and maintaining eligibility for flood insurance.

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

4) Overlay District

The FPO District shall not be independently mapped upon the zoning map, but shall be mapped in conjunction with an underlying district. The area within the FPO District shall be identical to the areas of special flood hazard within the Village of Macedon. The zoning Map serves to provide a close approximation of the special flood hazard area. The FIRM Maps and Flood Boundary-Floodway Map shall be used to determine the exact legal boundaries of the special flood hazard area.

5) Uses Permitted; Dimensional Requirements

The uses permitted and the dimensional requirements for the FPO District shall be determined by the regulations specified in this Article for the primary or underlying zone district.

6) Penalties for Non-compliance

Penalties for non-compliance with these regulations are specified in Article XIII of this Local Law. Any structure found not compliant with the requirements of this Local Law of which the developer and/or owner has not applied for and received an approved variance under Section 906 F, will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

7) Warning and Disclaimer of Liability

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the area of special

flood hazards or uses permitted within such area will be free from flooding or flood damages. This Section shall not create liability on the part of the Village of Macedon, any officer or employee thereof, or the Federal Emergency Management agency, for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

D. Administration

1) Designation of the Local Administrator

- a) The Zoning Officer is hereby appointed Local Administrator to administer and implement this Section by granting or denying Flood plain Development Permit applications in accordance with its provisions.
- b) Prior to approving a Flood Plain Development Permit for the construction, expansion, demolition, or substantial alteration of any building or the change in use of any land area or building within an area of special flood hazard, the Zoning Officer shall refer all information and documentation to the Planning Board. The Planning Board shall review the information and recommend approval or denial of the permit in writing to the Zoning Officer.

The Planning Board, prior to reaching its decision, may request an advisory opinion from the Village Engineer and/or the Village Attorney. The Planning Board shall notify the Zoning Officer of its decision and the Zoning Officer, acting on the written direction of the Planning Board, shall either approve or deny the permit.

2) Establishment of Flood Plain Development Permit

A Flood Plain Development Permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Section 906 C.2) Application for a Flood Plain Development Permit shall be made on forms furnished by the Zoning Officer and may include, but not be limited to: plans, in triplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage or materials, drainage facilities, and the location of the foregoing.

- a) Application Stage. The following information is required where applicable:

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
  - (2) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed.
  - (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria of Section 906 E. 1)c).
  - (4) Certificate from a licensed professional engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria or Section 906 E.2)b)2).
  - (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- b) Construction Stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the Zoning Officer a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Zoning Officer shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- 3) Duties and Responsibilities of the Zoning Officer.

The duties of the Zoning Officer shall include, but not be limited to:

- a) Permit Application Review.
  - (1) Review all flood plain development permit applications to determine that the requirements of this Section have been satisfied.
  - (2) Review all flood plain development permit applications to determine that all necessary permits have been obtained

from those Federal, State or local governmental agencies from which prior approval is required.

- (3) Review all flood plain development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Section, “adversely affects” means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
    - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Section.
    - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  - (4) Review all flood plain development permits for compliance with the provisions of Section 906 E. 1) e), Encroachments.
- b) Use of Other Base Flood and Floodway Data. When base flood elevation data has not been provided in accordance with Section 906 . 2), Basis for Establishing the Areas of Special Flood Hazard, the Zoning Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal State or other source, in order to administer Section 906 E. 2), Specific Standards and Section 906 E. 3), Floodways.
- c) Information to be Obtained and Maintained.
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
  - (2) For all new or substantially improved floodproofed structures.
    - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.

- (b) Maintain the floodproofing certifications required in Section 906 E. 2) b) (2).
  - (3) Maintain for public inspection all records pertaining to the provisions of this Section including variances when granted and Certificates of Compliance.
- d) Alteration of Watercourses.
- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Recreational Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
  - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e) Interpretation of Firm Boundaries

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

Base flood elevation data established pursuant to Section 906 C. 2) and/or Section 906 D. 3) b) when available, shall be used to accurately delineate the area of special flood hazards.

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

f) Stop work Orders

- (1) All flood plain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Zoning Officer. Disregard of a stop work order shall be subject to the penalties described in Article XIII of this Local Law.

- (2) All floodplain development found noncompliant with the provisions of this Section and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Zoning Officer. Disregard of a stop work order shall be subject to the penalties described in Article XIII of this Local Law.

g) Inspections

The Zoning Officer and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the flood plain development permit or the approved variance.

h) Certificate of Compliance

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

All certificates shall be based upon the inspections conducted subject to Section 906 D. 3) g) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

D. Provisions for Flood Hazard Reduction

1) General Standards

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

a) Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - (2) All manufactured dwellings shall be installed using methods and practices, which minimize flood damage. Manufactured dwellings must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured dwellings shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b) Construction Materials and Methods.
- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c) Utilities
- (1) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
  - (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- d) Subdivision Proposals.
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
  - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
  - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.
- e) Encroachments.
- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in Section 906 D. 3) a), Permit Review. This may require the submission of additional technical data to assist in the determination.
  - (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 906 C. 2) or Section 906 D. 3) 6) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
  - (3) In all areas of special flood hazard where floodway data is provided or available pursuant to Section 906 C.) 2), the requirements of Section 906 E. 3), Floodways, shall apply.

2) Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 906 C.2), Basis for Establishing the Areas of Special Flood Hazards and Section 906 D. 3) b), Use of Other Base Flood Data, the following standards are required:

a) Residential Construction.

New construction and substantial improvements of any resident structure shall:

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

b) Non-Residential Construction.

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

located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
  - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
  - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (2) If the structure is to be floodproofed:
  - (a) A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - (b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

The Zoning Officer shall maintain on record a copy of all such certificates noted in this Section.

C) Construction Standards for Areas of Special Flood Hazards Without Base Flood Elevations.

New construction or substantial improvements of structures including manufactured dwellings shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 906 C. 2) or 2 feet above the highest adjacent grade where no elevation data is available.

(1) New construction or substantial improvements of structures including manufactured dwellings shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.

(2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

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

(b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

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

3) Floodways

Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Section 906 C.2 and Section 906 D. 3) b) all encroachments including fill, new construction, substantial improvements, and other development shall be prohibited within the limits of the floodway unless a technical evaluation demonstrates that

such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

E. Variance Procedure

1) Appeals Board

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

- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area.
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
  - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- e) Upon consideration of the factors of Section 906 F. 1) d) above and the purposes of this Local Law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
  - f) The Zoning Officer shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.
- 2) Conditions for Variances.
- a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1 through 12 in Section 906 F. 1) d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance would normally increase.
  - b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

- c) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (1) The conditions specified in this subsection [paragraphs a), d), e) and f) are met.
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- f) Variances shall only be issued upon receiving written justification:
  - (a) A showing of good and sufficient cause.
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- g) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

## ARTICLE X

### REGULATIONS GOVERNING SPECIAL PERMIT USES

#### Section 1001 General Provisions

The uses specified in this Article are hereby declared to possess unique characteristics requiring that each proposal for any such use shall be considered by the Planning Board as an individual case. Upon application complying with the requirements of Article V, special use permits may be approved by the Planning Board and issued by the Zoning Officer in accordance with the administrative procedures set forth in Article V and only after it has found that each and all of the following standards have been met.

- A. The proposed special use is consistent with the general intent of the Village's Master Plan and with each of the specific purposes set forth in this Local Law.
- B. The location, size and use of the structures involved, nature and intensity of the operations involved and size and layout of the site in relation to the proposed special use are such that it will be compatible with the orderly development of the use district.
- C. The operation of the proposed special use is no more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use.
- D. The proposed special use satisfies each and all standards and conditions specified for such special use by the relevant provisions of this Article.
- E. The Planning Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the Village's natural resource base and the value of property. The Zoning Officer shall make an on-site visit to each property authorized as a special use not less than one (1) time each year. The purpose of said site visit is to insure that the use is being operated in accord with the conditions specified by the Planning Board. If the Zoning Officer shall determine that a violation of this Local Law or the conditions imposed by the Planning Board exists, the Certificate of Occupancy and/or Certificate of Compliance shall be null and void. A new special use permit application shall be required to be submitted and approved prior to the re-establishment of said use.
- F. No site preparation or construction shall commence nor shall existing structures be occupied for any special permit use until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

**Section 1002 Essential Services**

- A. Essential services as defined in Section 201 herein may be allowed as a special permit use in any zone district upon the approval of a special use permit by the Planning Board.
- B. The Planning Board shall determine the following prior to approving a special use permit:
  - 1) The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
  - 2) The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
  - 3) Adequate and attractive fences and other safety devices will be provided.
  - 4) A buffer strip not less than fifteen (15) feet in depth shall be provided around the perimeter or the property proposed for such use.
  - 5) Adequate off-street parking shall be provided.
  - 6) All other applicable requirements of this Local Law shall be met.

**Section 1003 Motor Vehicle Service Stations and Motor Vehicle Repair Garages**

The Planning Board may approve a special use permit for motor vehicle service stations, and motor vehicle repair shops in the C – Commercial and I – Industrial Districts provided that the following standards and conditions are maintained:

- A. In addition to the information required in the special permit application and enumerated in Section 505 herein, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, and number and location of fuel pumps to be installed.
- B. Such uses shall be screened from adjacent uses by a buffer area not less than ten (10) feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the district boundary line. The Planning Board shall determine on an individual case basis

how close to the right-of-way the landscaped buffer shall be required to be installed. Such buffer screen shall have a minimum height of six (6) feet above the ground. If said shrubbery becomes decayed and fails to provide an adequate screen, the Zoning Officer shall direct the property owner to replace said shrubs.

- C. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- D. All repairs of motor vehicles, except for minor servicing, shall be performed in a fully enclosed building. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E. Motor vehicle service stations may include facilities for the sale of food, household items and convenience merchandise, provided that the sale of such items takes place entirely within an enclosed building.
- F. No commercial parking shall be allowed on the premises of a motor vehicle service station or motor vehicle repair shop.
- G. Accessory goods for sale may be displayed on the pump island and the building island only. The out door display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- H. No building or structure, including gasoline pump or motor vehicle service appliances, shall be erected within forty (40) feet of any street line.
- I. No motor vehicle service station or motor vehicle repair garage may sell vehicles.
- J. No motor vehicle service station or motor vehicle repair shop shall have more than two (2) driveways on any public street fronting the site. The driveway width on any street shall not exceed one third of the total site frontage on each street.
- K. No driveway shall be closer than fifty (50) feet to the intersection of two street corner lot lines, or within twenty (20) feet of an adjacent lot line.
- L. No motor vehicle service station or motor vehicle repair shop and no driveway to any such use shall be established within two hundred (200) feet of the boundary line of any Residential District, or of any school, church, park, playground, hospital, public library, institution for dependent children, or any place of public assembly designed for the simultaneous use of one hundred (100) persons or more, regardless of the district where the subject premises are located. For the purposes of this Section, the distance shall be measured along the street line on the side of the street where such use is proposed or such driveway would cross.

- M. No motor vehicle service station and/or motor vehicle repair garage shall be established on a lot that is within a 1000-foot radius of any other motor vehicle service station and/or motor vehicle repair garage.

**Section 1004 Public and Semi-Public Uses and Buildings**

The Planning Board may approve a special use permit for public and semi-public uses of an institutional, health, educational, recreational, religious or cultural nature in the R-1 and R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. A statement setting forth the details of the operation of the use.
- B. The applicant shall provide the Planning Board with evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
- C. The proposal shall meet the minimum area and yard requirements for such uses as specified in the Schedule.
- D. The proposed use shall meet the minimum off-street parking and loading and unloading requirements of this Local Law as well as provisions for landscaping, buffering, signs and accessways.
- E. The Planning board, in considering the request for a special use permit, may impose conditions it deems necessary to protect the health, safety and public welfare of the Village.

**Section 1005 Multiple Family Developments**

The Planning Board may approve a special use permit for multiple family developments in the R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning board and permits have been issued by all governmental agencies involved.
- B. The minimum land area required for such use shall be three (3) acres.
- C. The maximum density of residential development per gross acre of land (including roadways, pedestrian walkways common recreation and off-street parking areas, open areas and all non-residential areas) shall not exceed ten (10) dwelling units per acre.
- D. No building within a multiple family development shall contain more than twelve (12) dwelling units.

- E. The minimum gross habitable floor area for dwelling units in multiple family developments shall be:
- 1) Efficiency Unit: four hundred fifty (450) square feet.
  - 2) One (1) bedroom unit: five hundred fifty (550) square feet.
  - 3) Two (2) bedroom unit: seven hundred (700) square feet.
  - 4) Three (3) bedroom unit: eight hundred (800) square feet.
  - 5) Four (4) bedroom unit: nine hundred (900) square feet.
- F. Unit Distribution:
- 1) No more than thirty (30) percent of the total units within a multiple family dwelling development shall be efficiency units.
  - 2) No more than thirty (30) percent of the total units within a multiple family dwelling development shall have three (3) or more bedroom units.
- G. Setback Requirements. Minimum area and yard requirements for each multiple family structure within a multiple family development shall be as follows:
- 1) Setback: No building shall be closer than forty (40) feet to any street or public right-of-way or twenty (20) feet to any other property line. The Planning Board may require a greater setback when the proposed development site abuts a C-Commercial or I-Industrial District.
  - 2) Minimum distance between buildings: twenty-five (25) feet.
  - 3) Direct line of sight visibility from one building to another shall not be less than fifty (50) feet.
  - 4) Every building shall have a minimum setback of twenty (20) feet from all interior roads, driveways and parking areas.
  - 5) A strip of land at least six (6) feet in width surrounding each building shall be kept completely open except for foundation plantings of less than six (6) feet in height.
  - 6) Courtyards bounded on three sides by the wings of a single building or by the walls of separate buildings shall have a minimum court width of two (2) feet for each one (1) foot in height of the tallest adjacent building.

- H. No exterior wall shall exceed one hundred (100) feet in length unless there is a lateral offset of at least eight (8) feet in its alignment not less frequently than along each one hundred (100) feet of length of such exterior wall.
- I. All stairways to the second floor or higher shall be located inside the building.
- J. Access to public road:
  - 1) All multiple family dwelling developments shall have direct access to a public road.
  - 2) If there are more than fifty (50) dwelling units in a multiple family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Village by the developer.
  - 3) If there are more than fifty (50) dwelling units in a multiple family development, or if in the opinion of the Planning Board the location or topography of the site indicate the need for additional access, the Planning board may require such additional access as a condition of site plan approval.
- K. Requirements for off-street parking as provided in Article XI of this Local Law shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that off-street parking shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve.
- L. The aggregate lot coverage of multiple family dwelling developments shall not exceed thirty (30) percent of the total lot area.
- M. No structure in a multiple family development shall exceed thirty-two (32) feet in height.
- N. No home occupations and no business activities of any kind shall be permitted within a multiple family development.
- O. Services:
  - 1) Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.
  - 2) There shall be a minimum common storage area in each building for bicycles, perambulators and similar type of equipment, of forty (40) square feet in area, a minimum of five (5) feet in height and not less than four (4) feet in width per dwelling unit.

- 3) Sufficient laundry, drying, garbage pick-up and other utility areas shall be provided and shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six (6) feet in height around the perimeter. Fencing and walls shall be not more than fifty (50) percent open on the vertical surface.

P. Recreation, open space, maintenance:

- 1) Multiple family dwelling developments shall be designed to create usable private open space. A minimum of ten (10) percent of the total tract area, exclusive of the required setback areas, buffer strip and parking areas shall be designated for common recreational purposes.
- 2) No recreational area shall be less than ten thousand (10,000) square feet in area nor less than one hundred (100) feet in width. Areas designated for recreation purposes shall be approved by the Planning Board.
- 3) Multiple family dwelling developments shall be attractively shrubbed and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structures or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.
- 4) Multiple family developments shall be constructed in accord with the site plan approved by the Village and shall be designed to insure adequate provisions for drainage and storm water run-off.

Q. Utilities:

- 1) All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- 2) Multiple family developments shall be served exclusively by public water and sanitary sewer services. Connections to existing supply and disposal systems shall be approved by the New York State Department of Health or other authorities having jurisdiction thereof.

**Section 1006 Townhouse Clusters and Developments**

The Planning Board may approve a special use permit for townhouse clusters or developments in the R-2 Residential districts provided that the following standards and provisions are maintained:

**A. General Requirements**

No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved. The following general requirements and standards shall govern the review and approval of site plans for townhouse clusters or developments:

- 1) Each townhouse dwelling unit shall be located, constructed and served by public facilities and services and utilities in such fashion that each dwelling unit may be sold individually.
- 2) Each individual dwelling unit in a townhouse cluster shall be separated from other such dwelling units by a fire wall. Such firewall shall be of masonry construction, shall extend from the foundation to the roof and shall be unpierced.
- 3) Natural features, including streams drainageways and existing trees, shall be preserved and incorporated in the landscaping of the development.
- 4) All utility lines which provide electric, gas, telephone, television or other similar services shall be installed underground. Surface mounted equipment shall be located in a manner so as to minimize potential conflict with other uses and activities.
- 5) Plans submitted for townhouse developments shall identify areas proposed for dedication to the Village, areas to be held in common ownership and property to be owned by individuals.
- 6) Common property shall, except when accepted by the Village Board for dedication, be privately owned. Where property is to remain in common ownership, the developer shall provide for and establish an organization for the ownership and maintenance of such common property. Rules and regulations proposed to govern the operation and maintenance of all common property shall be submitted for review and approval by the Village Board. Common property shall not be changed from its status or use as common property without specific authorization of the Village Board. In reviewing proposals for the establishment of organizations to govern the ownership and maintenance of any common property, the Village Board shall consider and determine the adequacy of:
  - a. The timetable for the creation of the organization.
  - b. The requirements for membership in the organization by residents.

- c. The safeguards to ensure the continuance of the common property as common property.
- d. The liability of the organization for insurance, taxes and maintenance of all facilities.
- e. The provision for pro rata sharing of costs and assessments.
- f. The financial capacity of the organization to maintain and administer common facilities.
- g. The proposed relationship between the developer and the organization and the plan to turn over the responsibility for the maintenance and administration of common facilities to the organization.

**A. Minimum Standards for Townhouse Clusters or Developments.**

- 1) Area. The minimum land area for townhouse clusters or developments shall be three (3) acres.
- 2) Densities. The maximum density of residential development per gross acre of land (including roadways, pedestrian walkways, common recreation and off-street parking areas, open areas and all non-residential areas) for townhouse clusters and developments shall not exceed ten (10) units per acre.
- 3) Open Space. Not less than twenty-five (25) percent of the land area within a townhouse cluster or development, excluding parking areas and vehicle access facilities, shall be developed and maintained as open space for the use and enjoyment of residents of said cluster or development and their guests.
- 4) Lot coverage. The coverage of all buildings and structures within a townhouse cluster or development shall not exceed twenty-five (25) percent of the area of the tract.
- 5) Building Height. No townhouse building shall exceed thirty-two (32) feet in height.
- 6) Distance between Buildings. The minimum distance between a townhouse dwelling building and any other structure, including a swimming pool, shall not be less than twenty-five (25) feet.

- 7) Setbacks. No minimum front, side or rear setbacks shall be required within a townhouse cluster or development except when dwelling units are positioned relative to a public street. Where a structure faces, or abuts a public street, no part of the structure shall be located closer than forty (40) feet to the public right-of-way. No structure shall be setback less than twenty (20) feet from any common parking area or a property line, which serves as a boundary between the townhouse cluster or development and adjacent residential uses.
- 8) Setbacks from other Districts. No structure within a townhouse cluster or development shall be located closer than twenty (20) feet to any Residential District boundary line. This setback shall be increased to fifty (50) feet where the zone district boundary line abuts a C- Commercial or I-Industrial District.

**B. Building Standards**

- 1) No more than eight (8) townhouse dwelling units shall be included in a single dwelling building.
- 2) No building shall exceed a maximum length of two hundred forty (240) feet on any exterior façade.
- 3) Townhouse dwelling buildings shall be related to one another in design, building mass, materials and placement to provide a visually and physically integrated development.
- 4) The treatment of the sides and rear facades of all buildings in a development shall be comparable in amenity and appearance to the treatment of any building façade, which faces a public street, and complimentary and architectural design to adjacent residential structures.
- 5) Building walls shall be oriented so as to ensure adequate exposure of light and air to each dwelling unit and to the rooms within.
- 6) Buildings shall be arranged so as to preserve visual and audible privacy between each townhouse dwelling unit and adjacent townhouse buildings.
- 7) Building entranceways of adjacent dwelling units in the same structure shall be designed to ensure the privacy of occupants. This may be accomplished by varying the setbacks of entranceways or by providing screening or landscaped plantings, as appropriate.

- 8) Building entranceways shall be provided with appropriate illumination for the convenience and safety of residents. Such lighting shall be shielded to avoid glare disturbing other properties.
- 9) All townhouse dwelling units shall include ground floor living space. The location of an enclosed garage shall not qualify as meeting this requirement.

**C. Townhouse Parking Standards.**

- 1) No less than two (2) off-street parking spaces shall be provided for each townhouse dwelling unit.
- 2) The developer may meet the requirements for off-street parking by providing parking spaces in an enclosed garage plus any combination of spaces on private driveways and/or in a common parking lot.
- 3) No common off-street parking lot or outdoor storage area shall be located closer than twenty-five (25) feet to any adjacent property.
- 4) All off-street parking areas shall be privately owned and maintained.
- 5) Common off-street parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and the monotony of parked cars.
- 6) Common off-street parking areas shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access and shall be developed as an integral part of the overall site plan.
- 7) Common off-street parking areas shall be provided with suitable lighting for the convenience and security of residents, but positioned and shielded to minimize glare and potential inconvenience to residents of the townhouse cluster or development and adjacent properties.

**D. Size of Townhouse Dwelling Units.** The gross habitable floor area for all townhouse dwelling units shall conform to the minimum requirements specified in Schedule I.

- 8) Setbacks from other Districts. No structure within a townhouse cluster or development shall be located closer than twenty (20) feet to any Residential District boundary line. This setback shall be increased to fifty (50) feet where the zone district boundary line abuts a C-Commercial or I-Industrial District.

**E. Landscape Site Design Standards**

- 1) Landscaping shall be provided along and adjacent to all streets, common driveway areas and common off-street parking areas. Landscaping treatments shall be designed, coordinated and installed in accordance with the site plan approved by the Planning Board.
- 2) Landscape treatment shall consist of shrubs, ground cover and street trees and shall be designed and installed to provide an attractive development pattern. Landscape materials selected should be appropriate to the growing conditions of the local environment.
- 3) Whenever possible, existing trees shall be conserved and integrated into the landscape design plan.
- 4) All landscaping except for trees, shrubs and grasses either existing or to be installed within the public right-of-way, shall be privately owned and maintained.

**F. Site Circulation System Design Standards.**

- 1) An adequate, safe and convenient circulation system shall be provided.
- 2) The arrangement of streets and common parking areas shall be designed as integral parts of an overall site plan. These features shall be properly related to existing and proposed buildings and appropriately landscaped.

**G. Miscellaneous Townhouse Regulations.**

- 1) No home occupations and no business activities of any type shall be permitted within a townhouse cluster or development.
- 2) No signs shall be permitted in a townhouse cluster or development except for a single illuminated non-flashing nameplate sign not more than two (2) square feet in area attached to the townhouse dwelling unit and bearing only the street number of the dwelling.
- 3) One temporary advertising ground type sign pertaining only to the sale of a townhouse dwelling unit provided that such sign shall not exceed six (6) square feet in area. Such signs shall be located not more than ten (10) feet from the front entrance to the townhouse dwelling unit which is for sale and shall be removed within seven (7) days after the execution of any agreement for the sale of the premises.

- 4) All fencing of common areas shall be shown on the site plan approved by the Planning Board.
  - 5) Individual owners may erect privacy fences to enclose outdoor areas of individual dwelling units. Such fences may be up to six (6) feet above ground level provided that such fencing is located not less than fifteen (15) feet from a public street, common off-street parking or storage area, or vehicular accessway thereto. Fencing which is closer than fifteen (15) feet to a public street, or common off-street parking or storage area or vehicular accessway thereto, shall not exceed three (3) feet above ground level
  - 6) Except for land, which is owned in common, no property owner shall erect or place an accessory building or structure on the premises.
  - 7) The storage of any unregistered vehicles or other similar equipment out of doors overnight shall be prohibited, except in a common parking area.
- H. Special accessory uses. The following special accessory uses may be established for the common and exclusive use of owners of townhouse residences and their guests. Such special accessory uses shall be operated on a not-for-profit basis and subject to the approval of the Planning Board.
- 1) Recreational facilities such as open or enclosed tennis courts, exercise facilities, picnic area, gazebos, or swimming pools as regulated therein.
  - 2) One (1) structure to house maintenance shops and vehicles to be used exclusively for the maintenance and management of the townhouse development.
  - 3) Common space for the exclusive use and convenience of residents of the townhouse cluster or development and their guests to park vehicles. Such common space shall be adequately landscaped and buffered so as to screen the site from adjacent areas and uses.

#### **Section 1007 Cluster Residential Developments**

The Planning Board may approve a special use permit for cluster residential developments of one-family detached dwellings in the R-1 and R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. A site development plan shall be submitted in conformance with the requirements of Section 505 of this Local Law.
- B. The minimum tract size shall be fifteen (15) acres.

- C. The lot size, yard, area and height requirements shall be established on an individual case basis which reflects the unique conditions of each site proposed for development, the potential impact on adjacent properties and to insure consistency with the Village Master Plan.
- D. The number of lots or units (density of development) in a cluster plan shall not exceed that which could be created under a conventional development plan for the same tract of land.
- E. The developers shall set aside an area of not less than twenty (20) percent of the gross acreage of the tract to be devoted exclusively to permanent recreation areas or open space.
- F. All recreation or open space areas shall, in the opinion of the Planning Board, be suitable for such use. The ownership and future maintenance of such recreation areas shall be subject to the approval of the Village Board or offered for dedication to the Village.

**Section 1008 Car Wash Establishments**

The Planning Board may approve a special use permit for car wash establishments, including both coin-operated vehicle washers and motor vehiclematic vehicle washers, in the C-Commercial and I - Industrial Districts, provided that the following standards and provisions are maintained:

- A. Coin-operated vehicle washers. These washers are intended to be those where the vehicle operator washes the vehicle by using a hose which is geared to a coin-operated, timed mechanism.
  - 1) The vehicle washing facility or customary uses or operations associated with the facility shall be located no closer than three hundred (300) feet to any residential district and shall be separated from a residential district by another non-residential use.
  - 2) All washing facilities shall be within a completely enclosed building, which shall be designed in keeping with the facades of adjacent land uses
  - 3) Vacuuming facilities may be located outside the building but shall not be in the front yard and shall meet the respective setback requirements as required for the C – Commercial or I – Industrial Districts. Such area shall be buffered or screened as deemed necessary by the Planning Board.
  - 4) Off-street parking shall be provided on the property in the ratio of no less than four (4) reservoir parking spaces entering each washing stall and three (3)

reservoir parking spaces at the exit from each stall plus one (1) space per employee.

- 5) Adequate drainage facilities shall be provided and the site shall be designed to limit standing water on-site.
- 6) All off-street parking areas shall be hard-surfaced and dust-free.
- 7) Any lights used to illuminate the area shall be directed away from adjacent properties.
- 8) The hours of operation shall be determined by the Planning Board.

B. Motor vehicle automatic vehicle washers. These vehicle washers are intended to be those where the vehicle is either slowly driven through or pulled through by a motor vehicle automatic chain mechanism. This vehicle washer is one in which the vehicle operator does not perform any of the washing function other than to drive the vehicle where necessary.

- 1) The vehicle washing facility and customary uses or operations associated with the facility shall not be located closer than five hundred (500) feet to a residential district and shall be separated from a residential district by at least two (2) other non-residential uses.
- 2) All vehicle wash operations shall be so sound-proofed, the entire development shall be so arranged and the operations shall be so conducted that the noise emanating therefrom, as measured from any point on the adjacent property, shall be no more audible than the noise emanating from the ordinary street traffic and from other commercial or industrial uses measured at the same point on said adjacent property.
- 3) There shall be provided no less than ten (10) reservoir parking spaces for the entrance to each washing area if there are two (2) bays and seven (7) if there are three (3) or more bays and five (5) parking spaces at the exit of each washing area. One (1) parking space shall also be provided for each employee on the maximum shift.
- 4) Vacuuming facilities may be provided outside of the building but shall meet the setback requirements as required for the C – Commercial or I - Industrial Districts. Such area shall be buffered or screened as deemed necessary by the Planning Board.
- 5) The only operations conducted on the property shall be the washing of vehicles and vacuuming of interiors of vehicles.

- 6) Adequate drainage facilities shall be provided and the site shall be designed to limit standing water on-site.
  - 7) Any lighting shall be directed away from adjacent properties.
  - 8) All off-street parking areas shall be hard-surfaced and dust-free.
  - 9) All washing operations shall be conducted within enclosed structures, which shall be externally designed to be in keeping with the exterior facades of adjacent land uses.
- C. Operators of car wash establishments may be permitted to sell gasoline on the site of the car wash property. The Planning Board in considering such a request may require the operator to submit additional information to adequately describe the location and operation of such activity and, as a condition of granting such approval, may impose any conditions it deems necessary to protect the health and safety of motorists and potential adverse impacts of such use. Under no conditions shall the operator be allowed to perform repairs to motor vehicles on the site. Further, any merchandise available for sale shall be maintained within a fully enclosed building.

### **Section 1009 Home Occupations**

The Planning Board may approve a home occupation in the R-1 and R-2 Residential Districts provided that the following standards are maintained:

- A. No more than one (1) person other than a member of the immediate family occupying such dwelling shall be employed as part of the home occupation or profession.
- B. A home occupation must be conducted within a dwelling which is bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- C. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from this residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
- D. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.

- E. No sign shall be permitted except in accordance with the provisions of Article XII.
- F. Off-street parking shall be provided in accordance with Article XI.
- G. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- H. Not more than one (1) home occupation or home professional occupation shall be permitted for each residential property.
- I. Home occupations or home professional occupations may occupy either up to thirty (30) percent of the gross floor area of the residence to be used for the conduct of a home occupation or profession or up to forty (40) percent of the floor area of an accessory structure but not both.

**Section 1010 Rooming Houses**

The Planning Board may approve a rooming house in the R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. No rooming house shall provide shelter for more than four (4) tenants who are not family members.
- B. Off-street parking shall be provided as follows: At least two (2) spaces for the family residing on the premises plus not less than one (1) additional space for each roomer.
- C. One (1) sign up to eight (8) square feet in area may be permitted on the premises. If freestanding, such sign shall not exceed four (4) feet in height. Such sign may not be illuminated, except indirectly.
- D. The Planning Board shall specify the minimum amount and location of buffer screening to ensure that the use does not create a nuisance for adjoining property owners.

**Section 1011 Windmills or Wind Generators**

The Planning Board may approve a windmill or wind generator in the R-1 and R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. In addition to the application requirements specified for site development permits in Section 505, the site plan proposals for a windmill or wind generator shall also show:
- 1) Location of tower on-site and tower height, including blades, rotor diameter and ground clearance.
  - 2) All utility lines both above and below ground within a radius equal to the proposed tower height, including blades.
  - 3) Dimensional representation of the various structural components of the tower construction including the base and footings.
  - 4) Design data indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions.
  - 5) Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures.
- B. No windmill, including blades, shall extend more than seventy-five (75) feet above the average ground level measured at the base of the tower.
- C. No more than one (1) windmill or tower shall be permitted as an accessory use to any property.
- D. No windmill shall be erected in any location where its overall height, including blades, is greater than the distance from its base to any property line.
- E. Access to the tower shall be limited either by means of a fence six (6) feet height around the tower base with a locking portal or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground.
- F. No windmill shall be installed in any location along the major axis of an existing microwave communications link where the operation of the windmill is likely to produce an unacceptable level of electromagnetic interference, unless the applicant provides sufficient evidence satisfactory to the Planning Board indicating the degree of expected interference and the possible effect on the microwave communications link.
- G. Windmills shall be located or installed in compliance with the guidelines of the Federal Aviation Regulations with regard to airport approach zones (15,503) and clearance around VOR and DVOR stations.

- H. All sites proposed for windmills shall have sufficient access to unimpeded airflow for adequate operation. The Siting Handbook for Small Wind Energy Conversion Systems, PNL-2521, or other nationally recognized reference should be used as a guide in siting the location or towers.
- I. No windmill is to be interconnected to an electric utility distribution system, the applicant shall provide evidence of approval of the proposed interconnect by the local power company.
- J. If the windmill is to be interconnected to an electric utility distribution system, the applicant shall provide evidence of approval of the proposed interconnect by the local power company.
- K. Towers shall be located in either a rear or side yard. Applicants seeking a side yard siting shall demonstrate that such a location is essential to the viability of the proposed investment.
- L. Guy wires and anchors for towers shall not be located closer than ten (10) feet to any property line.
- M. All windmills shall be designed with an automatic brake to prevent over-speeding and excessive pressure on the tower structure.
- N. The minimum distance between the ground and any protruding blades shall not be less than ten (10) feet as measured at the lowest point of the arc of the blades.

**Section 1012 Residential Conversions**

The Planning Board may approve an application for the conversion of an existing structure for occupancy by two or more families living as separate and independent housekeeping units in the R-2 Residential Districts provided that the following standards and provisions are maintained.

- A. Any building proposed to be converted to create additional living units shall have not less than two thousand (2,000) square feet of gross floor area.
- B. No more than four (4) living units shall be created by conversion within any individual structure.
- C. The conversion shall comply with the requirements of the Uniform Code and this Local Law.

- D. The minimum habitable floor area for living units shall be: four hundred fifty (450) square feet for efficiency units; five hundred fifty (550) square feet for one bedroom units; eight hundred (800) square feet for two bedroom units; and nine hundred square feet for three bedroom units.
- E. Any parcel of land with an existing single family dwelling proposed to be converted to create additional dwelling units shall have an area of not less than thirty thousand (30,000) square feet in the R-1 Residential District and twenty thousand (20,000) square feet in the R-2 Residential District.
- F. The Planning board shall determine that water supply and sanitary sewer services are adequate to support the additional density.
- G. The Planning Board shall determine that the street system serving the site is adequate to carry the anticipated traffic flows and that the proposal will not create a burden or nuisance for adjoining property owners.
- H. Not less than two (2) off-street parking spaces shall be provided for each independent housekeeping unit.
- I. The Planning Board shall specify the minimum amount and location of landscaping and buffer screening to be provided to ensure that the use does not create a nuisance for adjoining property owners.

**Section 1013 Duplexes**

**Section 1014 Tourist Homes**

The Planning Board may approve a tourist home in the R-2 Residential Districts provided that the following standards and provisions are maintained:

- A. Tourist homes shall meet the minimum lot size, frontage and setback requirements for a two-family dwelling as specified in the Schedule of this Local Law for the appropriate district.
- B. The building proposed for occupancy as a tourist home shall contain no more than four lodging rooms for hire.
- C. The operator of the tourist home shall reside on the premises.
- D. Buildings proposed for occupancy as a tourist home shall have frontage on Route 31.
- E. The applicant shall meet the requirements of the Uniform Code.

- F. Off-street parking space shall be provided as follows: At least two (2) spaces shall be provided for the family residing on the premises plus not less than one (1) additional space for each lodging room.
- G. One (1) sign up to eight (8) square feet in area may be permitted on the premises. The sign may be free-standing or mounted on the building. If free-standing, the sign shall not be more than four (4) feet in height. Such signs may not be illuminated, except indirectly.
- H. The exterior of the building shall be maintained consistent with the character of the area.
- I. The Planning Board shall specify the minimum amount and location of landscaping, and buffer screening to ensure that the use does not create a nuisance for adjoining property owners.

## ARTICLE XI

### PARKING, LOADING, ACCESS AND SWIMMING POOL REGULATIONS

#### **Section 1101 Off-Street Parking Regulations**

In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this Article and Schedule II. None of the off-street parking facilities as required herein shall be required for any existing building or use, unless said building shall be enlarged or the use of land changed. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged or to accommodate the needs of the new use.

#### A. Design Requirements

- 1) Off-street parking space shall be provided as further specified in this Local Law and shall be furnished with necessary passageways and driveways. For the purposes of this Local Law a parking space shall not be less than ten (10) feet in width and twenty (20) feet in depth exclusive of accessways and driveways.
- 2) Off-street parking areas for non-residential uses shall provide an additional area of one hundred (100) square feet of area per off-street parking space to provide sufficient area for access drives and aisles.
- 3) Off-street parking areas with a capacity for more than twenty (20) vehicles shall delineate fire lanes and post “no parking” markers.
- 4) Any off-street parking area with at least twenty (20) off-street parking spaces shall designate a minimum of five (5) percent of those spaces, up to a maximum of ten (10) spaces, as only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least fourteen (14) feet in width and twenty (20) feet in depth.
- 5) All Off-street parking spaces shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
- 6) All parking areas, passageways and driveways (except where provided in connection with one and two family dwellings) shall be adequately drained and surfaced with a dustless, durable, all weather surface, subject to approval of the Planning Board.
- 7) Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street,

walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.

- 8) The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots may be approved by the Planning board provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.
- 9) No more than two (2) driveways, of not less than twenty (20) feet nor more than thirty (30) feet in width, shall be used as a means of ingress and egress for each non-residential use, except where the deviation in the number of, or width of such driveways, may be deemed necessary by the Planning Board because of traffic safety conditions.
- 10) No driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two streets or within twenty (20) feet of any side lot line provided that sufficient distance will always remain for all required radii for said driveway. The distance from the driveway to the intersection shall be measured by extending the curb line of the intersecting street until it intersects the curb line, extending if necessary, of the driveway in question. In addition, a minimum distance of twenty (20) feet shall be maintained between two driveways located on any one frontage.
- 11) Off-street parking shall not be located in any required front yard setback areas for non-residential or multiple family uses. Off-street parking may be permitted in rear and side yard areas subject to approval of the Planning Board. Off-street parking for single and two family dwellings shall be provided on a driveway which provides access to such residences or a garage which is accessory to such residential uses.

B. Location of Off-Street Parking Facilities

Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking facility to the nearest public entrance of the building that such facility is required to serve.

- 1) For one and two family dwellings and for all types of residential structures on the same lot with the building they are required to serve.
- 2) For multiple family dwellings, not more than two hundred (200) feet from the building they are required to serve.
- 3) For other uses, not more than five hundred (500) feet from the building they are required to serve.

C. Screening and Landscaping

- 1) Off-street parking areas for more than five (5) vehicles shall be effectively screened on the rear and side yards by a fence of acceptable design, and unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence, wall or hedge shall not be less than six (6) feet in height and shall be maintained in good condition.
- 2) When a parking area for five (5) or more vehicles is within or abuts a residential district, a planted buffer area shall be provided in addition to the fence or wall specified in paragraph (1) above. Landscaping utilized to provide this buffer shall not be less than four (4) feet in height at the time of planting and spaced not more than three (3) feet apart. The planted buffer area shall not be less than ten (10) feet in depth.

D. Lighting

- 1) All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one and two family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.
- 2) Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

E. Units of Measurement

- 1) In churches and other places of assembly in which patrons or spectators occupy benches, bleachers, pews or other similar seating facilities, each twenty (20) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements for off-street parking facilities.
- 2) When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one (1) parking space.

F. In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this section, the Planning Board shall determine the requirements for off-street parking facilities. Off-street parking facilities for one (1) use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.

G. Joint Use

The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

H. Required Off-Street Parking Space

Required off-street parking space for specific uses as regulated in this Local Law is contained in Schedule II which is part of this Local Law.

I. C District Parking Exceptions

Notwithstanding the provisions of this Article, Commercial uses in the C - Commercial District shall be accepted from complying with off-street parking requirements unless an existing building is expanded or enlarged or a new use proposed which would generate a demand for ten (10) or more parking spaces. This computation of need shall be calculated using the parking standards for the appropriate use in Schedule II. Any off-street parking voluntarily provided shall comply with the development and maintenance provisions of this Local Law.

**Section 1102 Loading Regulations**

For every building, structure or part thereof having more than four thousand (4,000) square feet of gross building area erected and occupied for commerce and industry as well as other uses requiring the receipt and distribution of materials and merchandise by vehicles, adequate space for loading and unloading services shall be provided and permanently maintained in order to avoid undue interference with the public use of streets, alleys, or parking areas. Every building, structure or addition thereto having a use which complies with the above definition shall be provided with at least one (1) truck standing, loading and unloading space on the premises not less than twelve (12) feet in width, fifty-five (55) feet in length, and fourteen (14) feet in height. One (1) additional truck space of these dimensions shall be provided for every additional twenty thousand (20,000) square feet, or fraction thereof, of gross area in building.

### **Section 1103 Access Control**

In order to encourage the sound development of street frontage, the following special regulations shall apply to all non-residential buildings and uses:

- A. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than one point of access. Additional accessways may be approved by the Planning Board based on the need for such additional access, which is supported by a traffic analysis prepared and submitted by the applicant.
- B. The use of common access points by two or more permitted uses shall be encouraged by the Planning Board in order to reduce the number and closeness of access points along the streets and to encourage the fronting of significant traffic generating uses upon a parallel access street and not directly upon a primary road. Accesspoints for industrial uses shall not be less than twenty-four (24) feet nor more than forty (40) feet in width. All other access points shall not be less than twenty (20) feet nor more than thirty (30) feet in width.
- C. 15 Minute Parking Zones
  - 1. 15 Minute parking zones are hereby established as being on the south side of Main Street in front of the following addresses:
    - a. Two spaces in front of the premises known as 77 Main Street, Macedon, NY, and now occupied by the Post Office.
    - b. One space in front of the premises known as 79 Main Street, Macedon, NY, and now occupied by Legendary Auto Int. Ltd.
    - c. Two spaces in front of the premises known as 81 Main Street, Macedon, NY, and now occupied by the Village Hall.
  - 2. Any person who violates this local law shall be subject to a fine of ten dollars.
  - 3. In addition to the fine set forth in Paragraph #2 herein, any Police Officer or any other authorized enforcement person, may direct that any vehicle violating this section shall be towed by any party so authorized by said Police Officer or enforcement person, the costs of said towing and any subsequent storage to be levied against the towed vehicle.

4. This local law shall become effective upon publication and filing with the Department of State.

E. All night is defined as to be all or any portion of the time between the hours of 11:00 p.m. and 7:00 a.m.

#### **Section 1104 Private Swimming Pools and Ponds**

Ponds shall be considered a Special Use in all zones of the Village of Macedon, and the following regulations must be complied with.

Private Swimming pools shall be permitted in any Residential District provided that there is an existing residence on said lot, and the following regulations must be complied with:

##### **A. Permits**

1. Building and zoning permits shall be required for all ponds and private swimming pools having an area greater than 100 square feet or a depth greater than eighteen (18) inches. This regulation shall apply to all swimming pools, regardless of whether the pool is above or below ground.
2. Application for ponds shall be made to the Planning Board with a complete plan of site information accurately drawn showing lot lines, location of pond, land measurements, drawings and proposed lighting facilities, if any, and fencing.
3. Application for swimming pools shall be made to the Building Inspector with a complete plan of site information accurately drawn showing lot lines, location of pool, yard measurements, drawings and proposed lighting facilities, if any, and fencing.
4. The cost of the permit shall be the same as the building permit schedule based on the cost of the swimming pool or pond.

##### **B. Inspection**

5. The Building Inspector shall periodically inspect all swimming pools and ponds to determine compliance with provisions of all codes and ordinances such as National Electric code and New York State Board of Fire Inspectors and New York State Building Codes.

C. Lighting

6. If applicable, lighting shall be installed so that no light may in any way extend beyond the lot lines of the property on which the pond or swimming pool is located, and shall conform to State Building and Electric Codes.

D. Location

7. Ponds and Swimming Pools shall be located in the rear yard only, and shall be at least ten (10) feet from the side and rear lot lines.

E. Fences

8. All ponds and swimming pools requiring a permit shall be completely enclosed by a fence or wall and shall comply with the following:

a. Shall be at least four (4) feet in height and have a maximum vertical clearance to grade of two (2) inches.

b. Where a picket-type fence is provided, horizontal opening between pickets shall not exceed four (4) inches.

c. Where a chain-link type fence is provided, the openings between links shall not exceed 2 - 3/8 inches.

d. Enclosure shall be constructed so as not to provide footholds.

e. Pickets and chain-link twists shall extend above the upper horizontal bar.

f. Such enclosure shall have railings and posts within the enclosure, which shall be capable of resisting a minimum lateral load of one hundred fifty (150) pounds applied midway between posts and at top of posts.

g. A wall of a multiple dwelling is permitted to serve as part of the enclosure, provided that there is not direct access from the dwelling to the pond or swimming pool.

F. Access

A. Access to the pond or swimming pool shall be made only through a lockable gate, a ladder that must be removable or has a protective gate or via a deck protected with a lockable door or gate. The fence or wall must

deny entry through or under the fence or wall, or by pushing the fence out of the way.

G. Lot Coverage

9. Ponds or swimming pools shall not occupy more than twenty-five percent (25%) of the rear yard area excluding the area used for buildings and other structures.

H. Drainage

10. Submitted site plan must show that the pond or swimming pool drainage will not interfere with natural drainage or property of adjacent owners.

I. Temporary Fencing

11. A temporary fence must be installed a minimum height of four (4) feet, prior to the excavation required for the installation of the pond or swimming pool, and approved by the Building Inspector.

J. Maintenance

12. No pond or swimming pool shall be maintained so as to create a health hazard. If such a pond or swimming pool is determined to be a health hazard, the owner of the property where the pond or swimming pool is located, shall be guilty of an infraction punishable by a fine of not more than \$250.00, and/or jail term of up to fifteen (15) days.

K. Certificate of Compliance

13. The pond or swimming pool shall not be filled or operational with water until the Building Inspector approves the construction and issues a Certificate of Compliance.

L. Compliance with New York State Regulations.

Applications for swimming pool permits shall comply with these regulations and all applicable requirements of the State of New York. Where the regulations of the Village and State are inconsistent, the more restrictive requirements shall govern.

**ARTICLE XII  
SIGN REGULATIONS**

**Section 1201 Purpose**

The intent of these regulations is to promote and protect the public health, welfare, and safety by regulating and restricting the erection, construction, repair, removal, alteration, and maintenance of signs and other advertising devices in the Village. The regulations are intended to promote and protect public health, welfare and safety by regulating and restricting existing and proposed signs and advertising devices of all kinds. It is intended to promote the interests of any person or business or cause when such is placed in view of the general public while erecting a more attractive, economic climate and; enhance the scenic and natural beauty of the Village.

**Section 1202 General conditions and Regulations**

- A. Except for those signs specifically identified in Section 1205, no sign shall be erected in the Village of Macedon without a permit issued by the Zoning Officer.
- B. Except for temporary signs, no sign permit shall be issued by the Zoning Officer without the approval of the Planning Board.
- C. All signs shall be securely attached to a building or a structurally sound support and their display surfaces shall be kept neatly painted and in good repair at all times.
- D. No illuminated signs or outdoor illumination shall direct light in a way, which would create a traffic hazard or nuisance, or be unreasonably detrimental to adjoining or neighboring properties.
- E. No sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. Lighting devices shall employ only lights emitting light of constant intensity.
- F. No projecting sign shall be erected or maintained which extends a distance of more than forty-eight (48) inches from the front or face of a building. In no event shall a projecting sign interfere with pedestrian or vehicular traffic or overhang or project onto any public right-of-way except as provided for in this Local Law.
- G. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or similar fluttering devices.
- H. No sign shall consist of animated or moving parts. No moveable or portable signs shall be placed on any premises.

- I. No sign shall be attached to fences, utility poles or trees.
- J. No sign shall be erected or maintained upon the roof or any building or structure.
- K. No motor vehicle, mobile home or trailer on which is placed or painted any sign shall be parked or stationed in a manner primarily intended to display the sign.
- L. No sign shall be erected or maintained within the right-of-way, nor within twenty-five (25) feet of the pavements of any public street or within ten (10) feet of any property line unless attached to a building.
- M. No sign shall be permitted which advertises a business use or service other than that which exists on the premises on which said sign is located.
- N. The regulations specified herein shall not apply to any sign or directional device erected by any governmental agency, non-advertising signs identifying underground utility lines, or posted or preserve signs erected pursuant to the Environmental Conservation Law of this State of New York..
- O. No sign shall be erected in such a manner as to confuse or obstruct the view of any traffic sign, signal, or device.
- P. Signs advertising a temporary situation may be displayed during the duration of those services or until the final day of the event. Such signs may include but not be limited to political, charitable, social, and educational functions, real estate sale, lease, or rental signs, and signs advertising services of a temporary nature incident to a business or property.
- Q. No sound amplifiers, public address systems other sound devices shall be used as a means of advertising or to attract attention to a sign.

**Section 1203 Specific Conditions and Regulations**

- A. Not more than one (1) sign per each side of a building facing a street and containing advertising or otherwise relating to a single business or activity may be erected or maintained on a single property, except in the case where the entrance to each single business does not face a street. Such signs may be illuminated.
- B. The permitted sign may be a ground, wall or projecting sign.
- C. The area of a sign erected on a single property to advertise a specific business or activity shall not exceed one (1) square foot for each linear foot of building façade on any street.

- D. Directional signs that do not exceed two (2) square feet in sign area and are limited to such texts as “Office,” “Entrance,” “Exit,” “Parking,” and “No Parking.” Shall be excluded from the limitation on the number and area of signs permitted.
- E. No ground sign shall be more than twenty (20) feet in height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.

**Section 1204 Sign Regulations Where More Than One Principal Activity is Being Conducted**

Notwithstanding the standard governing the number of signs permitted to be erected or maintained on any parcel of real property set forth in Section 1203 above, the following standards shall guide the regulation of all private signs associated with projects when more than one principal building or business use or activity is proposed to be conducted on a separate and discrete basis upon a single parcel of real property associated with the project, such as in the case of a shipping center, plaza or mall, or other multiple commercial use facility or industrial park.

- A. A single ground sign of up to forty (40) square feet in area and not more than twenty (20) feet in height may be erected which identifies the name of the center of facility as a whole and does not advertise any individual business activity.
- B. Ground signs advertising individual businesses within a shopping center or joint development project shall be prohibited.
- C. One sign identifying individual businesses or uses may be erected for each separate principal activity. Individual business signs may be attached to the face of the building or hung from a canopy. Such signs shall not exceed the lessor of: One (1) square foot of area for each linear foot of frontage; or fifteen (15) percent of the surface area of the wall on which the sign is to be attached.
- D. In a multiple commercial use facility or industrial park, there may be one (1) directory sign at any location therein provided that no such sign shall exceed forty (40) square feet in area. In addition, at each point of entrance and exit for vehicular traffic into such multiple commercial facility or industrial park, one (1) other directory sign shall be permitted. Such signs shall not exceed a total area of twelve (12) square feet.
- E. An overall sign design plan for any such center or facility shall be submitted with the application for the site development permit. The sign design plan shall include plans for each principal activity therein, and shall reflect a reasonable uniformity of design, lettering, lighting and material.

**Section 1205 Signs in Residential Districts, Additional Requirements**

- A. A sign indicating the name and address of the occupant or identifying a home occupation may be permitted, provided that such sign shall not be larger than four (4) square feet in area. If such signs are free standing they shall not exceed four (4) feet in height above the ground level at the sign's location. Said signs shall not be illuminated, except indirectly.
- B. For multiple family dwellings, churches, libraries, social clubs, public buildings and other similar uses, a single identification sign not exceeding sixteen (16) square feet in area, and indicating only the name and address of the building may be displayed. Such signs shall not be closer to any lot line than one-half (1/2) of the required setback and shall not project more than four (4) feet in height above grade. Said signs shall not be illuminated, except indirectly.
- C. No more than two (2) signs advertising the sale, lease or rental of the premises upon which the sign is located. Such signs shall not exceed six (6) square feet in area, provided such sign is erected or displayed not less than ten (10) feet inside the property line and not more than four (4) feet in height. Said signs must be removed from the premises within seven (7) days after the property has been leased or title transferred.
- D. A permanent sign may be erected to indicate a subdivision, which sign shall not exceed sixteen (16) square feet in area nor more than four (4) feet in height.
- E. A temporary sign, not exceeding sixteen (16) square feet in area, the height of which is not greater than four (4) feet, shall be permitted for a period of three (3) years from the time of final subdivision approval or advertising the sale of property within such subdivision.
- F. Signs advertising a business other than a home occupation in a residential district shall not exceed eight (8) square feet in area. If freestanding, such signs shall not project more than four (4) feet in height above grade. Said signs shall not be illuminated, except indirectly.

**Section 1206 Permitted Signs in all Districts Without a Permit**

- A. Signs bearing the name of the principal occupant and/or the street address of a private dwelling which do not exceed one (1) square foot in area.
- B. Professional nameplates which does not exceed one (1) square foot in area.

- C. Signs advertising the sale, lease or rental of the premises upon which the sign is located which do not exceed six (6) square feet in area.

**Section 1207 Temporary Signs**

- A. Temporary signs advertising any political, educational, charitable, civic, religious or like campaign or event may be erected for a consecutive period not to exceed sixty (60) days in any calendar year. Said signs shall be removed within seven (7) days following the campaign or event.
- B. If such temporary signs are not removed within the seven (7) day period, the Zoning Officer is authorized to remove said signs and to charge all costs incident to the removal of the sign or signs to the organization responsible for the placement of the signs.
- C. No temporary sign shall be attached to fences, trees, utility poles, bridges, traffic signs and shall not obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the general public.
- D. No temporary sign shall exceed twelve (12) feet in area.

**Section 1208 Non-Conforming Signs**

- A. Non-conforming signs shall not be altered, rebuilt, enlarged, extended or relocated, unless such action changes a non-conforming sign into a conforming sign as provided herein. The failure to keep any such non-conforming sign in good repair within a period of thirty (30) days after due notification by the Zoning Officer shall constitute abandonment of the sign. An abandoned sign shall not be re-used and shall be removed by or at the expense of the property owner.
- B. If a project subject to zoning review(s) is proposed for a parcel of property upon which a legally pre-existing sign which does not conform to these standards is located, that reviewing agency shall require that the said non-conforming sign be brought into compliance as a condition of the approval of the proposed action.
- C. Non-conforming signs shall not be altered, rebuilt, enlarged, extended or relocated, unless such action changes a nonconforming sign into a conforming sign as provided herein. The failure to keep any such non-conforming sign in good repair within a period of thirty (30) days after due notification by the Zoning Officer shall constitute abandonment of the sign. An abandoned sign shall not be re-used and shall be removed by or at the expense of the property owner.

- D. If a project subject to zoning review(s) is proposed for a parcel of property upon which a legally pre-existing sign which does not conform to these standards is located, the reviewing agency shall require that the said nonconforming sign be brought into compliance as a condition of the approval of the proposed action.

**Section 1209 Application for a Sign Permit**

All applications for a sign permit shall be made in writing, in triplicate, upon the forms prescribed and provided by the Zoning Officer and shall be accompanied with the required fee.

- A. All applications shall contain the following information:
- 1) Name, address and telephone number of the applicant.
  - 2) Location of building, structure, or land to which or upon which the sign is to be erected.
  - 3) A detailed drawing or blue print showing a description of the construction details of the sign and showing the lettering and/or pictorial matter composing the sign; position of lighting or other extraneous devices; a location plan showing the position of the sign or any buildings or structures, including any private or public street or highway.
  - 4) Written consent of the owner of the building, structure or land to which or on which the sign is to be erected, in the event the applicant is not the owner thereof.
- B. All applications for a sign permit, except those for a temporary sign, shall be forwarded to the Planning Board for review. Prior to rendering its decision, the Planning Board shall: review the design, size and location of the proposed sign to determine whether the proposed sign is in compliance with the regulations set forth in this Local Law. Upon the completion of its review, the Planning board may approve, approve with conditions or reject the application. All decisions of the Planning board shall be made in writing to the Zoning Officer within the forty-five (45) days of the receipt of an application. If the Planning Board fails to act within this period, the Zoning Officer may issue the permit if the proposed sign is in compliance with these regulations.

**Section 1210 Issuance of a Permit**

It shall be the duty of the Zoning Officer, upon the filing of the application for said permit, to examine all of the data submitted to him with the application, and if necessary, the building or premises upon which it is proposed to erect the sign or other advertising

structure. If it shall appear that the proposed sign is in compliance with all of the requirements of this Local Law, and other rules and regulations of the Village of Macedon, and has been approved provided for herein, a permit for the erection of the proposed sign shall be issued. If the sign authorized under any such permit has not been completed within six (6) months from the date of the issuance of such permit, the permit shall become null and void, but may be renewed for one (1) additional six (6) month period upon the approval by the Planning Board and upon payment of an additional fee. A request, which cites the reason for requesting the extension for the completion of the sign shall be submitted in writing to the Planning Board not more than thirty (30) days following the first six (6) month expiration period.

**Section 1211 Removal of Signs**

- A. The Zoning Officer shall notify the owner of any sign which no longer serves the purpose for which the permit was granted or is unsafe, insecure or is a menace to the public, or has been erected or installed in violation of this Local Law, in writing, to remove or correct the unsatisfactory condition of said sign within thirty (30) days from the date of such notice.
- B. Upon failure to comply with such notice within the prescribed time, the Zoning Officer is hereby authorized to remove or cause removal of such sign, and shall charge all costs and expenses incurred in said removal to the owner of the sign and/or the owner of the land or building on which such sign is located.
- C. The Zoning Officer may cause any sign, which is a source of immediate peril to persons or property to be removed summarily upon written notice to that effect. Failure to comply within twenty-four (24) hours of such notice will serve as an authorization to the Zoning Officer to remove or cause removal of such sign, with all costs and expenses charged as provided for above.

**ARTICLE XIII  
PENALTIES FOR OFFENSES**

**Section 1301 Penalty**

Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or where there shall be placed on or there exists anything in violation of any of the provisions of this Local Law and any person, firm, company or corporation who shall assist in the commission of any violation of this Local Law or any conditions imposed by the Village Board, Planning Board or the Board of Appeals; or who shall build or use any building or parcel of land, contrary to the plans or specifications submitted to the Building Inspector and/or Zoning Officer and certified as complying with this Local Law and the Uniform Code; and any person, firm, company or corporation who shall omit, neglect or refuse to do any act required by this Local Law shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars (\$250) or imprisonment for a period of not more than fifteen (15) days or both, and in addition may be ordered to pay all costs and expenses involved in the case. Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each day such violations, disobedience, omission, neglect or refusal shall continue.

**Section 1302 Alternative Penalty**

In case of any new violation or any of the provisions of this Local Law or conditions imposed by the Village Board, Planning Board or Board of Appeals in addition to other remedies herein provided, the Village board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or sue in or about such premises.

**ARTICLE XIV  
STORM WATER CONTROL**

**Section 1 – Storm Water Pollution Prevention Plans**

**1.1- Storm Water Pollution Prevention Requirement**

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this Local Law.

**1.2– Contents of Storm Water Pollution Prevention Plans**

**1.2.1– All SWPPs shall provide the following background information and erosion and sediment controls:**

1. Background information about the scope of the project, including location, type and size of project.
2. Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the storm water discharge(s). The site map shall be at a scale no smaller than 1" equals 100';
3. Description of the soil(s) present at the site;
4. Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and specs. for Erosion and Sediment Control (Erosion Control Manual), not more than five (1) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.
5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in storm water runoff;
6. Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants

from these materials including storage practices to minimize exposure of the materials to storm water, and spill-prevention and response;

7. Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
8. A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
9. Dimensions, material specs. And installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10. Temporary practices that will be converted to permanent control measures;
11. Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
12. Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13. Name(s) of the receiving water(s);
14. Delineation of SWPPP implementation responsibilities for each part of the site;
15. Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to a degree attainable; and
16. Any existing data that describes the storm water runoff at the site.

**1.2.2-** Land development activities as defined in Section 1 of this Article and meeting Condition “A”, “B” or “C” below shall also include water quantity and water Quality Controls (post-construction storm water runoff controls) as set forth in Section 2.2.3 Below as applicable:

Condition A - Storm water runoff from land development activities discharging a pollutant of concern to either impaired water identified on the Department’s 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in storm water have been identified as a source of the impairment.

Condition B – Storm water runoff from land development activities disturbing five (5) or more acres.

Condition C – Storm Water runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences and construction activities at agricultural properties.

**1.2.3- SWPPP Requirements for Condition A,B and C:**

- 1.All information in Section 2.2.1 of this Local Law;
- 2.Description of each post-construction storm water management practice;
- 3.Site map/construction drawing(s) showing the specific location(s) and sizes of each post-construction storm water management practice;
- 4.Hydrologic and hydraulic analysis for all structural components of the storm water management system for the applicable design storms;
- 5.Comparison of post-development storm water runoff conditions with pre-development conditions.
- 6.Dimensions, material specifications and installation details for each post-construction storm water management practice;
- 7.Maintenance schedule to ensure continuous and effective operation of each post-construction storm water management practice;
- 8.Maintenance easements to ensure access to all storm water management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- 9.Inspection and maintenance agreement binding on all subsequent landowners served by the on-site storm water management measures in accordance with Article 2, Section 4 of the Local Law.
- 10.For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all storm water management practices meet the requirements in this Local Law.

### 1.3- Other Environment Permits

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final storm water design plan.

### 1.4- Contractor Certification

1.4.1- Each contractor and sub-contractor identified in the SWPPP who will be involved in soil disturbance and/or storm water management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the storm water Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

1.4.2- The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

1.4.3- The certification statement(s) shall become part of the SWPPP for the land development activity.

1.5- A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

## **Section 2 – Performance and Design Criteria for Storm Water Management and Erosion and Sediment Control**

All land development activities shall be subject to the following performance and design criteria:

### **2.1- Technical Standards**

For the purpose of this Local Law, the following documents shall serve as the Official guides and specifications for storm water management. Storm water Management practices that are designed and constructed in accordance with these Technical documents shall be presumed to meet the standards imposed by this law:

2.1.1- The New York State Storm Water Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, Hereafter referred to as the Design Manual)

2.1.2- New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most

current version or its successor, hereafter referred to as the Erosion Control Manual).

## **2.2- Equivalence to Technical Standards**

Where storm water management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

## **2.3- Water Quality Standards**

Any land development activity shall not cause an increase in turbidity that will Result in substantial visible contrast to natural conditions in surface waters of the State of New York.

## **Section 3 – Maintenance, Inspection and Repair of Storm Water Facilities**

### **3.1- Maintenance and Inspection During Construction**

**3.1.1-** The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this Local Law. Sediment shall be removed from sediment traps or sediment ponds Whenever their design capacity has been reduced by fifty (50) percent.

**3.1.2-** For land development activities as defined in Section 1 of this Article and meeting Condition A, B or C in Section 2.2.2, the applicant shall have a qualified professional conducts site inspections and documents the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

### **3.2- Maintenance Easement(s)**

Prior to the issuance of any approval that has a storm water management facility as as on of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the storm water management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the **Village of Macedon** to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Local Law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by

the counsel for the **Village of Macedon**.

### **3.3- Maintenance after Construction**

The owner or operator of permanent storm water management practices installed in accordance with this law shall ensure they are operated and maintained to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

- 3.3.1-** A preventive/corrective maintenance program for all critical facilities and systems of treatment and control(or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.
- 3.3.2-** Written procedures fro operation and maintenance and training new maintenance personnel.
- 3.3.3-** Discharges from SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, Section 3.3.

### **3.4- Maintenance Agreements**

The **Village of Macedon** shall approve formal maintenance agreement for storm water management facilities binding on all subsequent landowners and recorded in the Office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this Local Law entitled Sample Storm Water Control Facility Maintenance Agreement. The **Village of Macedon**, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future storm water management facility, provided such facility meets all the requirements of this Local Law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## **Section 4 – Severability and Effective Date**

### **4.1 – Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a Court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SCHEDULE I  
ZONING SCHEDULE  
VILLAGE OF MACEDON, WAYNE COUNTY

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MINIMUM GROSS HABITABLE FLOOR AREA\*

Dwellings	Minimum Floor Area(S.F.)**
One story building	
Up to two (2) bedrooms	800
Three (3) or more bedrooms	1,000
One and one-half story building	1,200
Two story buildings	1,500

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\* Excluding basement area

\*\* Square foot required per individual dwelling unit.

SCHEDULE II  
OFF-STREET PARKING SPACES REQUIRED\*

TYPE OF USE	MINIMUM NUMBER OF OFF STREET PARKING SPACES REQUIRED
<u>Residential</u>	
Single and Two Family Dwellings	Two (2) parking spaces per Dwelling unit
Multiple Family Developments Garden Apartments and Town-Houses.	Two (2) parking spaces per dwelling unit.
Home Operated Barber and Beauty Shops	Two (2) parking spaces per beauty or barber chair, plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling
Home Occupations and Professional Offices	Three (3) spaces for client use, plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling.
Home Operated Doctor or Dentist Office	Five (5) spaces for client use plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling.
<u>Commercial</u>	
Motels and Hotels, Motor vehicle Courts	One (1) parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof, but not less than one parking space per sleeping or

	dwelling unit.
Business & Professional Offices	One (1) parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.
Banking Offices	One (1) parking space for every one hundred (100) square feet of gross floor area or major fraction thereof. Drive-in windows shall have sufficient space to adequately handle ten (10) cars, separate and apart from any required parking spaces.
Retail and Service Shops Except When Otherwise Specifically Covered Herein	One (1) parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof.
Stores for the Retail Sale of Furniture, Appliances or Hardware	One (1) parking space for every five hundred (500) square feet of gross floor area or major fraction thereof.
Supermarkets and Self-Service Food Stores	One (1) parking space for every one hundred (100) square feet of gross floor area or major fraction thereof.
Laundromats	One (1) parking space for every two (2) washing machines.
Motor Vehicle Service Stations	One (1) parking space for every one hundred (100) square feet of gross floor area or fraction thereof.
Motor Vehicles Sales Including Used Car Sales	One (1) parking space for customer parking for every three hundred (300) square feet of gross floor area or fraction thereof. In no case, however, shall a motor vehicle sales establishment provide less than ten

	(10) off-street parking spaces exclusively for customer use.
Bowling Alleys	Five (5) parking spaces for each bowling lane.
Restaurants, Cafeterias, Taverns Bars (Indoor Service Only)	One (1) parking space for every two (2) seats for customers, or one (1) space for every twenty-five (25) square feet of floor area available to patrons whichever is higher.
Restaurants, Drive-Ins	One (1) parking space for every one hundred (100) square feet of gross floor area or fraction thereof.
Funeral Homes, Mortuaries	Fifteen (15) parking spaces per parlor.
Medical or Dental Clinics or Offices	Five (5) parking spaces for each doctor or dentist plus one (1) space for each employee.
<u>Industrial</u>	
Industry	One (1) parking space for each employee, plus one (1) for each one thousand (1,000) square feet of gross floor area in the building for use by guests or visitors. The employee ratio shall be applied to that shift of work activity which has the greatest number of employees.
<u>Public and Other Uses</u>	
Non-Office Public Utility Installations	Five (5) parking spaces, except for box substations where only two (2) spaces shall be required.
Parks and Other Outdoor Recreation Sites	Five (5) parking spaces for each gross acre of land up to fifty (50) acres and one space per gross acre of land above fifty (50) acres.
Country Clubs, Golf Courses	One (1) parking space for each two

hundred (200) square feet of floor area occupied by all principal and accessory structures, except those used for parking purposes.

Hospitals, Nursing and Convalescing Homes

One (1) parking space for each three beds plus one (1) parking space for every two (2) employees and members of the staff in the largest working shift. Notwithstanding the provisions of other sections of this Local Law, off-street parking, which serves nursing homes, retirement homes, housing for the elderly and other similar uses predominantly serving senior citizens, shall be no further than one hundred fifty (150) feet from the building it serves.

Auditorium, Churches, Theaters, Assembly Halls and Similar Places of Public and Quasi-Public Assembly Having Fixed Seating Facilities.

One (1) parking space for every three (3) seats in the main assembly

Auditorium, Exhibition Halls, Assembly Hall, Community Centers and Similar Places of Public and Quasi-Public Assembly not having Fixed Seating Facilities.

One (1) parking space for every one hundred fifty (150) square feet of gross floor area.

Schools

Four (4) for each classroom or one (1) for every three (3) seats in the auditorium, whichever is higher.

Firehouses

One (1) for every three (3) members of each fire company using such firehouses as its headquarters.

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If any proposed use does not come within the uses specified herein, the Planning Board shall determine the number of parking spaces to be required for such proposed use.